

CLERK FILE No. **307453**

**CW**

REPORT OF THE COMMITTEE

CF #307453  
Department of Executive Administration Director's  
Rules, Implementing Seattle Business Tax Ordinance,  
effective July 15 2005.

Honorable President

The  
to which was referred this file, respectfully reports that the same was considered, and the report

Date Filed with Clerk **July 15, 2005**  
Received by **Edna Wharton**  
City Clerk Staff

**ACTION OF THE COUNCIL**

|          |             |
|----------|-------------|
| Referred | To          |
| Referred | To          |
| Referred | To          |
| Reported | Disposition |
| Referred | To          |
| Reported | Disposition |

2

SPONSORED BY:

REPORT OF THE COMMITTEE

Honorable President:

The \_\_\_\_\_ Committee

to which was referred this file respectfully reports that the same was considered, and the recommendation is:

[Lined area for writing the report's content]

Mark Staff

[Handwritten signature]

Chair

30745 3

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-006**

FILED  
CITY OF SEATTLE  
05 JUL 15 PM 2:48  
CITY CLERK

**Seattle Rule 5-006 Tax Returns – Filing and Payment.**

- (1) **Responsibility of Taxpayers to Report.** Taxpayers have a responsibility to become informed about applicable tax laws and to correctly and timely report their tax liability. For more information, go to the City of Seattle's, Department of Executive Administration Revenue and Consumer Affairs website.
- (2) **Authorized Forms.** Tax returns and remittances are to be filed with the Department by the taxpayer. Returns shall be made upon forms authorized by the Department (SMC 5.55.040 (B)). Forms provided by the Department will be mailed to all registered taxpayers prior to the due date of the tax, unless the taxpayer has opted to file electronically. (SMC 5.55.050 (G)). The Department may reject a return made on a form not authorized by the Department.
- (3) **Reporting Frequency.** The taxes imposed by SMC Chapters 5.32 (Amusement Devices), 5.40 (Admission Tax), 5.45 (Business License Tax), 5.48 (Utility Tax), and 5.52 (Gambling Tax), shall be reported and paid in quarterly installments, unless, at the Director's discretion, businesses are assigned to a monthly or annual reporting period. (SMC 5.55.040 (A)). Taxes imposed by SMC 5.52.030 (A)(2) and (B)(2) for punch boards and pull-tabs shall be reported and paid in monthly installments.
- (4) **Due dates. (SMC 5.55.040 (A)).**
  - (a) Quarterly and annual tax returns are due on the last day of the next month after the period covered by the return. For example, tax returns covering the first quarter of the year are due on April 30, and annual returns are due on January 31.
  - (b) Monthly tax returns are due on the last day of the next month after the month covered by the return. For example, a tax return covering the month of February is due on March 31, and a return covering the month of March is due April 30.
  - (c) If the due date for filing a tax return falls upon a Saturday, Sunday, or legal holiday, the filing is timely if the return is either (i) received by the City (in the City's possession), or (ii) postmarked by the United States Postal Service, on the next business day (SMC 5.55.040 (F)).
  - (d) The postmark date as shown by the post office cancellation mark stamped on the envelope will be considered as conclusive evidence by the department in determining if a tax return was timely mailed by the taxpayer. Private metered marks are not conclusive. It is the responsibility of the taxpayer to mail the tax return sufficiently in advance of the due date to assure that the postmark date is timely (SMC 5.55.050 (B)).
- (5) **Payment with Return Required.** The Department may refuse to accept any return which is not accompanied by a remittance of the tax shown to be due thereon, or any check which is not accompanied by a return, and if not accepted, the taxpayer shall be deemed to have failed to file a return, and shall be subject to the penalties prescribed in SMC 5.55.110. If the tax return is accepted without payment and payment is not made by the due date, late penalties will apply until the tax is paid.
- (6) **Method of payment. (SMC 5.55.050 (A)).**

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-006**

- (a) Payment of taxes must be made in United States currency by bank draft, certified check, cashier's check, personal check, money order, cash, or by wire transfer or electronic payment.
  - (b) Payment by cash must be made at the Department of Executive Administration, Seattle Municipal Tower, 700 Fifth Avenue, Suite 4250, Seattle, Washington 98104.
  - (c) Payment of tax may be made by uncertified bank check, but if any such check is not honored by the bank on which drawn, the taxpayer shall remain liable for the payment of the tax and fee and will be subject to penalties. The department may refuse to accept any check which, in its opinion, would not be honored by the bank on which such check is drawn. The remittance covered by any check that is so refused will be deemed not to have been made and the taxpayer will remain liable for the tax due, the fee, and the applicable penalties.
- (7) Completing the return. (SMC 5.55.040 (B) and (C)).**
- (a) All returns shall be signed by the taxpayer or by a responsible officer or agent of the taxpayer, unless the taxpayer has opted to file electronically. The individual signing the return will certify or declare, under penalty of perjury under the laws of the State of Washington, that the information contained in the return is true and correct.
  - (b) Taxpayers must report gross revenue and eligible deductions, regardless of whether any tax is due for the reporting period. Deductions must be itemized in the space provided on the tax return. A taxpayer claiming a miscellaneous deduction under the category "Other"; must provide a written description of the deduction. If no description is provided, the deduction will be disallowed. If there is a discrepancy between the amount of the itemized deductions and the amount claimed in the Deduction column of the return, the itemized total will be used to calculate the tax due.
- (8) Amended returns.** A taxpayer may correct a return by filing an amended return, provided that:
- (a) the amended return is filed within the applicable statute of limitations for assessment or refund; and
  - (b) the period covered by the amended return has not been the subject of an assessment or other administrative or judicial proceeding.

Effective: July 15, 2005



**THE CITY OF SEATTLE  
DIRECTOR'S RULE  
IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE  
RULE 5-006**

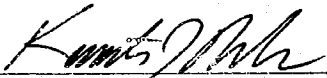
**DIRECTOR'S CERTIFICATION**

I Kenneth J. Nakatsu, Director of the Department of Executive Administration of the City of Seattle, do hereby certify under penalty of perjury of law, that the within and foregoing is a true and correct copy as adopted by the City of Seattle, Department of Executive Administration.

DATED this 15<sup>th</sup> day of July, 2005.

CITY OF SEATTLE,  
a Washington municipality

By:

  
Kenneth J. Nakatsu, Director  
Department of Executive Administration

IT IS DUE TO THE QUALITY OF THE DOCUMENT.

STATE OF WASHINGTON - KING COUNTY

--SS.

183390  
CITY OF SEATTLE:Revenue &

No.

**Affidavit of Publication**

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:RULE MAKING HEARING

was published on

3/21/2005

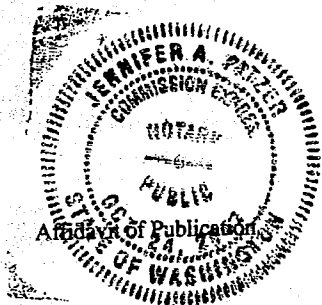
*Mad*

Subscribed and sworn to before me on

3/21/2005

*Jennifer A. Prezer*

Notary public for the State of Washington,  
residing in Seattle



IT IS DUE TO THE QUALITY OF THE DOCUMENT.

# State of Washington, King County

## City of Seattle

### NOTICE OF PROPOSED RULE MAKING HEARING AND OPPORTUNITY TO COMMENT

The Director of Finance, acting under the authority of Seattle Municipal Code Chapters 5.02 and 5.55, proposes to adopt new rules for implementing the Seattle Business and Occupation Tax Ordinance (Seattle Municipal Code, Chapter 5.46). Please note that although these rules are applicable to SMC 5.46, the individual rules may also apply to other chapters of the City's Tax Code, including, but not limited to, SMC 5.30 (Definitions), SMC 5.32 (Revenue Code), SMC 5.40 (Admissions Tax), SMC 5.48 (Business Tax - Utilities) and SMC 5.52 (Gambling Tax). The following rules are proposed for adoption and will become effective as of April 30, 2005:

- Seattle Rule 5-006 -- Tax Returns -- Filing and Payment
- Seattle Rule 5-007 -- Penalties
- Seattle Rule 5-021 -- Measure of Tax -- Retailers and Wholesalers
- Seattle Rule 5-022 -- Measure of Tax -- Service and other business activities
- Seattle Rule 5-026 -- Freight and Delivery Charges
- Seattle Rule 5-040 -- Corporations, Massachusetts trusts
- Seattle Rule 5-043 -- Engaging in Business
- Seattle Rule 5-083 -- Returned goods, allowances, cash discounts
- Seattle Rule 5-100 -- Extracting natural products
- Seattle Rule 5-112 -- Commercial or industrial use
- Seattle Rule 5-127 -- Sales to and by the State of Washington, counties, cities, school districts, and municipal subdivisions
- Seattle Rule 5-130 -- Selling price -- Advertised prices including sales tax
- Seattle Rule 5-131 -- Trade-ins; selling price, sellers' tax measures
- Seattle Rule 5-132 -- Leased departments

Seattle Rule 5-133 -- Warranties and maintenance agreements

Seattle Rule 5-702 -- Coin operated vending machines, amusement devices and service machines

Seattle Rule 5-404 -- Sales of meals

Seattle Rule 5-405 -- Restaurants, cocktail bars, taverns and similar businesses

Seattle Rule 5-481 -- Motor carriers -- Trucking

Seattle Rule 5-528 -- Sales of precious metal bullion and monetized bullion

Seattle Rule 5-530 -- Sale or rental of real estate, license to use real estate

Seattle Rule 5-531 -- Sales of real property, standing timber, minerals, natural resources

Seattle Rule 5-532 -- Real estate brokers and salesmen

Seattle Rule 5-600 -- Educational institutions, school districts, student organizations, and private schools

Seattle Rule 5-700 -- Amusement, Recreation, and Physical Fitness Services

Seattle Rule 5-720 -- Hotels; motels; boarding houses; rooming houses; resorts; summer camps; trailer camps, etc.

Seattle Rule 5-803 -- Consignees, bailees, factors, agents, and auctioneers

Seattle Rule 5-806 -- Advertising agencies

Seattle Rule 5-807 -- Outdoor advertising and advertising display services

#### PUBLIC HEARING AND COMMENT:

The Department of Executive Administration has scheduled a public hearing on the proposed rule changes for 1:00 p.m. to 3:00 p.m. on Monday, April 4, 2005. The hearing will be held in a conference room on the 40th floor of the Seattle Municipal Tower, Suite 4086, located at 700 5th Avenue. All interested persons are invited to present data, views, or arguments, with regard to the proposed rules, orally at the hearing, or in writing at or before the hearing.

Written comments should be mailed or delivered to:

Department of Executive Administration, Attn.: Mel McDonald, Director, Revenue and Consumer Affairs, 700 5th Avenue - Suite 4250, Seattle, Washington 98104-1920.

The public may inspect copies of the proposed rules at the Revenue and Consumer Affairs offices, 700 5th Avenue, Suite 4200. If you would like a copy of the proposed rules, please call (206) 684-5300, FAX (206) 684-5170, email [rea.bulletin@ci.seattle.wa.us](mailto:rea.bulletin@ci.seattle.wa.us), or submit a written request to the address above.

Dated: March 21, 2005.

DWIGHT D. DIVELY,

Director, Department of Finance.

Date of publication in the Seattle Daily Journal of Commerce, March 31, 2005.

521165390

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-007**

FILED  
CITY OF SEATTLE  
05 JUL 15 PM 2:48  
CITY CLERK

**Seattle Rule 5-007 Penalties.**

- (1) **Penalties.** (SMC 5.55.110) Penalties may apply as a result of the failure to timely file the tax return and/or pay the tax or fee, follow written instructions from the Department, or when a citation or criminal complaint has been issued, or for tax evasion. More than one penalty may apply and some penalties may be cumulative.
  
- (2) **Nonassessable and assessable penalties.** Nonassessable penalties are penalties that the law imposes automatically when the facts giving rise to them occur. There is no right to contest the imposition of a nonassessable penalty. By contrast, assessable penalties must be assessed by the Department within the statute of limitations for assessments and taxpayers have the right to contest the assessment in the same manner as any other assessment.
  
- (3) **Nonassessable penalties.**
  - (a) **Failure to file tax returns or pay the amount shown as due on a return.** (SMC 5.55.110 (A)) If a tax return is not filed by the date it is due (including extensions), or, if the tax shown as due on a return is not received by the date the return is due, a penalty equal to 5% of the tax due for the reporting period will automatically be imposed. If the return is not filed, or if the tax due is not remitted on or before the last day of the month following the due date, the penalty will be 15% of the tax due. If the return or the tax due remains delinquent on the last day of the second month following the due date, the penalty will be 25% of the tax due. No penalty so added herein shall be less than \$5.00. (Minimum \$5.00 penalty.)
  
  - (b) **Tax deficiency assessment – automatic penalty.** (SMC 5.55.110 (B)) If a tax deficiency is assessed by the Department, a penalty equal to 5% of the assessment will automatically be imposed. No penalty so added shall be less than \$5.00. (Minimum \$5.00 penalty.)
  
  - (c) **Failure to pay the amount of tax assessed by the Department.** (SMC 5.55.110 (B)) If payment of additional taxes pursuant to a deficiency assessment is not received by the due date specified in the notice, or any extension thereof, a penalty equal to 15% of the tax assessment will be automatically imposed. If payment of additional taxes pursuant to a deficiency assessment is not received by the 30<sup>th</sup> day following the due date specified in the notice, or any extension thereof, a penalty equal to 25% of the tax assessment will be automatically imposed. No penalty assessed herein shall be less than \$5.00. (Minimum \$5.00 penalty.)
  
  - (d) **Citation or criminal complaint.** (SMC 5.55.110 (C)) If the Director issues a criminal citation or complaint against a taxpayer, the taxpayer is automatically liable for a penalty equal to the greater of 10% of the amount due or \$10.00.
  
  - (e) **Engaging in business without a license.** (SMC 5.55.110 (D)) If a person is found to have engaged in any business activity that is taxable under Title 5 of the Seattle Municipal Code without first obtaining a Business license, an automatic penalty will be imposed. The penalty will be equal to 5% of the amount of tax due on business activities conducted while unlicensed. This penalty will not be imposed if the person obtains a license prior to being notified by the Department



**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-007**

of the need to be licensed and pays all taxes owed within 30 days from the date of license applicati...

**(4) Assessable penalties.**

- (a) Failure to follow written instructions. (SMC 5.55.110 (E) and (F))
- (i) If the Department gives a taxpayer written instructions telling the taxpayer how it must report and pay tax, and the taxpayer does not follow those instructions, the Director will assess a penalty equal to 10% of the additional tax resulting from the failure to follow the instructions.
  - (ii) The Department may issue instructions as part of an audit, assessment, determination, or closing agreement. All written instructions will be clearly designated as such and issued pursuant to SMC 5.55.110 (E).
  - (iii) The Director will not assess such penalty for failure to follow written instructions if the taxpayer shows that it made a good faith effort to comply with the instructions.
- (b) Tax Evasion. (SMC 5.55.110 (F)) If all or any part of a tax deficiency results from an intent by the taxpayer to evade the tax payable, the Director will assess a penalty equal to 50% of the additional tax found to be due.

**(5) Accumulation of penalties.**

- (a) Failure to follow written instructions; intent to evade tax. (SMC 5.55.110 (H)) The Director shall assess the penalty for tax evasion where there is a determination of both failure to follow written instructions and evasion. The Director shall not impose both the evasion penalty and the penalty for disregarding specific written instructions on the same tax found to be due.
- (b) All other penalties cumulative. (SMC 5.55.110 (G)) Nonassessable penalties imposed pursuant to section (3) of this rule can each be imposed on the same tax found to be due. This section does not prohibit or restrict the application of other penalties authorized by law.

**(6) Examples.**

- (a) A taxpayer files its quarterly tax return two weeks after the date it is due. The amount of tax due for the quarter after application of any prepayment credits on the taxpayer's account is \$1000. The taxpayer paid \$800 with the return. The penalty for late filing/payment is \$50 (5% of \$1000), and is deducted from the \$800 payment, resulting in a tax deficiency of \$250. The penalty for the tax deficiency is \$12.50 (5% of \$250). Interest is also assessed on the \$250 deficiency in accordance with the rate in effect pursuant to SMC 5.55.090.
- (b) A taxpayer files its quarterly tax return six months after the date it is due. The amount of tax due for the quarter after application of any prepayment credits on the taxpayer's account is \$1000. The taxpayer paid \$800 with the return. The penalty for late filing/payment is \$250 (25% of \$1000), and is deducted from the \$800 payment, along with applicable interest as provided in SMC 5.55.090. The penalty for the remaining tax deficiency is 5% of the amount outstanding after penalty and interest above have been applied.

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-607**

- (c) A taxpayer intended to evade tax when it did not report as required by written instructions. It owes an additional \$1000 tax. The Department will assess \$500 (50% of \$1000) as a penalty for tax evasion, and will not assess the penalty for failure to follow written instructions. Interest will accrue on the \$1000 tax deficiency in accordance with the rate and other provisions contained in SMC 5.55.090.
  
- (d) A taxpayer owes \$1000 tax. \$500 tax is the result of the taxpayer's misclassification of revenue in disregard of written instructions, and \$500 tax is the result of the taxpayer intention to evade tax by not reporting revenue. The Department will assess \$500 for tax evasion (50% of \$1000), and will not assess the penalty for failure to follow written instructions. Interest will accrue on the \$1000 tax deficiency in accordance with the rate and other provisions contained in SMC 5.55.090.

Effective: July 15, 2005

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-007**

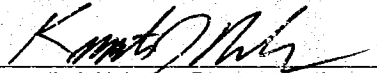
**DIRECTOR'S CERTIFICATION**

I Kenneth J. Nakatsu, Director of the Department of Executive Administration of the City of Seattle, do hereby certify under penalty of perjury of law, that the within and foregoing is a true and correct copy as adopted by the City of Seattle, Department of Executive Administration.

DATED this 15<sup>th</sup> day of July, 2005.

CITY OF SEATTLE,  
a Washington municipality

By:

  
Kenneth J. Nakatsu, Director  
Department of Executive Administration

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE  
IT IS DUE TO THE QUALITY OF THE DOCUMENT.

STATE OF WASHINGTON - KING COUNTY

--SS.

183390  
CITY OF SEATTLE:Revenue &

Nc.

**Affidavit of Publication**

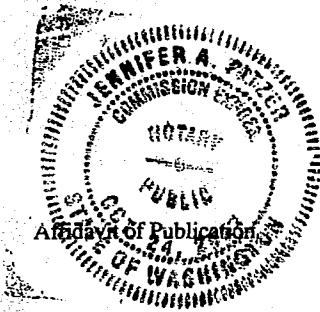
The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:RULE MAKING HEARING

was published on

3/21/2005



*mdf*

Subscribed and sworn to before me on

3/21/2005

*Jennifer Pfitzer*

Notary public for the State of Washington,  
residing in Seattle

THIS DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE



**State of Washington, King County  
City of Seattle**

**NOTICE OF PROPOSED RULE  
MAKING HEARING AND  
OPPORTUNITY TO COMMENT**

The Director of Finance, acting under the authority of Seattle Municipal Code Chapters 5.02 and 5.55, proposes to adopt new rules for implementing the Seattle Business and Occupation Tax Ordinance (Seattle Municipal Code, Chapter 5.45). Please note that although these rules are applicable to EMC 5.45, the individual rules may also apply to other chapters of the City's Tax Code, including, but not limited to, EMC 5.30 (Definitions), EMC 5.32 (Revenue Code), EMC 5.40 (Admission Tax), EMC 5.46 (Business Tax - Utilities) and EMC 5.52 (Gambling Tax). The following rules are proposed for adoption and will become effective as of April 30, 2005:

- Seattle Rule 5-005 -- Tax Returns -- Filing and Payment
- Seattle Rule 5-007 -- Penalties
- Seattle Rule 5-031 -- Measure of Tax -- Retailers and Wholesalers
- Seattle Rule 5-032 -- Measure of Tax -- Service and other business activities
- Seattle Rule 5-035 -- Freight and Delivery Charges
- Seattle Rule 5-040 -- Corporations, Massachusetts trusts
- Seattle Rule 5-043 -- Engaging in Business
- Seattle Rule 5-063 -- Returned goods, allowances, cash discounts
- Seattle Rule 5-100 -- Extracting natural products
- Seattle Rule 5-113 -- Commercial or industrial use
- Seattle Rule 5-127 -- Sales to and by the State of Washington, counties, cities, school districts, and municipal subdivisions
- Seattle Rule 5-130 -- Selling prices -- Advertised prices including sales tax
- Seattle Rule 5-131 -- Trade-ins, selling price, selling tax measures
- Seattle Rule 5-132 -- Leased departments

- Seattle Rule 5-133 -- Warranties and maintenance agreements
- Seattle Rule 5-702 -- Coin operated vending machines, amusement devices and service machines
- Seattle Rule 5-404 -- Sales of meals
- Seattle Rule 5-405 -- Restaurants, cocktail bars, taverns and similar businesses
- Seattle Rule 5-406 -- Motor carriers -- Trucking
- Seattle Rule 5-407 -- Sales of precious metal bullion
- Seattle Rule 5-530 -- Sale or rental of real estate -- license to use real estate
- Seattle Rule 5-531 -- Sales of real property -- logging, timber, minerals, natural resources
- Seattle Rule 5-532 -- Real estate brokers and salesmen
- Seattle Rule 5-600 -- Educational institutions, school districts, student organizations, and private schools
- Seattle Rule 5-700 -- Amusement, Recreation, and Physical Fitness Services
- Seattle Rule 5-720 -- Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc.
- Seattle Rule 5-803 -- Consignees, bailees, factors, agents, and auctioneers
- Seattle Rule 5-806 -- Advertising agencies
- Seattle Rule 5-807 -- Outdoor advertising and advertising display services

**PUBLIC HEARING AND COMMENT:**  
The Department of Executive Administration has scheduled a public hearing on the proposed rule changes for 1:00 p.m. to 3:00 p.m., on Monday, April 4, 2005. The hearing will be held in a conference room on the 40th floor of the Seattle Municipal Tower, Suite 4096, located at 700 5th Avenue. All interested persons are invited to present data, views, or arguments, with regard to the proposed rules, orally at the hearing, or in writing at or before the hearing.

Written comments should be mailed or delivered to:

Department of Executive Administration,  
Attn.: Mel McDonald,  
Director, Revenue and Consumer Affairs,  
700 5th Avenue -- Suite 4250,  
Seattle, Washington 98104-5028.

The public may inspect copies of the proposed rules at the Revenue and Consumer Affairs offices, 700 5th Avenue, Suite 4200. If you would like a copy of the proposed rules, please call (206) 684-3500, FAX (206) 684-6170, email rca.bislin@ci.seattle.wa.us, or submit a written request to the address above.

Dated: March 21, 2005.

DWIGHT D. DIVELY,

Director, Department of Finance.  
Date of publication in the Seattle Daily Journal of Commerce, March 21, 2005.  
S21(183590)

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-031**

FILED  
CITY OF SEATTLE  
05 JUL 15 PM 2:08  
CITY CLERK

**Seattle Rule 5-031**      **Measure of Tax – Retailers and Wholesalers**

- (1) **Measure of the Tax.** The measure of the tax is the gross proceeds of sale. Whether or not they have an office or place of business within the City, persons who are classified as retail or wholesale sellers shall include in the Seattle tax base gross proceeds from all sales generated or made possible in whole, or in part, by their Seattle business activities.
- (2) **Assignment of Gross proceeds of sales to Seattle.** This section instructs taxpayers whose gross proceeds of sales will be assigned to the City as taxable. Once the amount subject to tax in Seattle is determined according to this section then the credit or deductions contained in sections 3, 4, 5 and 7 below may be calculated, if applicable.
- (a) **Office or place of business in Seattle.** A person who has an office or place of business in Seattle, and not elsewhere, must include in the measure of the tax all gross proceeds from sales made possible in whole or in part by business activities rendered by, generated from, or attributable to the office or place of business located within the City. If a person has no office or place of business except in Seattle, all of the person's sales are presumed to have been made possible in whole or in part by business activities performed at the taxpayer's Seattle office or place of business.
- (b) **No office or place of business in Seattle.** A person engaging in business activities in the City who does not have an office or place of business in Seattle must include in the measure of the tax the gross proceeds of all sales attributable, in whole or in part, to business activities performed in the City. Such person may be required to include gross proceeds of sales in the Seattle tax base whether or not the product sold was delivered into Seattle, depending on the facts of the case, provided the product sold is delivered within Washington.
- (c) **Office or place of business both inside and outside of Seattle.** A person who maintains an office or place of business in Seattle and also elsewhere:
- (i) shall be taxable on that portion of their gross proceeds of sales that is derived from business activity rendered by, generated from, or attributable to the office or place of business located within the City; and
  - (ii) shall allocate to the City and be taxable on the gross proceeds of sales from business activities performed in the City, but supported by the office or place of business located outside the City, where the business activity performed in the City is a significant factor in making or holding the market for the goods sold; and
    - (A) delivery and acceptance of the product occurs in Seattle; or
    - (B) the customer is located in Seattle.
- Allocations under the subsection (c) shall be made in accordance with and in full compliance with the provisions of the interstate commerce clause of the United States Constitution for those goods in interstate commerce.

(3) **Deduction for Interstate Retailers and Wholesalers.**

- (a) **Products received outside the State of Washington.** There may be deducted from the measure of tax amounts derived from the sale of tangible personal property that is delivered to, and accepted by, the purchaser or its agent outside the State of Washington. The deduction is available even in cases where the shipment is arranged

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-031**

through a for-hire carrier or freight consolidator or freight forwarder acting on behalf of the seller. It is also available whether the shipment is arranged on a "freight prepaid" or a "freight collect" basis. The shipment may be made by the seller's own transportation equipment or by a carrier for-hire. For purposes of this section, the signature of a for-hire carrier, freight consolidator, or freight forwarder does not constitute receipt and acceptance when receiving the products for shipment unless the carrier, consolidator, or forwarder is acting as the purchaser's agent and has express written authority from the purchaser concerning the right of inspection to accept or reject the products before shipment of the goods.

- (b) Products received inside the State of Washington. Gross receipts from sales that are made possible in whole or in part by a person's Seattle business activities may not be deducted from the tax base if the products sold are received by the purchaser or its agent in the State of Washington. Gross receipts may not be deducted even though the purchaser or its agent intends to, and thereafter does, transport or send the product outside Washington for use or resale, or for use in conducting interstate or foreign commerce.
- (c) Substantiation Required. A person claiming the interstate deduction must retain in its records documentary proof that the purchaser received the products outside the State of Washington.
- (i) Delivery to or by for-hire carriers, freight consolidators, or freight forwarders. When products are delivered to or by a for-hire carrier, freight consolidator, or freight forwarder, acceptable proof will be:
- (A) The contract or agreement of sale, if any, showing where acceptance will take place; and
  - (B) A waybill, bill of lading or other contract of carriage showing that the seller has delivered the goods to the for-hire carrier for transport to the purchaser or the purchaser's agent outside Washington. The contract of carriage must show the seller as the consignor (or other designation used to indicate the person shipping the product) and the purchaser or its agent as the consignee (or other designation of the person to whom the product is being sent).
- (ii) Delivery by Seller. When products are delivered using the seller's own transportation equipment, acceptable proof will be a trip-sheet signed by the individual delivering the product and showing all of the following:
- (A) The seller's name and address;
  - (B) The purchaser's name and address;
  - (C) The place of delivery, if different from purchaser's address;
  - (D) The time of delivery to the purchaser; and
  - (E) The signature of the purchaser or its agent acknowledging receipt of the product at a location outside the State of Washington.

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-031**

- (4) **Deduction for taxes paid to other cities that impose an eligible gross receipts tax.** A person who has engaged in business activities within and paid an eligible gross receipts tax to another jurisdiction within Washington, on gross proceeds of sales in which the product is delivered to such other jurisdiction, may deduct from the measure of Seattle's tax those amounts included in the measure of the tax paid to the other jurisdiction.
- (5) **Deduction to preserve constitutionality of tax.** SMC 5.45.100 (Q) provides that if inclusion of gross proceeds of sales in the measure of the tax would violate the Constitution of the State of Washington or the Constitution of the United States, there may be deducted from the measure of the tax amounts derived from business which the City is prohibited from taxing. Persons claiming entitlement to such deduction under circumstances not otherwise addressed by SMC 5.45.075, SMC 5.45.080 or SMC 5.45.100, shall obtain permission from the Director before claiming the deduction.
- (6) **No Multiple Deductions for the Same Gross Proceeds of Sales.** An amount subject to more than one of the deductions contained in this rule or in SMC 5.45 may only be deducted once from the gross proceeds of sales.
- (7) **Tax Credits for Retailers and Wholesalers.** Multiple Activities Tax Credit. Persons classified as retailers or wholesalers may be eligible for a multiple activities tax credit to the extent that they have paid an eligible extracting, manufacturing, printing, or publishing gross receipts tax to another jurisdiction measured by the same gross receipts included in the Seattle tax base. Refer to SMC 5.45.070 to determine eligibility for the credit.
- (8) **Definitions.**
- (a) The term "agent" means a person authorized to inspect and either accept or reject the goods.
  - (b) The term "eligible gross receipts tax" is defined at SMC 5.30.030.
  - (c) The term "gross proceeds of sale" is defined at SMC 5.30.035.
  - (d) The terms "office" and "place of business" are defined at SMC 5.30.040.
  - (e) The term "product" is defined at SMC 5.30.040.
  - (f) The term "sale" is defined at SMC 5.30.060.
  - (g) The term "received" means that the purchaser, or an agent having the authority to reject or accept the product, has taken physical possession of the product, or has exercised dominion and control over the product inconsistent with the seller's continued dominion over it.
  - (h) The terms "retail sale" and "sale at retail" are defined at SMC 5.30.060.
  - (i) The terms "wholesale sale" and "sale at wholesale" are defined at SMC 5.30.060.

Effective: July 15, 2005



**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-031**

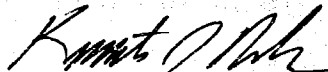
**DIRECTOR'S CERTIFICATION**

I Kenneth J. Nakatsu, Director of the Department of Executive Administration of the City of Seattle, do hereby certify under penalty of perjury of law, that the within and foregoing is a true and correct copy as adopted by the City of Seattle, Department of Executive Administration.

DATED this 15<sup>th</sup> day of July, 2005.

CITY OF SEATTLE,  
a Washington municipality

By:

  
Kenneth J. Nakatsu, Director  
Department of Executive Administration

NOTICE:  
IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE  
IT IS DUE TO THE QUALITY OF THE DOCUMENT.

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

STATE OF WASHINGTON - KING COUNTY

--SS.

183390  
CITY OF SEATTLE:Revenue &

No.

**Affidavit of Publication**

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:RULE MAKING HEARING

was published on

3/21/2005

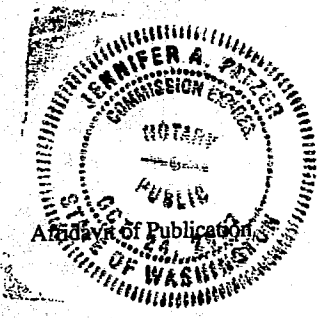
*mdf*

Subscribed and sworn to before me on

3/21/2005

*Jennifer A. Preizer*

Notary public for the State of Washington,  
residing in Seattle



State of Washington, King County  
City of Seattle

NOTICE OF PROPOSED RULE  
MAKING HEARING AND  
OPPORTUNITY TO COMMENT

The Director of Finance, acting under the authority of Seattle Municipal Code Chapters 5.02 and 5.55, proposes to adopt new rules for implementing the Seattle Business and Occupation Tax Ordinance (Seattle Municipal Code, Chapter 5.45). Please note that although these rules are applicable to SMC 5.45, the individual rules may also apply to other chapters of the City's Tax Code, including, but not limited to, SMC 5.30 (Definitions), SMC 5.32 (Revenue Code), SMC 5.40 (Admissions Tax), SMC 5.48 (Business Tax - Utilities) and SMC 5.52 (Gambling Tax). The following rules are proposed for adoption and will become effective as of April 30, 2005:

Seattle Rule 5-005 -- Tax Returns -- Filing and Payment

Seattle Rule 5-007 -- Penalties

Seattle Rule 5-031 -- Measure of Tax -- Retailers and Wholesalers

Seattle Rule 5-032 -- Measure of Tax -- Service and other business activities

Seattle Rule 5-035 -- Freight and Delivery Charges

Seattle Rule 5-040 -- Corporations, Massachusetts trusts

Seattle Rule 5-043 -- Engaging in Business

Seattle Rule 5-063 -- Returned goods, allowances, cash discounts

Seattle Rule 5-100 -- Extracting natural products

Seattle Rule 5-112 -- Commercial or industrial use

Seattle Rule 5-127 -- Sales to and by the State of Washington, counties, cities, school districts, and municipal subdivisions

Seattle Rule 5-130 -- Selling price -- Advertised prices including sales tax

Seattle Rule 5-131 -- Trade-ins, selling price, sellers' tax measures

Seattle Rule 5-132 -- Leased departments

Seattle Rule 5-133 -- Warranties and maintenance agreements

Seattle Rule 5-702 -- Coin operated vending machines, amusement devices and service machines

Seattle Rule 5-404 -- Sales of meals

Seattle Rule 5-405 -- Restaurants, cocktail bars, taverns and similar businesses

Seattle Rule 5-481 -- Motor carriers -- Trucking

Seattle Rule 5-523 -- Sales of precious metal bullion and processed bullion

Seattle Rule 5-530 -- Sale or rental of real estate, license to use real estate

Seattle Rule 5-531 -- Sales of real property, standing timber, minerals, natural resources

Seattle Rule 5-532 -- Real estate brokers and salesmen

Seattle Rule 5-600 -- Educational institutions, school districts, student organizations, and private schools

Seattle Rule 5-700 -- Amusement, Recreation, and Physical Fitness Services

Seattle Rule 5-720 -- Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc.

Seattle Rule 5-803 -- Consignees, bailees, factors, agents, and customers

Seattle Rule 5-806 -- Advertising agencies

Seattle Rule 5-807 -- Outdoor advertising and advertising display services

**PUBLIC HEARING AND COMMENT:**  
The Department of Executive Administration has scheduled a public hearing on the proposed rule changes for 1:00 p.m. to 3:00 p.m., on Monday, April 4, 2005. The hearing will be held in a conference room on the 40th floor of the Seattle Municipal Tower, Suite 4096, located at 700 5th Avenue. All interested persons are invited to present data, views, or arguments, with regard to the proposed rules, orally at the hearing, or in writing at or before the hearing.

Written comments should be mailed or delivered to:

Department of Executive Administration, Attn.: Mel McDonald, Director, Revenue and Consumer Affairs, 700 5th Avenue - Suite 4250, Seattle, Washington 98104-5028.

The public may inspect copies of the proposed rules at the Revenue and Consumer Affairs offices, 700 5th Avenue, Suite 4200. If you would like a copy of the proposed rules, please call (206) 684-8300, FAX (206) 684-5170, email [rca.bialic@ci.seattle.wa.us](mailto:rca.bialic@ci.seattle.wa.us), or submit a written request to the address above.

Dated: March 21, 2005.

DWIGHT D. DIVELY,

Director, Department of Finance.

Date of publication in the Seattle Daily Journal of Commerce, March 21, 2005.

3/21(183390)

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-032**

FILED  
CITY OF SEATTLE  
05 JUL 15 PM 2:49  
CITY CLERK

**Seattle Rule 5-032**      **Measure of Tax – Service and Other Business Activities.**

- (1) **Measure of the Tax.** The measure of the tax is gross income of the business. Persons who are classified as engaging in service and other business activities, pursuant to SMC 5.45.050 (G), must include in the Seattle tax base all gross income made possible in whole or in part by the person's Seattle business activities. A person may have Seattle gross income whether or not it has an office or place of business in the City.
  
- (2) **Assignment of gross income to Seattle.** This section instructs taxpayers which part of the gross income of the business will be assigned to the City of Seattle as taxable. Once the amount is subject to tax in Seattle is determined according to this section, then the credit or deductions contained in sections 3, 4 and 5 below may be calculated, if applicable.
  - (a) **Office or place of business in Seattle.** A person who has an office or place of business in Seattle and not elsewhere must include in the measure of the tax all gross income of the business made possible in whole or in part by business activities rendered by, generated from, or attributable to the office or place of business located within the City. If a person has no office or other place of business except in Seattle, all of the person's gross income is presumed to have been made possible in whole or in part by business activities performed at the taxpayer's Seattle office or place of business.
  
  - (b) **No office or place of business in Seattle.** A person engaging in business activities in the City who does not have an office or place of business in Seattle must include in the measure of the tax the gross income of the business attributable, in whole or in part, to business activities performed in the City.
  
  - (c) **Office or place of business both inside and outside of Seattle.** A person who maintains an office or place of business in Seattle and also elsewhere:
    - (i) shall be taxable on that portion of their gross income of the business that is derived from business activity rendered by, generated from, or attributable to the office or place of business located within the City; and
  
    - (ii) shall allocate to the City and be taxable on the gross income of the business from business activities performed in the City but supported by the office or place of business located outside the City, where the business activity performed in the City is a significant factor in making or holding the market for the goods sold, and the service was performed/rendered to customers in Seattle.
  
- (3) **Assignment of gross income to an office or place of business when subsection 2(c) applies.** If the Director determines that the assignment of gross income from business activities is not fair, as determined by the methods prescribed by subsection 2, the Director shall determine such gross income by choosing either of the following methods:
  - (a) a fair and equitable formula agreed upon by the Director and the taxpayer after consideration of the facts; or
  
  - (b) the ratio that the cost of doing business within the City of Seattle bears to the cost of doing business both inside and outside the City of Seattle. For these apportionment purposes, all costs of doing business must be assigned to an office or place of business (See Section 5 below).

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.



**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-032**

- (4) **Deduction for taxes paid to other cities that impose an eligible gross receipts tax.** When the assignment of gross income contained in subsections 2(a) and 2(c) apply, and the other local jurisdiction with taxing nexus over a particular transaction imposes an eligible gross receipts tax, then the following deductions apply:

A person who engages in business activities both inside the City and outside the City, and maintains an office within, and who has paid an eligible gross receipts tax on gross income received for a service performed in the other local tax jurisdiction, may deduct from the measure of tax amounts included in the measure of the tax paid to the other jurisdiction. This deduction is applicable whether or not the service was provided inside Washington or outside Washington.

**NOTE:** Essentially, when two or more cities with eligible gross receipts taxes have nexus over the same "service" transactions, the revenue is assigned first to the city where the service is performed. If there is no tax paid in the city where the service is performed, then the revenue reverts back to the service provider's office location.

- (5) **Assignment of gross income from royalties.** A person who generates "royalty" income from the granting of the right to use intangible property shall assign such royalty income to the local jurisdiction where its headquarters is located.
- (6) **Apportioning the gross income of the business using the cost ratio approach (see subsection 3(b) above).**

Cost Apportionment formula. In cases where a cost ratio apportionment is applied, a taxpayer shall report to the City that proportion of gross revenue which the cost of doing business within the City bears to the total cost of doing business both inside and outside the City. For apportionment purposes all costs must be assigned to an office or place of business. Costs incurred for financing, advertising, and taxes, shall not be included in the apportionment calculation. The following costs shall be included, as well as other costs particularly applicable to a taxpayer's business:

- (a) Payroll and salary costs of all employees and officers. These costs must be assigned to the office where the employee is domiciled. If the employee is not assigned or reporting regularly to an office (i.e. Traveling salesman) then the salary is assigned to the office which controls the employee;
- (b) Office rent or depreciation expense;
- (c) Office maintenance, equipment expense and repair;
- (d) Office supplies and materials expense and other general administrative expenses;
- (e) Automobile and travel expenses associated with office personnel (assigned to the office where the employee is domiciled);
- (f) Data processing and other computer system related costs; and
- (g) Utility expense; and
- (h) Subcontractor expense. Subcontractor costs are assigned to the office out of which the subcontractor is controlled. This cost might have to be apportioned between offices if more than one office controls the project and subcontractor.

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-032**

No other apportionment formula authorized. Apportionment methods other than the above may not be used unless the taxpayer has entered into a written agreement with the Director allowing the alternative method.

- (7) **Cost apportionment method exclusive of deductions.** If the cost apportionment method is used to calculate the gross income of the business as described in subsection 5 above, no deduction shall be allowed for business and occupation taxes paid to another jurisdiction in calculating the gross income of the business.
- (8) **Deduction to preserve constitutionality of tax.** SMC 5.45.100 (Q) provides that in computing tax, there may be deducted from the measure of the tax amounts derived from business which the City is prohibited from taxing under the Constitution of the State of Washington or the Constitution of the United States.
- (9) **Definitions.**
- (a) The term "domicile" means a person's true, fixed, and permanent office and place of work, and shall be the place where the person intends to remain, and to which the person expects to return when the person leaves without intending to establish a new domicile elsewhere.
  - (b) The term "eligible gross receipts tax" is defined at SMC 5.30.030.
  - (c) The term "gross income of the business" is defined at SMC 5.30.035.
  - (d) The term "headquarters" means the place from which the company manages its overall operations.
  - (e) The terms "office" and "place of business" are defined at SMC 5.30.040.

Effective: July 15, 2005

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-032**


**DIRECTOR'S CERTIFICATION**

I Kenneth J. Nakatsu, Director of the Department of Executive Administration of the City of Seattle, do hereby certify under penalty of perjury of law, that the within and foregoing is a true and correct copy as adopted by the City of Seattle, Department of Executive Administration.

DATED this 15<sup>th</sup> day of July, 2005.

CITY OF SEATTLE,  
a Washington municipality

By:

  
Kenneth J. Nakatsu, Director  
Department of Executive Administration

NOTICE  
IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE  
IT IS DUE TO THE QUALITY OF THE DOCUMENT.

STATE OF WASHINGTON - KING COUNTY

--SS.

183390  
CITY OF SEATTLE:Revenue &

No.

**Affidavit of Publication**

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:RULE MAKING HEARING

was published on

3/21/2005

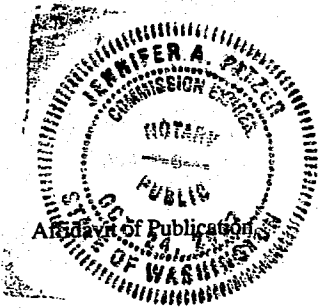
*mdf*

Subscribed and sworn to before me on

3/21/2005

*Jennifer Pety*

Notary public for the State of Washington,  
residing in Seattle



IT IS DUE TO THE QUALITY OF THE DOCUMENT. IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE

State of Washington, King County  
City of Seattle

NOTICE OF PROPOSED RULE  
MAKING HEARING AND  
OPPORTUNITY TO COMMENT

The Director of Finance, acting under the authority of Seattle Municipal Code Chapters 5.02 and 5.65, proposes to adopt new rules for implementing the Seattle Business and Occupation Tax Ordinance (Seattle Municipal Code, Chapter 5.45). Please note that although these rules are applicable to SMC 5.45, the individual rules may also apply to other chapters of the City's Tax Code, including, but not limited to, SMC 5.30 (Definitions), SMC 5.32 (Revenue Code), SMC 5.40 (Admissions Tax), SMC 5.48 (Business Tax - Utilities) and SMC 5.52 (Gambling Tax). The following rules are proposed for adoption and will become effective as of April 30, 2005:

- Seattle Rule 5-006 -- Tax Returns -- Filing and Payment
- Seattle Rule 5-007 -- Penalties
- Seattle Rule 5-031 -- Measure of Tax -- Retailers and Wholesalers
- Seattle Rule 5-032 -- Measure of Tax -- Service and other business activities
- Seattle Rule 5-036 -- Freight and Delivery Charges
- Seattle Rule 5-040 -- Corporations, Massachusetts trusts
- Seattle Rule 5-048 -- Engaging in Business
- Seattle Rule 5-068 -- Returned goods, allowances, cash discounts
- Seattle Rule 5-100 -- Extracting natural products
- Seattle Rule 5-112 -- Commercial or industrial use
- Seattle Rule 5-127 -- Sales to and by the State of Washington, counties, cities, school districts, and municipal subdivisions
- Seattle Rule 5-130 -- Selling price -- Advertised prices including sales tax
- Seattle Rule 5-131 -- Trade-ins, selling price, sellers' tax measures
- Seattle Rule 5-132 -- Leased departments

Seattle Rule 5-133 -- Warranties and maintenance agreements

Seattle Rule 5-702 -- Coin operated vending machines, amusement devices and service machines

Seattle Rule 5-404 -- Sales of meals

Seattle Rule 5-405 -- Restaurants, cocktail bars, taverns and similar businesses

Seattle Rule 5-481 -- Motor carriers -- Trucking

Seattle Rule 5-528 -- Sales of precious metal bullion and monetized bullion

Seattle Rule 5-530 -- Sale or rental of real estate, license to use real estate

Seattle Rule 5-531 -- Sales of real property, standing timber, minerals, natural resources

Seattle Rule 5-532 -- Real estate brokers and salesman

Seattle Rule 5-600 -- Educational institutions, school districts, student organizations, and private schools

Seattle Rule 5-700 -- Amusement, Recreation, and Physical Fitness Services

Seattle Rule 5-750 -- Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc.

Seattle Rule 5-803 -- Consignees, bailees, factors, agents, and auctioneers

Seattle Rule 5-806 -- Advertising agencies

Seattle Rule 5-807 -- Outdoor advertising and advertising display services

**PUBLIC HEARING AND COMMENT:**

The Department of Executive Administration has scheduled a public hearing on the proposed rule changes for 1:00 p.m. to 3:00 p.m. on Monday, April 4, 2005. The hearing will be held in a conference room on the 40th floor of the Seattle Municipal Tower, Suite 4096, located at 700 5th Avenue. All interested persons are invited to present data, views, or arguments, with regard to the proposed rules, orally at the hearing, or in writing at or before the hearing.

Written comments should be mailed or delivered to:

Department of Executive Administration, Attn.: Mel McDonald, Director, Revenue and Consumer Affairs, 700 5th Avenue - Suite 4250, Seattle, Washington 98104-5020.

The public may inspect copies of the proposed rules at the Revenue and Consumer Affairs offices, 700 5th Avenue, Suite 4200. If you would like a copy of the proposed rules, please call (206) 684-8200, FAX (206) 684-5170, email [rcab@cityofseattle.wa.us](mailto:rcab@cityofseattle.wa.us), or submit a written request to the address above.

Dated: March 21, 2005.

DWIGHT D. DIVELY,

Director, Department of Finance.

Date of publication in the Seattle Daily Journal of Commerce, March 21, 2005.

3/21(198890)

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-035**

FILED  
CITY OF SEATTLE  
05 JUL 15 PM 2:18  
CITY CLERK

**Seattle Rule 5-035**      **Freight and delivery charges.**

- (1) **Introduction.** This rule explains that freight and delivery costs charged to the buyer are generally part of the selling price. Sections 82.04.070 and 82.04.080 RCW, in defining "gross proceeds of sales" and "gross income of the business," states that delivery costs may not be deducted from the measure of the business license tax.
- (2) **Amounts received by a seller** from a purchaser for freight and delivery costs incurred by the seller prior to completion of sale constitute recovery of costs of doing business and must be included in the selling price or gross proceeds of sales reported by the seller regardless of whether charges for such costs are billed separately or whether the seller is also the carrier. The sale is complete when the purchaser or the purchaser's agent has received the goods.
  - (a) "Purchasers agent" means a person authorized to receive goods for the purchaser with the power to inspect and accept or reject them.
  - (b) "Received" or "receipt" means the purchaser or its agent first either taking physical possession of the goods or having dominion and control over them. It means the purchaser or its agent has examined the goods and has accepted them.
  - (c) It is presumed that the person who is shown as the consignor (or other designation of the person from whom the goods are sent) on the bill of lading has control over the goods while the goods are in the hands of the carrier. It also will be presumed that the sale is not complete at the time of delivery to the carrier if the seller has personal liability to pay or has paid the carrier.
- (3) **Freight and delivery costs incurred by a lessor**, regardless of whether billed separately to a lessee or not, are costs of doing business to the lessor in every case and must be included in the selling price or gross proceeds of sales reported by the lessor.
- (4) **Delivery costs incurred after the buyer has taken receipt** of the goods are not part of the selling price when the seller is not liable to pay or has not paid the carrier. It must be clearly shown that the buyer alone is responsible to pay the carrier for the delivery costs to be excluded from the taxable value of the selling price.
- (5) **Examples.** The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax status of each situation must be determined after a review of all of the facts and circumstances.
  - (a) XYZ Corporation in Spokane orders a repair part for its machine from ABC Distributors located in Seattle. XYZ Corporation requests that the part be shipped by next day air and agrees to pay the additional shipping costs. The seller bills the buyer the exact amount of shipping costs. ABC Distributors is subject to the business license tax on the amounts billed as shipping charges. The seller was liable to pay the air carrier and the buyer had not taken receipt at the time the part was given to the carrier.
  - (b) Jane Doe orders a life vest from Marine Sales in Seattle and she requests that the vest be shipped by United States mail to her home in Bellingham. The seller places the correct postage on the package using a postage meter and charges the buyer the exact amount of postage. The charge for the postage is taxable to the seller. The seller had liability for payment of the postage to the postal service and was required to affect delivery to the buyer.

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-035**

- (c) L&M Machinery of Spokane ordered a large piece of equipment from ACE Equipment in Seattle. L&M specified that the equipment was to be shipped by prepaid freight and free on board (FOB) the seller's dock. L&M requested that the seller use M&T Trucking as the carrier. The transportation charge billed to the buyer is taxable to the seller. The FOB point or other shipping terms are not controlling. The seller was required to deliver the equipment to the buyer. Delivery was not completed until the equipment arrived in Spokane.
  
- (d) Jones Computer Supply, a distributor located in Seattle, sells computer products primarily by mail order. It is the practice of Jones Computer Supply to make a three-dollar handling charge for each order. No separate charge is made for the transportation. The handling charge is part of the measure of the selling price of the product and fully subject to the wholesaling or retailing business license tax.

Effective: July 15, 2005

**THE CITY OF SEATTLE  
DIRECTOR'S RULE  
IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE  
RULE 5-035**

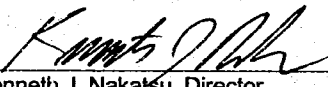
**DIRECTOR'S CERTIFICATION**

I Kenneth J. Nakatsu, Director of the Department of Executive Administration of the City of Seattle, do hereby certify under penalty of perjury of law, that the within and foregoing is a true and correct copy as adopted by the City of Seattle, Department of Executive Administration.

DATED this 15<sup>th</sup> day of July, 2005.

CITY OF SEATTLE,  
a Washington municipality

By:

  
\_\_\_\_\_  
Kenneth J. Nakatsu, Director  
Department of Executive Administration

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE  
IT IS DUE TO THE QUALITY OF THE DOCUMENT.



STATE OF WASHINGTON - KING COUNTY

--SS.

183390  
CITY OF SEATTLE:Revenue &

No.

**Affidavit of Publication**

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

**CT:RULE MAKING HEARING**

was published on

3/21/2005



*mdf*

Subscribed and sworn to before me on

3/21/2005

*Jennifer A. Preizer*

Notary public for the State of Washington,  
residing in Seattle

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

# State of Washington, King County

## City of Seattle

### NOTICE OF PROPOSED RULE MAKING HEARING AND OPPORTUNITY TO COMMENT

The Director of Finance, acting under the authority of Seattle Municipal Code Chapters 5.02 and 5.55, proposes to adopt new rules for implementing the Seattle Business and Occupation Tax Ordinance (Seattle Municipal Code, Chapter 5.45). Please note that although these rules are applicable to EMC 5.45, the individual rules may also apply to other chapters of the City's Tax Code, including, but not limited to, EMC 5.30 (Definitions), EMC 5.32 (Revenue Code), EMC 5.40 (Admissions Tax), EMC 5.48 (Business Tax - Utilities) and EMC 5.52 (Gambling Tax). The following rules are proposed for adoption and will become effective as of April 30, 2005:

- Seattle Rule 5-006 -- Tax Returns -- Filing and Payment
- Seattle Rule 5-007 -- Penalties
- Seattle Rule 5-021 -- Measure of Tax -- Retailers and Wholesalers
- Seattle Rule 5-032 -- Measure of Tax -- Service and other business activities
- Seattle Rule 5-035 -- Freight and Delivery Charges
- Seattle Rule 5-040 -- Corporations, Massachusetts trusts
- Seattle Rule 5-043 -- Engaging in business
- Seattle Rule 5-063 -- Returned goods, allowances, cash discounts
- Seattle Rule 5-100 -- Extracting natural products
- Seattle Rule 5-112 -- Commercial or industrial use
- Seattle Rule 5-127 -- Sales to and by the State of Washington, counties, cities, school districts, and municipal subdivisions
- Seattle Rule 5-130 -- Selling price -- Advertised prices including sales tax
- Seattle Rule 5-131 -- Trade-ins, selling price, sellers' tax measures
- Seattle Rule 5-132 -- Leased departments

Seattle Rule 5-133 -- Warranties and maintenance agreements

Seattle Rule 5-702 -- Coin operated vending machines, amusement devices and service machines

Seattle Rule 5-404 -- Sales of meals

Seattle Rule 5-405 -- Restaurants, cocktail bars, taverns and similar businesses

Seattle Rule 5-431 -- Motor carriers -- Trucking

Seattle Rule 5-528 -- Sales of precious metal bullion and monetized bullion

Seattle Rule 5-530 -- Sale or rental of real estate, license to use real estate

Seattle Rule 5-531 -- Sales of real property, standing timber, minerals, natural resources

Seattle Rule 5-532 -- Real estate brokers and salesmen

Seattle Rule 5-500 -- Educational institutions, school districts, student organizations, and private schools

Seattle Rule 5-700 -- Amusement, Recreation, and Physical Fitness Services

Seattle Rule 5-720 -- Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc.

Seattle Rule 5-803 -- Consignees, bailees, factors, agents, and auctioneers

Seattle Rule 5-806 -- Advertising agencies

Seattle Rule 5-807 -- Outdoor advertising and advertising display services

**PUBLIC HEARING AND COMMENT:** The Department of Executive Administration has scheduled a public hearing on the proposed rule changes for 1:00 p.m. to 3:00 p.m. on Monday, April 4, 2005. The hearing will be held in a conference room on the 40th floor of the Seattle Municipal Tower, Suite 4095, located at 700 5th Avenue. All interested persons are invited to present data, views, or arguments, with regard to the proposed rules, orally at the hearing, or in writing at or before the hearing.

Written comments should be mailed or delivered to:

Department of Executive Administration, Attn.: Mel McDonald, Director, Revenue and Consumer Affairs, 700 5th Avenue - Suite 4200, Seattle, Washington 98104-5928.

The public may inspect copies of the proposed rules at the Revenue and Consumer Affairs Office, 700 5th Avenue, Suite 4200. If you would like a copy of the proposed rules, please call (206) 684-8300, FAX (206) 684-5170, email [rcabialist@cl.seattle.wa.us](mailto:rcabialist@cl.seattle.wa.us), or submit a written request to the address above.

Dated: March 21, 2005.

DWIGHT D. DIVELY,

Director, Department of Finance.

Date of publication in the Seattle Daily Journal of Commerce, March 21, 2005.

371(154350)

THE CITY OF SEATTLE  
DIRECTOR'S RULE  
IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE  
RULE 5-040

FILED  
CITY OF SEATTLE  
05 JUL 15 PM 2:58  
CITY CLERK

**Seattle Rule 5-040**      **Corporations, Massachusetts trusts.**

- (1) Each separately organized corporation is a "person" within the meaning of the law, notwithstanding its affiliation with or relation to any other corporation through stock ownership by a parent corporation or by the same group of individuals.
- (2) Each corporation shall file a separate return and include therein the tax liability accruing to such corporation. This applies to each corporation in an affiliated group, as the law makes no provision for filing of consolidated returns by affiliated corporations or for the elimination of inter-company activities from the measure of tax.
- (3) Each unincorporated association organized under the Massachusetts Trust Act of 1959 (Chapter 23.90 RCW) is likewise taxable in the same way as are separate corporations.

Effective: July 15, 2005

**THE CITY OF SEATTLE  
DIRECTOR'S RULE  
IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE  
RULE 5-040**

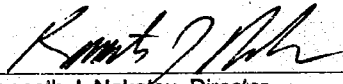
**DIRECTOR'S CERTIFICATION**

I Kenneth J. Nakatsu, Director of the Department of Executive Administration of the City of Seattle, do hereby certify under penalty of perjury of law, that the within and foregoing is a true and correct copy as adopted by the City of Seattle, Department of Executive Administration.

DATED this 15<sup>th</sup> day of July, 2005.

CITY OF SEATTLE,  
a Washington municipality

By:

  
Kenneth J. Nakatsu, Director  
Department of Executive Administration

STATE OF WASHINGTON - KING COUNTY

--SS.

183390  
CITY OF SEATTLE:Revenue &

No.

**Affidavit of Publication**

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:RULE MAKING HEARING

was published on

3/21/2005

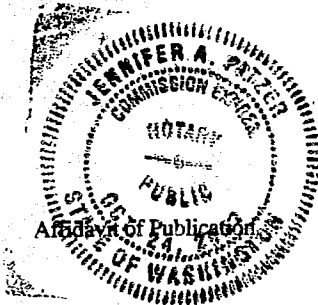
*M. J. P.*

Subscribed and sworn to before me on

3/21/2005

*Jennifer A. Prizer*

Notary public for the State of Washington,  
residing in Seattle



IT IS DUE TO THE QUALITY OF THE DOCUMENT.

State of Washington, King County  
City of Seattle

NOTICE OF PROPOSED RULE  
MAKING HEARING AND  
OPPORTUNITY TO COMMENT

The Director of Finance, acting under the authority of Seattle Municipal Code Chapters 5.02 and 5.55, proposes to adopt new rules for implementing the Seattle Business and Occupation Tax Ordinance (Seattle Municipal Code, Chapter 5.45). Please note that although these rules are applicable to SMC 5.45, the individual rules may also apply to other chapters of the City's Tax Code, including, but not limited to, SMC 5.37 (Definitions), SMC 5.32 (Revenue Code), SMC 5.40 (Admissions Tax), SMC 5.42 (Business Tax - Utilities) and SMC 5.52 (Gambling Tax). The following rules are proposed for adoption and will become effective as of April 30, 2005:

- Seattle Rule 5-006 -- Tax Returns -- Filing and Payment
- Seattle Rule 5-007 -- Penalties
- Seattle Rule 5-031 -- Measure of Tax -- Retailers and Wholesalers
- Seattle Rule 5-032 -- Measure of Tax -- Service and other business activities
- Seattle Rule 5-035 -- Freight and Delivery Charges
- Seattle Rule 5-040 -- Corporations, Massachusetts trusts
- Seattle Rule 5-043 -- Engaging in Business
- Seattle Rule 5-063 -- Returned goods, allowances, cash discounts
- Seattle Rule 5-100 -- Extracting natural products
- Seattle Rule 5-112 -- Commercial or industrial use
- Seattle Rule 5-127 -- Sales to and by the State of Washington, counties, cities, school districts, and municipal subdivisions
- Seattle Rule 5-130 -- Selling price -- Advertised prices including sales tax
- Seattle Rule 5-131 -- Trade-ins, selling price, sellers' tax measures
- Seattle Rule 5-132 -- Leased departments

Seattle Rule 5-133 -- Warranties and maintenance agreements

Seattle Rule 5-702 -- Coin operated vending machines, amusement devices and service machines

Seattle Rule 5-404 -- Sales of meals

Seattle Rule 5-405 -- Restaurants, cocktail bars, taverns and similar businesses

Seattle Rule 5-481 -- Motor carriers -- Trucking

Seattle Rule 5-523 -- Sales of precious metal bullion and money used bullion

Seattle Rule 5-530 -- Sale or rental of real estate, license to use real estate

Seattle Rule 5-531 -- Sales of real property, standing timber, minerals, natural resources

Seattle Rule 5-532 -- Real estate brokers and salesman

Seattle Rule 5-600 -- Educational institutions, school districts, student organizations, and private schools

Seattle Rule 5-700 -- Amusement, Recreation, and Physical Fitness Services

Seattle Rule 5-720 -- Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc.

Seattle Rule 5-803 -- Consignees, bailees, factors, agents, and auctioneers

Seattle Rule 5-806 -- Advertising agencies

Seattle Rule 5-807 -- Outdoor advertising and advertising display service

PUBLIC HEARING AND COMMENT:

The Department of Executive Administration has scheduled a public hearing on the proposed rule changes for 1:00 p.m. to 3:00 p.m. on Monday, April 4, 2005. The hearing will be held in a conference room on the 40th floor of the Seattle Municipal Tower, Suite 4095, located at 700 5th Avenue. All interested persons are invited to present data, views, or arguments, with regard to the proposed rules, orally at the hearing, or in writing at or before the hearing.

Written comments should be mailed or delivered to:

Department of Executive Administration, Attn.: Mel McDonald, Director, Revenue and Consumer Affairs, 700 5th Avenue - Suite 4250, Seattle, Washington 98104-5620.

The public may inspect copies of the proposed rules at the Revenue and Consumer Affairs office, 700 5th Avenue, Suite 4200. If you would like a copy of the proposed rules, please call (206) 684-8200, FAX (206) 684-5170, email [rcablist@ci.seattle.wa.us](mailto:rcablist@ci.seattle.wa.us), or submit a written request to the address above.

Dated: March 21, 2005.

DWIGHT D. DIVELY,

Director, Department of Finance.

Date of publication in the Seattle Daily Journal of Commerce, March 21, 2005.

3/21/05RSPD

THE CITY OF SEATTLE  
DIRECTOR'S RULE  
IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE  
RULE 5-043

FILED  
CITY OF SEATTLE  
05 JUL 15 PM 2:10  
CITY CLERK

**Seattle Rule 5-043      Engaging in Business**

- (1) **Tax imposed on engaging in business.** Seattle Municipal Code Chapter 5.45 imposes an excise tax upon the privilege of "engaging in business activities" within Seattle. The tax is measured by the value of products, gross proceeds of sales, or gross income derived in whole or in part from such business activities. The amount of tax is determined by multiplying the measure of the tax by the applicable rate. The measure and the rate that apply to a business activity is determined by the tax classification of the activity.
  
- (2) **Definitions.**
  - (a) The term "engaging in business activity" means commencing, conducting, or continuing in business, and also the exercise of corporate or franchise powers, as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business.
  
  - (b) The terms "office" and "place of business" are defined in SMC 5.30.040.
  
- (3) **Business activities on which tax is imposed.** The definition of engaging in business is broad and extends to all activities performed with the object of gain, benefit or advantage with which Seattle has nexus.
  - (a) Gain, benefit or advantage. A person is engaged in business if it performs activities with the object of gain, benefit, or advantage to the person. The gain, benefit or advantage may be indirect. The activity need not actually result in any gain, benefit, or advantage, as long as any of those were its object.
  
  - (b) Nexus. A person has created nexus with Seattle if, whether itself or through others acting on its behalf, it:
    - (i) is physically present in the City; or
  
    - (ii) endeavors to maintain a share of the market within the City; or
  
    - (iii) avails itself of the economic benefits of the City.

Once a person has established nexus, a person is presumed to continue in business in Seattle as long as the person continues to generate gross proceeds of sales, gross income, or value resulting from the original nexus generating activity.

  - (c) No physical presence required. A person may be engaged in business activities in Seattle whether or not it has an office, other place of business, or any other physical location in the City. A person is engaged in business activities in Seattle if it seeks to maintain a share of the market in the City or otherwise avails itself of the economic benefits of the Seattle market by directing its activities at that market.
  
- (4) **Examples of engaging in business activities.** The activities listed in this section are illustrative only and are not intended to narrow the definition of "engaging in business" above. The City expressly intends that engaging in business include any activity sufficient to establish nexus for purposes of applying the tax under the law and the constitutions of the United States and the State of Washington. Without being all inclusive, any one of the following activities conducted within the City by a person, or its employee, agent,

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-043**

representative, independent contractor, broker or another acting on its behalf constitutes engaging in business and requires a person to register and obtain a business license:

- (a) Owning, renting, leasing, maintaining, or having the right to use, or using, tangible personal property, intangible personal property, or real property permanently or temporarily located in the City;
- (b) Owning, renting, leasing, using, or maintaining, an office, place of business, or other establishment in the City;
- (c) Soliciting sales;
- (d) Making repairs or providing maintenance or service to real or tangible personal property, including warranty work and property maintenance;
- (e) Providing technical assistance or service, including quality control, product inspections, warranty work, or similar services on or in connection with tangible personal property sold by the person or on its behalf;
- (f) Installing, constructing, or supervising installation or construction of, real or tangible personal property;
- (g) Soliciting, negotiating, or approving franchise, license, or other similar agreements;
- (h) Collecting current or delinquent accounts;
- (i) Picking up and transporting tangible personal property, solid waste, construction debris, or excavated materials;
- (j) Providing disinfecting and pest control services, employment and labor pool services, home nursing care, janitorial services, appraising, landscape architectural services, security system services, surveying, and real estate services including the listing of homes and managing real property;
- (k) Rendering professional services such as those provided by accountants, architects, attorneys, auctioneers, consultants, engineers, professional athletes, barbers, baseball clubs and other sports organizations, chemists, consultants, psychologists, court reporters, dentists, doctors, detectives, laboratory operators, teachers, veterinarians;
- (l) Meeting with customers or potential customers, even when no sales or orders are solicited at the meetings;
- (m) Training or recruiting agents, representatives, independent contractors, brokers or others domiciled or operating on a job in the City, acting on its behalf, or for customers or potential customers;
- (n) Investigating, resolving, or otherwise assisting in resolving customer complaints;
- (o) In-store stocking or manipulating products or goods, sold to and owned by a customer, regardless of where sale and delivery of the goods took place;

**NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.**



**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-043**

- (p) Delivering goods in vehicles owned, rented, leased, used, or maintained by the person who sold the goods or another acting on its behalf; and
  - (q) Accepting or executing a contract with the City, irrespective of whether the goods or services are delivered within or without the City, or whether the person's office or place of business is within or without the City.
- (5) **Safe harbor for persons engaging in certain business activities.** SMC 5.30.030 allows a person to engage in certain business activities in Seattle without being required to obtain a business license or pay tax.
- (a) Activities allowed without business license or tax payment. A person may perform one or more of the following business activities without licensing and paying tax to Seattle, provided that it engages in no other business activities in or with the City. If, in addition to the activities in this subsection (5)(a), a person performs one or more of the business activities listed in subsection (4), or another business activity, the person must register and pay tax.
    - (i) Meeting with suppliers of goods and services as a customer.
    - (ii) Meeting with government representatives in their official capacity, other than those performing contracting or purchasing functions.
    - (iii) Attending meetings, such as board meetings, retreats, seminars, and conferences, or other meetings wherein the person does not provide training in connection with tangible personal property sold by the person or on its behalf.
    - (iv) Renting tangible or intangible property as a customer when the property is not used in the City.
    - (v) Attending, but not participating in, a "trade show." Persons participating at a trade show shall review the City's trade show ordinance, SMC Chapter 6.20.
    - (vi) Conducting advertising through the mail.
    - (vii) Soliciting sales by phone from a location outside the City.
  - (b) Delivery by common carrier. A seller located outside the City merely delivering goods into the City by means of common carrier is not required to register and obtain a business license provided that it engages in no other business activities in or with the City. If, in addition to delivering goods by common carrier, a seller performs one or more of the business activities listed in subsection (4), or another business activity, the person must register and pay tax.

Effective: July 15, 2005

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-043**

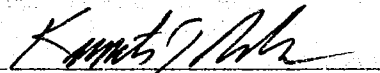
**DIRECTOR'S CERTIFICATION**

I Kenneth J. Nakatsu, Director of the Department of Executive Administration of the City of Seattle, do hereby certify under penalty of perjury of law, that the within and foregoing is a true and correct copy as adopted by the City of Seattle, Department of Executive Administration.

DATED this 15<sup>th</sup> day of July, 2005.

CITY OF SEATTLE,  
a Washington municipality

By:

  
Kenneth J. Nakatsu, Director  
Department of Executive Administration

NOTICE:  
IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE  
IT IS DUE TO THE QUALITY OF THE DOCUMENT.

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

STATE OF WASHINGTON - KING COUNTY

--SS.

183390  
CITY OF SEATTLE:Revenue &

No.

**Affidavit of Publication**

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:RULE MAKING HEARING

was published on

3/21/2005

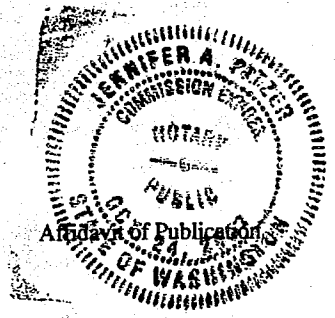
*mdf*

Subscribed and sworn to before me on

3/21/2005

*Jennifer A. Patzer*

Notary public for the State of Washington,  
residing in Seattle



# State of Washington, King County

## City of Seattle

### NOTICE OF PROPOSED RULE MAKING HEARING AND OPPORTUNITY TO COMMENT

The Director of Finance, acting under the authority of Seattle Municipal Code Chapters 8.02 and 8.55, proposes to adopt new rules for implementing the Seattle Business and Occupation Tax Ordinance (Seattle Municipal Code, Chapter 5.45). Please note that although these rules are applicable to SMC 5.45, the individual rules may also apply to other chapters of the City's Tax Code, including, but not limited to, SMC 5.30 (Definitions), SMC 5.32 (Revenue Code), SMC 5.40 (Admissions Tax), SMC 5.46 (Business Tax - Utilities) and SMC 5.52 (Gambling Tax). The following rules are proposed for adoption and will become effective as of April 30, 2005.

- Seattle Rule 5-006 -- Tax Returns -- Filing and Payment
- Seattle Rule 5-007 -- Penalties
- Seattle Rule 5-031 -- Measure of Tax -- Retailers and Wholesalers
- Seattle Rule 5-032 -- Measure of Tax -- Service and other business activities
- Seattle Rule 5-035 -- Freight and Delivery Charges
- Seattle Rule 5-040 -- Corporations, Massachusetts trusts
- Seattle Rule 5-043 -- Engaging in Business
- Seattle Rule 5-053 -- Returned goods, allowances, cash discounts
- Seattle Rule 5-100 -- Extracting natural products
- Seattle Rule 5-112 -- Commercial or industrial use
- Seattle Rule 5-127 -- Sales to and by the State of Washington, counties, cities, school districts, and municipal subdivisions
- Seattle Rule 5-130 -- Selling price -- Advertised prices including sales tax
- Seattle Rule 5-131 -- Trade-ins, selling price, sellers' tax measures
- Seattle Rule 5-132 -- Leased departments

- Seattle Rule 5-133 -- Warranties and maintenance agreements
- Seattle Rule 5-702 -- Coin operated vending machines, amusement devices and service machines
- Seattle Rule 5-404 -- Sales of meals
- Seattle Rule 5-405 -- Restaurants, cocktail bars, taverns and similar businesses
- Seattle Rule 5-481 -- Motor carriers -- Trucking
- Seattle Rule 5-523 -- Sales of precious metal bullion and monetized bullion
- Seattle Rule 5-526 -- Sale or rental of real estate, license to use real estate
- Seattle Rule 5-531 -- Sales of real property, standing timber, minerals, natural resources
- Seattle Rule 5-532 -- Real estate brokers and salesmen
- Seattle Rule 5-600 -- Educational institutions, school districts, student organizations, and private schools
- Seattle Rule 5-700 -- Amusement, Recreation, and Physical Fitness Services
- Seattle Rule 5-720 -- Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc.
- Seattle Rule 5-803 -- Consignees, bailees, factors, agents, and auctioneers
- Seattle Rule 5-806 -- Advertising agencies
- Seattle Rule 5-807 -- Outdoor advertising and advertising display services

**PUBLIC HEARING AND COMMENT:**  
The Department of Executive Administration has scheduled a public hearing on the proposed rule changes for 1:00 p.m. to 3:00 p.m., on Monday, April 4, 2005. The hearing will be held in a conference room on the 40th floor of the Seattle Municipal Tower, Suite 4086, located at 700 5th Avenue. All interested persons are invited to present data, views, or arguments, with regard to the proposed rules, orally at the hearing, or in writing at or before the hearing.

Written comments should be mailed or delivered to:

Department of Executive Administration, Attn.: Mel McDonald, Director, Revenue and Consumer Affairs, 700 5th Avenue - Suite 4250, Seattle, Washington 98104-5020.

The public may inspect copies of the proposed rules at the Revenue and Consumer Affairs offices, 700 5th Avenue, Suite 4200. If you would like a copy of the proposed rules, please call (206) 684-8300, FAX (206) 684-5170, email [rea.bislect@cl.seattle.wa.us](mailto:rea.bislect@cl.seattle.wa.us), or submit a written request to the address above.

Dated: March 21, 2005.

DWIGHT D. DIVELY,

Director, Department of Finance  
Date of publication in the Seattle Daily Journal of Commerce, March 21, 2005.

E71(152390)

THE CITY OF SEATTLE  
DIRECTOR'S RULE  
IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE  
RULE 5-063

FILED  
CITY OF SEATTLE  
05 JUL 15 PM 3:19  
CITY CLERK

**Seattle Rule 5-063**     **Returned goods, allowances, cash discounts**

(1) **Contract of sale subject to cancellation or revision.** When a contract of sale is (1) subject to cancellation at the option of one of the parties, (2) subject to revision in the event the goods sold are defective, or (3) subject to cash or trade discounts, the gross proceeds of sales shall be determined by the transaction as finally completed.

(2) **Returned goods.** When the purchaser returns goods purchased and the entire selling price is refunded or credited to the purchaser, the seller may deduct an amount equal to the original selling price from the seller's gross proceeds of sales used in computing that period's tax liability. If the goods purchased are not returned within the guaranty period as established by contract or by customs of the trade, or if the full selling price is not refunded or credited to the purchaser, it shall be determined that the goods returned represent an exchange or a repurchase by the vendor.

**To illustrate:** S sells an article for \$60.00 and credits his sales account therewith. The purchaser returns the article purchased within the guaranty period and the full amount of the purchase price is refunded or credited to the purchaser. S may deduct \$60.00 from the gross amount reported on his tax return covering the period of the returned merchandise.

If the amount of returned goods in a particular reporting period exceeds the gross income for such period, the excess of the amount of the returned goods deducted during such period may be deducted from the gross income of subsequent tax reporting period(s).

(3) **Defective goods.** When bona fide refunds, credits or allowances are given within the guaranty period by a seller to a purchaser because of defects in the goods sold, the amount of such refunds, credits or allowances, exclusive of sales tax refunded or credited, may be deducted by the seller in computing tax liability.

**To illustrate:** S sells an article to B for \$60.00 and credits his sales account therewith. The article is later found to be defective.

- (a) S gives B credit of \$50.00 on account of the defect, and also a credit of sales tax collectible on that amount. S may deduct \$50.00 from the gross amount reported in his tax returns. This is true whether or not B retains the defective article.
- (b) B returns the article to S who gives B an allowance of \$50.00 on a second article of the same kind which B purchases for an additional payment of \$10.00, plus sales tax on the \$10. S may deduct \$50.00 from the gross amount reported in his tax returns. The sale of the second article, however, must be reported for tax purposes as a \$60.00 sale and included in the gross amount in his tax return.
- (c) B returns the article to S who replaces it with a new article of the same kind free of charge, and without sales tax. S may deduct \$60.00 from the gross amount reported in his tax returns, but the \$60.00 selling price of the substituted article must be reported in the gross amount.

No deduction is allowed from the gross amount reported for tax if S in (b) and (c) of this subsection, does not credit his sales account with the selling price of the new article furnished to replace the defective one, but instead merely credits the sales account with an amount equal to the additional payment received, if any. In such case, the allowance for the defect is already shown in the sales account by the reduced sales price of the new article.

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-063**

- (4) **Discounts.** If the original selling price of a service or good reported on a previous tax return includes the amount of bona fide discounts which are subsequently taken by the buyer, the amount of such discount may be deducted from gross proceeds of sales in the subsequent period. (SMC 5.45.100 (K)).
- (a) Discount deductions will only be allowed under the extracting or manufacturing classifications when the selling price determines the amount subject to tax. When the value of products under the extracting or manufacturing classification is determined by costs or some other non-sales method, no discount deduction is allowed.
- (b) Patronage dividends which are granted in the form of discounts in the selling price of specific articles (for example, a rebate of one cent per gallon on purchases of gasoline) are deductible.

Effective: July 15, 2005

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

**THE CITY OF SEATTLE  
DIRECTOR'S RULE  
IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE  
RULE 5-063**

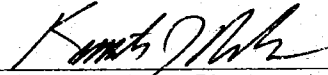
**DIRECTOR'S CERTIFICATION**

I Kenneth J. Nakatsu, Director of the Department of Executive Administration of the City of Seattle, do hereby certify under penalty of perjury of law, that the within and foregoing is a true and correct copy as adopted by the City of Seattle, Department of Executive Administration.

DATED this 15<sup>th</sup> day of July, 2005.

CITY OF SEATTLE,  
a Washington municipality

By:

  
\_\_\_\_\_  
Kenneth J. Nakatsu, Director  
Department of Executive Administration

IT IS DUE TO THE QUALITY OF THE DOCUMENT.

STATE OF WASHINGTON - KING COUNTY

--SS.

183390  
CITY OF SEATTLE: Revenue &

No.

**Affidavit of Publication**

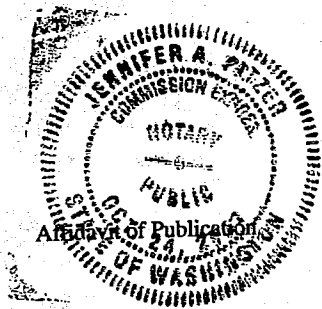
The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:RULE MAKING HEARING

was published on

3/21/2005



*Mad*

Subscribed and sworn to before me on

3/21/2005

*Jennifer A. Zetzer*

Notary public for the State of Washington,  
residing in Seattle

IT IS DUE TO THE QUALITY OF THE DOCUMENT.



# State of Washington, King County

## City of Seattle

### NOTICE OF PROPOSED RULE MAKING HEARING AND OPPORTUNITY TO COMMENT

The Director of Finance, acting under the authority of Seattle Municipal Code Chapters 5.02 and 5.55, proposes to adopt new rules for implementing the Seattle Business and Occupation Tax Ordinance (Seattle Municipal Code, Chapter 5.45). Please note that although these rules are applicable to SMC 5.45, the individual rules may also apply to other chapters of the City's Tax Code, including, but not limited to, SMC 5.30 (Definitions), SMC 5.32 (Revenue Code), SMC 5.40 (Admissions Tax), SMC 5.48 (Business Tax - Utilities) and SMC 5.52 (Gambling Tax). The following rules are proposed for adoption and will become effective as of April 30, 2005:

Seattle Rule 5-005 -- Tax Returns -- Filing and Payment

Seattle Rule 5-007 -- Penalties

Seattle Rule 5-021 -- Measure of Tax -- Retailers and Wholesalers

Seattle Rule 5-022 -- Measure of Tax -- Service and other business activities

Seattle Rule 5-035 -- Freight and Delivery Charges

Seattle Rule 5-040 -- Corporations, Massachusetts trusts

Seattle Rule 5-043 -- Engaging in Business

Seattle Rule 5-053 -- Returned goods, allowances, cash discounts

Seattle Rule 5-100 -- Extracting natural products

Seattle Rule 5-112 -- Commercial or industrial use

Seattle Rule 5-127 -- Sales to and by the State of Washington, counties, cities, school districts, and municipal subdivisions

Seattle Rule 5-130 -- Selling price -- Advertised prices including sales tax

Seattle Rule 5-131 -- Trade-ins, selling price, sellers' tax measures

Seattle Rule 5-132 -- Leased departments

Seattle Rule 5-133 -- Warranties and maintenance agreements

Seattle Rule 5-702 -- Coin operated vending machines, amusement devices and service machines

Seattle Rule 5-404 -- Sales of meals

Seattle Rule 5-405 -- Restaurants, cocktail bars, taverns and similar businesses

Seattle Rule 5-481 -- Motor carriers -- Trucking

Seattle Rule 5-523 -- Sales of precious metal bullion and monetized bullion

Seattle Rule 5-530 -- Sale or rental of real estate, license to use real estate

Seattle Rule 5-531 -- Sales of real property, standing timber, minerals, natural resources

Seattle Rule 5-532 -- Real estate brokers and salesman

Seattle Rule 5-600 -- Educational institutions, school districts, student organizations, and private schools

Seattle Rule 5-700 -- Amusement, Recreation, and Physical Fitness Services

Seattle Rule 5-720 -- Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc.

Seattle Rule 5-803 -- Consignees, bailees, factors, agents, and auctioneers

Seattle Rule 5-806 -- Advertising agencies

Seattle Rule 5-807 -- Outdoor advertising and advertising display services

**PUBLIC HEARING AND COMMENT:**  
The Department of Executive Administration has scheduled a public hearing on the proposed rule changes for 1:00 p.m. to 3:00 p.m. on Monday, April 4, 2005. The hearing will be held in a conference room on the 40th floor of the Seattle Municipal Tower, Suite 4096, located at 700 5th Avenue. All interested persons are invited to present data, views, or arguments, with regard to the proposed rules, orally at the hearing, or in writing at or before the hearing.

Written comments should be mailed or delivered to:

Department of Executive Administration, Attn.: Mel McDonald, Director, Revenue and Consumer Affairs, 700 5th Avenue - Suite 4350, Seattle, Washington 98104-5920.

The public may inspect copies of the proposed rules at the Revenue and Consumer Affairs offices, 700 5th Avenue, Suite 4290. If you would like a copy of the proposed rules, please call (206) 684-5390, FAX (206) 684-5170, email [rea.bidslts@ci.seattle.wa.us](mailto:rea.bidslts@ci.seattle.wa.us), or submit a written request to the address above.

Dated: March 21, 2005.

DWIGHT D. DIVELY,

Director, Department of Finance.

Date of publication in the Seattle Daily Journal of Commerce, March 21, 2005.

3/21(188390)

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-100**

FILED  
CITY OF SEATTLE  
05 JUL 15 PM 2:10  
CITY CLERK

**Seattle Rule 5-100**    **Extracting natural products.**

- (1) **Introduction.** This rule explains the application of the business license tax to persons extracting natural products. Persons extracting natural products often use the same extracted products in a manufacturing process. This rule provides guidance for determining when an extracting activity ends and the manufacturing activity begins.
- (2) **Definition.** The term "extractor" means every person who, from the person's own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, for sale or for commercial or industrial use mines, quarries, takes or produces coal, oil, natural gas, ore, stone, sand, gravel, clay, mineral, or other natural resource product. The term includes a person who fells, cuts, or takes timber, Christmas trees other than plantation Christmas trees, or other natural products. It also includes any person who takes fish, shellfish, or other sea or inland water foods or products.
- (a) Persons excluded from the definition of "extractor." The term "extractor" does not include:
- (i) Persons performing under contract the necessary labor or mechanical services for others (these persons are extractors for hire, see subsection (4) below); or
  - (ii) Persons who cultivate products (farmers), or raise fish, entirely within confined rearing areas on the person's own land, or on land in which the person has a present right of possession.
- (b) When an extractor is also a manufacturer. An extractor may subsequently take an extracted product and use it as a raw material in a manufacturing process. The following examples explain when an extracting process ends and a manufacturing process begins for various situations. These examples should be used only as a general guide. A determination of when extracting ends and manufacturing begins for other situations can be made only after a review of all of the facts and circumstances.
- (i) **Mining and quarrying.** Mining and quarrying operations are extracting activities, and generally include the screening, sorting, and piling of rock, sand, stone, gravel, or ore. For example, an operation that extracts rock, then screens, sorts, and with no further processing places the rock into piles for sale, is an extracting operation.
    - (A) The crushing and/or blending of rock, sand, stone, gravel, or ore are manufacturing activities. These are manufacturing activities whether or not the materials were previously screened or sorted.
    - (B) Screening, sorting, piling, or washing of the material, when the activity takes place in conjunction with crushing or blending at the site where the materials are taken or produced, is considered a part of the manufacturing operation if it takes place after the first screen. If there is no separate first screen, only those activities subsequent to the materials being deposited into the screen are considered a part of the manufacturing operation.
  - (ii) **Commercial fishing.** Commercial fishing operations, including the taking of any fish in Seattle waters (within the statutory limits of the City of Seattle) and the taking of shellfish or other sea or inland water foods or products, are extracting activities. These activities often include the removal of meat from the

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-100**

shell and the icing of fish or sea products.

- (A) A person growing, raising, or producing a product of aquaculture as defined in RCW 15.85.020 on the person's own land or on land in which the person has a present right of possession is not an extractor, but a farmer.
- (B) Cleaning (removal of the head, fins, or viscera), filleting, and/or steaking fish are manufacturing activities. The cooking of fish or seafood is also a manufacturing activity.
- (C) The removal of meat from the shell or the icing of fish or sea products, when the activity is performed in conjunction with and at the site where manufacturing takes place (e.g., cooking the fish or seafood), is considered a part of the manufacturing operation.

- (3) **Tax-reporting responsibilities for income received by extractors.** Extractors are subject to the extracting business license tax upon the value of the extracted products. Extractors who sell the products at retail or wholesale in Seattle are subject to either the retailing or wholesaling business license tax, as the case may be. In such cases, the extractor must report under both the "production" (extracting) and "selling" (wholesaling or retailing) classifications of the business license tax, and claim a tax credit under the multiple activities tax credit (MATC) pursuant to SMC 5.45.070.

For example, Corporation quarries rock without further processing. Corporation sells and delivers the rock to Landscaper, who is located in Seattle. Landscaper provides Corporation with a resale certificate. Corporation should report under both the extracting and wholesaling business license tax classifications, and claim a MATC. Had Corporation delivered the quarried rock to an out-of-state location, Corporation would have incurred only an extracting business license tax liability.

- (a) When extractors use their products in a manufacturing process. Persons who extract products, use these extracted products in a manufacturing process, and then sell the products all within Seattle are subject to both "production" taxes (extracting and manufacturing) and the "selling" tax (wholesaling or retailing), and may claim the appropriate credits under the MATC.

For example, Company quarries rock (an extracting activity), crushes and blends the rock (a manufacturing activity), and sells the resulting product at retail. The taxable value of the extracted rock is \$50,000 (the amount subject to the extracting business license tax). The taxable value of the crushed and blended rock is \$140,000 (the amount subject to the manufacturing business license tax). The crushed and blended rock is sold for \$140,000 (the amount subject to the retailing business license tax). Assume the tax rates for the extracting, manufacturing, and retailing business license taxes are each .00215. Company should compute its tax liability as follows:

- (i) Computing the business license tax due on the combined excise tax return:
- (A) Extracting Line - \$50,000 subject to tax at .00215 = tax of \$107.50;
  - (B) Manufacturing Line - \$140,000 subject to tax at .00215 = tax of \$301;  
and
  - (C) Retailing Line - \$140,000 subject to tax at .00215 = tax of \$301.

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-100**

- (ii) Completing the Multiple Activities Tax Credit Form (MATC Form):

**Part II - INTERNAL CREDITS**

*Use Part II if you have paid taxes to Seattle under two or more classifications on the same product.*

| Activity resulting in a tax credit.  | Column 1       | Column 2            | Column 3                           | Column 4a            | Column 4b          | Credit |
|--|----------------|---------------------|------------------------------------|----------------------|--------------------|--------|
|  | Taxable Amount | Extracting Tax Paid | Manufacturing Or Printing Tax Paid | Wholesaling Tax Paid | Retailing Tax Paid |        |
| C. Manufacturing activities on products extracted in Seattle.                  | \$50,000       | 107.50              | 107.50                             |                      |                    | 107.50 |
| D. Selling in Seattle products extracted, manufactured, or printed in Seattle. | \$140,000      |                     | 301.00                             |                      | 301.00             | 301.50 |

|   |                 |
|---|-----------------|
| <b>Total External &amp; Internal Credits From Part I Column 4 and Part II Column 5:</b><br>Transfer this amount to the multiple tax credit line on business tax return. | <b>\$407.50</b> |
|---|-----------------|

The MATC Form helps taxpayers calculate and claim the multiple activities tax credit provided by SMC 5.45.070. In the MATC Form example above, materials that a person extracts and then uses in a manufacturing process in Seattle are entered at their value when extracting ceases and manufacturing begins (\$50,000 shown on the "Manufacturing activities on products extracted in Seattle" line of the MATC Form). The taxable amount reported on the "Selling in Seattle products extracted, manufactured, or printed in Seattle" line of the MATC Form is the value of products at the point that manufacturing ceases (\$140,000), not simply the value added by the manufacturing activity.

- (4) **Tax-reporting responsibilities for income received by extractors for hire.** Persons performing extracting activities for extractors are subject to the extracting for hire business license tax upon their gross income from those services.

For example, a person removing ore, waste, or overburden at a mining pit for the operator of the mining operation is an extractor for hire. Likewise, a person drilling to locate or provide access to a satisfactory grade of ore at the mining pit for the operator is also an extractor for hire. The gross income derived from these activities is subject to the extracting for hire business license tax classification. Extractors for hire who also haul the products over private or public roads are subject to the motor carrier business license tax on that portion of their gross income properly attributable to such hauling. (See Seattle Rule 5-481.)

- (5) **Mining or mineral rights.** Royalties or charges in the nature of royalties for granting another the privilege or right to remove minerals, rock, sand, or other natural resource product are subject to the service and other activities business license tax. Such royalties should be assigned to the person's headquarters.

Income derived from the sale or rental of real property, whether designated as royalties or another term, is exempt from the business license tax.

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-100**

- (6) **Property extracted and then manufactured for commercial or industrial use.** Persons extracting and then manufacturing tangible personal property for commercial or industrial use are subject to both the extracting and manufacturing business license tax upon the value of the property extracted and manufactured, unless a specific exemption applies. (See also Seattle Rule 5-112 on commercial or industrial use.)

If the person also extracts materials used in the manufacturing process, the extracting business license tax is due on the value of the extracted materials and a MATC may be taken.

For example, Quarry extracts rock, crushes the rock into desired size, and then uses the crushed rock in its parking lot. The use of the crushed rock by Quarry in its parking lot is a commercial or industrial use. Quarry is subject to the extracting and manufacturing business license taxes and may claim a MATC.

Effective: July 15, 2005

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE  
IT IS DUE TO THE QUALITY OF THE DOCUMENT.

**THE CITY OF SEATTLE  
DIRECTOR'S RULE  
IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE  
RULE 5-100**

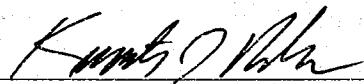
**DIRECTOR'S CERTIFICATION**

I Kenneth J. Nakatsu, Director of the Department of Executive Administration of the City of Seattle, do hereby certify under penalty of perjury of law, that the within and foregoing is a true and correct copy as adopted by the City of Seattle, Department of Executive Administration.

DATED this 15<sup>th</sup> day of July, 2005.

CITY OF SEATTLE,  
a Washington municipality

By:

  
Kenneth J. Nakatsu, Director  
Department of Executive Administration

IT IS DUE TO THE QUALITY OF THE DOCUMENT.

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

**STATE OF WASHINGTON - KING COUNTY**

--SS.

183390  
CITY OF SEATTLE:Revenue &

No.

**Affidavit of Publication**

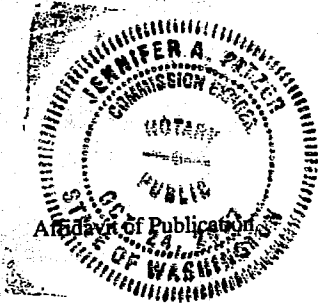
The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

**CT:RULE MAKING HEARING**

was published on

3/21/2005



*M. J. Pfeizer*

Subscribed and sworn to before me on

3/21/2005

*Jennifer Pfeizer*

Notary public for the State of Washington,  
residing in Seattle

# State of Washington, King County

## City of Seattle

### NOTICE OF PROPOSED RULE MAKING HEARING AND OPPORTUNITY TO COMMENT

The Director of Finance, acting under the authority of Seattle Municipal Code Chapters 5.02 and 5.55, proposes to adopt new rules for implementing the Seattle Business and Occupation Tax Ordinance (Seattle Municipal Code, Chapter 5.45). Please note that although these rules are applicable to SMC 5.45, the individual rules may also apply to other chapters of the City's Tax Code, including, but not limited to, SMC 5.30 (Definitions), SMC 5.32 (Revenue Code), SMC 5.40 (Admissions Tax), SMC 5.48 (Business Tax - Utilities) and SMC 5.52 (Gambling Tax). The following rules are proposed for adoption and will become effective as of April 30, 2005:

Seattle Rule 5-006 -- Tax Returns -- Filing and Payment

Seattle Rule 5-007 -- Penalties

Seattle Rule 5-031 -- Measure of Tax -- Retailers and Wholesalers

Seattle Rule 5-032 -- Measure of Tax -- Service and other business activities

Seattle Rule 5-035 -- Freight and Delivery Charges

Seattle Rule 5-040 -- Corporations, Massachusetts trusts

Seattle Rule 5-043 -- Engaging in Business

Seattle Rule 5-053 -- Returned goods, allowances, cash discounts

Seattle Rule 5-100 -- Extracting natural products

Seattle Rule 5-112 -- Commercial or industrial use

Seattle Rule 5-127 -- Sales to and by the State of Washington, counties, cities, school districts, and municipal subdivisions

Seattle Rule 5-130 -- Selling price -- Advertised prices including sales tax

Seattle Rule 5-131 -- Trade-ins, selling price, sellers' tax measures

Seattle Rule 5-132 -- Leased departments

Seattle Rule 5-133 -- Warranties and maintenance agreements

Seattle Rule 5-702 -- Coin operated vending machines; amusement devices and service machines

Seattle Rule 5-404 -- Sales of meals

Seattle Rule 5-405 -- Restaurants, cocktail bars, taverns and similar businesses

Seattle Rule 5-481 -- Motor carriers -- Trucking

Seattle Rule 5-528 -- Sales of precious metal bullion and monetized bullion

Seattle Rule 5-530 -- Sale or rental of real estate, license to use real estate

Seattle Rule 5-531 -- Sales of real property, standing timber, minerals, natural resources

Seattle Rule 5-532 -- Real estate brokers and salesman

Seattle Rule 5-600 -- Educational institutions, school districts, student organizations, and private schools

Seattle Rule 5-700 -- Amusement, Recreation, and Physical Fitness Services

Seattle Rule 5-720 -- Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc.

Seattle Rule 5-803 -- Consignees, bailees, factors, agents, and auctioneers

Seattle Rule 5-805 -- Advertising agencies

Seattle Rule 5-807 -- Outdoor advertising and advertising display services

**PUBLIC HEARING AND COMMENT:**  
The Department of Executive Administration has scheduled a public hearing on the proposed rule changes for 1:00 p.m. to 3:00 p.m. on Monday, April 4, 2005. The hearing will be held in a conference room on the 40th floor of the Seattle Municipal Tower, Suite 4096, located at 700 5th Avenue. All interested persons are invited to present data, views, or arguments, with regard to the proposed rules, orally at the hearing, or in writing at or before the hearing.

Written comments should be mailed or delivered to:

Department of Executive Administration, Attn.: Mel McDonald, Director, Revenue and Consumer Affairs, 700 5th Avenue - Suite 4250, Seattle, Washington 98104-5020.

The public may inspect copies of the proposed rules at the Revenue and Consumer Affairs offices, 700 5th Avenue, Suite 4200. You would like a copy of the proposed rules, please call (206) 684-8300, FAX (206) 684-1176, email [rcs.bislictr@clseattle.wa.us](mailto:rcs.bislictr@clseattle.wa.us), or submit a written request to the address above.

Dated: March 21, 2005.

DWIGHT D. DIVELY,

Director, Department of Finance.  
Date of publication in the Seattle Daily Journal of Commerce, March 21, 2005.  
3/21(163890)



THE CITY OF SEATTLE  
DIRECTOR'S RULE  
IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE  
RULE 5-112

FILED  
CITY OF SEATTLE  
05 JUL 15 PM 2:49  
CITY CLERK

**Seattle Rule 5-112**      **Commercial or industrial use.**

- (1) **Definition.** The term 'commercial or industrial use' means the following uses of products, including by-products, by the extractor or manufacturer thereof:
- (a) Any use as a consumer (SMC 5.30.025 (G));
  - (b) Any use in the manufacturing of articles, substances or commodities (SMC 5.30.035 (H)); and
  - (c) Consigning, shipping or transferring extracted or manufactured products to another either without consideration or in the performance of contracts.
- (2) **Examples.** Following are examples of commercial or industrial use:
- (a) The use of lumber by the manufacturer thereof to build a shed for its own use.
  - (b) The use of a motor truck by the manufacturer thereof as a service truck for itself.
  - (c) The use by a boat manufacturer of patterns, jigs, and dies which it has manufactured.
  - (d) The use by a contractor building or improving a publicly owned road of crushed rock or pit run gravel which it has extracted.
- (3) **Business license tax.** Persons manufacturing or extracting tangible personal property for commercial or industrial use are subject to tax under the classifications manufacturing or extracting, as the case may be. The tax is measured by the value of the product manufactured or extracted and used.

Effective: July 15, 2005

**THE CITY OF SEATTLE  
DIRECTOR'S RULE  
IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE  
RULE 5-112**

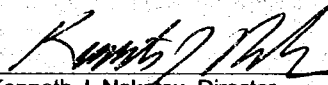
**DIRECTOR'S CERTIFICATION**

I Kenneth J. Nakatsu, Director of the Department of Executive Administration of the City of Seattle, do hereby certify under penalty of perjury of law, that the within and foregoing is a true and correct copy as adopted by the City of Seattle, Department of Executive Administration.

DATED this 15<sup>th</sup> day of July, 2005.

CITY OF SEATTLE,  
a Washington municipality

By:

  
Kenneth J. Nakatsu, Director  
Department of Executive Administration

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE  
IT IS DUE TO THE QUALITY OF THE DOCUMENT.

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

**STATE OF WASHINGTON - KING COUNTY**

--SS.

183390  
CITY OF SEATTLE:Revenue &

No.

**Affidavit of Publication**

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:RULE MAKING HEARING

was published on

3/21/2005

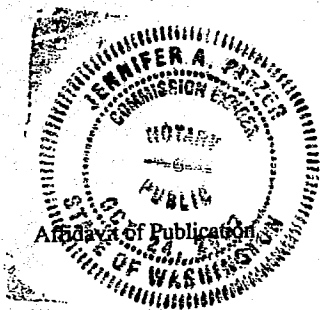
*M.D.F.*

Subscribed and sworn to before me on

3/21/2005

*Jennifer A. Prezer*

Notary public for the State of Washington,  
residing in Seattle



# State of Washington, King County

## City of Seattle

### NOTICE OF PROPOSED RULE MAKING HEARING AND OPPORTUNITY TO COMMENT

The Director of Finance, acting under the authority of Seattle Municipal Code Chapters 8.02 and 8.53, proposes to adopt new rules for implementing the Seattle Business and Occupation Tax Ordinance (Seattle Municipal Code, Chapter 8.48). Please note that although these rules are applicable to SMC 8.48, the individual rules may also apply to other chapters of the City's Tax Code, including, but not limited to, SMC 5.36 (Definitions), EMC 5.32 (Revenue Code), SMC 5.40 (Admissions Tax), SMC 5.08 (Business Tax - Duties) and SMC 5.52 (Gambling Tax). The following rules are proposed for adoption and will become effective as of April 30, 2005:

- Seattle Rule 5-006 -- Tax Returns -- Filing and Payment
- Seattle Rule 5-007 -- Penalties
- Seattle Rule 5-031 -- Measure of Tax -- Retailers and Wholesalers
- Seattle Rule 5-032 -- Measure of Tax -- Service and other business activities
- Seattle Rule 5-035 -- Freight and Delivery Charges
- Seattle Rule 5-040 -- Corporations, Massachusetts trusts
- Seattle Rule 5-043 -- Engaging in Business
- Seattle Rule 5-063 -- Returned goods, allowances, cash discounts
- Seattle Rule 5-100 -- Extracting natural products
- Seattle Rule 5-112 -- Commercial or industrial use
- Seattle Rule 5-127 -- Sales to and by the State of Washington, counties, cities, school districts, and municipal subdivisions
- Seattle Rule 5-130 -- Selling price -- Advertised prices including sales tax
- Seattle Rule 5-131 -- Trade-ins, selling price, sellers' tax measures
- Seattle Rule 5-152 -- Leased departments

Seattle Rule 5-133 -- Warranties and maintenance agreements

Seattle Rule 5-702 -- Coin operated vending machines, amusement devices and service machines

Seattle Rule 5-404 -- Sales of meals

Seattle Rule 5-405 -- Restaurants, cocktail bars, taverns and similar businesses

Seattle Rule 5-481 -- Motor carriers -- Trucking

Seattle Rule 5-523 -- Sales of precious metal bullion and monetized bullion

Seattle Rule 5-530 -- Sale or rental of real estate, license to use real estate

Seattle Rule 5-531 -- Sale of real property, including timber, minerals, natural resources

Seattle Rule 5-532 -- Real estate brokers and salesmen

Seattle Rule 5-600 -- Educational institutions, school districts, student organizations, and private schools

Seattle Rule 5-700 -- Amusement, Recreation, and Physical Fitness Services

Seattle Rule 5-720 -- Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc.

Seattle Rule 5-803 -- Consignees, bailees, factors, agents, and auctioneers

Seattle Rule 5-806 -- Advertising agencies

Seattle Rule 5-807 -- Outdoor advertising and advertising display services

**PUBLIC HEARING AND COMMENT:** The Department of Executive Administration has scheduled a public hearing on the proposed rule changes for 1:00 p.m. to 3:00 p.m. on Monday, April 4, 2005. The hearing will be held in a conference room on the 40th floor of the Seattle Municipal Tower, Suite 4086, located at 700 5th Avenue. All interested persons are invited to present data, views, or arguments, with regard to the proposed rules, orally at the hearing, or in writing at or before the hearing.

Written comments should be mailed or delivered to:

Department of Executive Administration, Attn.: Mel McDonald, Director, Revenue and Consumer Affairs, 700 5th Avenue - Suite 4250, Seattle, Washington 98104-5020.

The public may inspect copies of the proposed rules at the Revenue and Consumer Affairs offices, 700 5th Avenue, Suite 4200. If you would like a copy of the proposed rules, please call (206) 684-8300, FAX (206) 684-5170, email [rca\\_bislictr@cl.seattle.wa.us](mailto:rca_bislictr@cl.seattle.wa.us), or submit a written request to the address above.

Dated: March 21, 2005.

DWIGHT D. DIVELY,

Director, Department of Finance.

Date of publication in the Seattle Daily Journal of Commerce, March 21, 2005.

3/21/053390

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-127**

FILED  
CITY OF SEATTLE  
CITY CLERK  
05 JUL 15 11 21 AM '15

**Seattle Rule 5-127**     **Sales to, and by, the State of Washington, counties, cities, school districts and other municipal subdivisions.**

- (1) **Business license tax on sales to governmental entities.** In computing the business license tax, no deduction is allowed to a seller with respect to sales to the Federal Government, its departments and institutions, to the State of Washington, its departments and institutions, or to counties, cities, or other municipal corporations of the State.
  
- (2) **Enterprise activity defined.** An "enterprise activity," for the purposes of this rule, is a government activity financed and operated in a manner similar to private business enterprises. The term includes activities which are generally in competition with private business enterprises and are over fifty percent funded by user fees, such as utility payments, park or recreation rentals and fees. The term "enterprise activity" does not include activities which are exclusively governmental.
  
- (3) **Business license tax on sales by governmental entities.** The City of Seattle may not impose the business license tax on sales made by the federal government and its subdivision, or on sales made by the State of Washington and its subdivisions, including other municipalities. However, all City of Seattle departments, divisions, and its other municipal subdivisions engaging in business through enterprise activities are subject to tax (SMC 5.45.110) as follows:
  - (a) **Service and other business activities.** Amounts derived from enterprise activities consisting of or from admission fees to special events, user fees (lockers, checkrooms), moorage fees (less than thirty days), and the granting of a license to use real property are reportable under the service and other business activities classification of the business license tax and taxable upon the gross income derived from services rendered by them to others.
  
  - (b) **Retailing.** Amounts derived from enterprise activities consisting of or from fees for participation in a amusement, recreation or physical fitness activities (pay for play), user fees for off-street parking and garages, and charges for the sale and rental of tangible personal property are reportable under the retailing classification of the business license tax and taxable upon the gross proceeds of sales.

The retailing tax also applies to charges for the sale of books, rules, regulations, and other materials sold from an inventory of such things, even though the charge is required by law or covers only the costs of production and distribution.

The retailing tax does not apply to charges for the production, searching, or copying of public records or documents by such public agencies charged with the responsibility to keep and provide such information.
  
  - (c) **Extracting or manufacturing.** Extracting or manufacturing activities, if conducted as an enterprise activities are taxable upon the value of products manufactured or extracted.
  
- (4) **Exemptions and exclusions.**
  - (a) Amounts derived from fees or charges for activities that represent traditional government services as opposed to the "enterprise activities" as defined above are tax exempt. Such tax exempt amounts include fees for on-street metered parking and parking permits, instruction fees, license fees, health program fees, athletic team registration fees, and interagency and intergovernmental charges for services rendered.

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-127**

- (b) The business license tax does not apply to the value of materials printed solely for their own use by city departments, divisions, employee associations, other municipal subdivisions, or libraries.
- (5) **Contracts with the City of Seattle and organizations chartered by the City.** All persons entering into contracts with the City of Seattle are required to obtain and maintain a current Business License and remit business license tax before accepting any warrant as payment for performing any contract for the City of Seattle (see SMC 5.45.060 (D)). Business license tax is due on all contracts with the City of Seattle, subject to the annual threshold prescribed in SMC 5.55.040 (D). It is presumed that all contracts with the City of Seattle are executed within the City. Tax is due whether or not the business activity, services rendered, or construction work takes place within or outside the City. This section applies to the City and organizations chartered by the City. This subsection shall not apply to individuals whose aggregate value of all contracts with the City during a calendar year is \$5,000 or less and does not otherwise engage in business within the city; or whose only source of revenue consists of contract with the City of Seattle for neighborhood planning purposes, sister city associations, or Arts Commission grants.

Effective: July 15, 2005

**THE CITY OF SEATTLE  
DIRECTOR'S RULE  
IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE  
RULE 5-127**

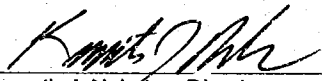
**DIRECTOR'S CERTIFICATION**

I Kenneth J. Nakatsu, Director of the Department of Executive Administration of the City of Seattle, do hereby certify under penalty of perjury of law, that the within and foregoing is a true and correct copy as adopted by the City of Seattle, Department of Executive Administration.

DATED this 15<sup>th</sup> day of July, 2005.

CITY OF SEATTLE,  
a Washington municipality

By:

  
Kenneth J. Nakatsu, Director  
Department of Executive Administration

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE  
IT IS DUE TO THE QUALITY OF THE DOCUMENT.

**STATE OF WASHINGTON - KING COUNTY**

--SS.

183390  
CITY OF SEATTLE:Revenue &

No.

**Affidavit of Publication**

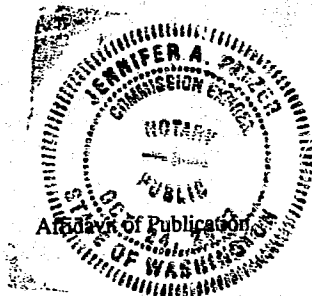
The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:RULE MAKING HEARING

was published on

3/21/2005



*Mad*

Subscribed and sworn to before me on

3/21/2005

*Jennifer Pratt*

Notary public for the State of Washington,  
residing in Seattle



State of Washington, King County  
City of Seattle

NOTICE OF PROPOSED RULE  
MAKING HEARING AND  
OPPORTUNITY TO COMMENT

The Director of Finance, acting under the authority of Seattle Municipal Code Chapters 8.02 and 5.55, proposes to adopt new rules for implementing the Seattle Business and Occupation Tax Ordinance (Seattle Municipal Code, Chapter 5.45). Please note that although these rules are applicable to EMC 5.45, the individual rules may also apply to other chapters of the City's Tax Code, including, but not limited to, EMC 5.30 (Definitions), EMC 5.32 (Revenue Code), EMC 5.40 (Admissions Tax), EMC 5.45 (Business Tax - Utilities) and EMC 5.52 (Gambling Tax). The following rules are proposed for adoption and will become effective as of April 30, 2005:

- Seattle Rule 5-006 -- Tax Returns -- Filing and Payment
- Seattle Rule 5-007 -- Penalties
- Seattle Rule 5-051 -- Measure of Tax -- Retailers and Wholesalers
- Seattle Rule 5-052 -- Measure of Tax -- Service and other business activities
- Seattle Rule 5-035 -- Freight and Delivery Charges
- Seattle Rule 5-040 -- Corporations, Massachusetts trusts
- Seattle Rule 5-043 -- Engaging in Business
- Seattle Rule 5-063 -- Returned goods, allowances, cash discounts
- Seattle Rule 5-100 -- Extracting natural products
- Seattle Rule 5-112 -- Commercial or industrial use
- Seattle Rule 5-127 -- Sales to and by the State of Washington, counties, cities, school districts, and municipal subdivisions
- Seattle Rule 5-130 -- Selling price -- Advertised prices including sales tax
- Seattle Rule 5-131 -- Trade-ins, selling price, seller's tax measures
- Seattle Rule 5-132 -- Leased departments

Seattle Rule 5-133 -- Warranties and maintenance agreements

Seattle Rule 5-702 -- Coin operated vending machines, amusement devices and service machines

Seattle Rule 5-404 -- Sales of meals

Seattle Rule 5-405 -- Restaurants, cocktail bars, taverns and similar businesses

Seattle Rule 5-481 -- Motor carriers -- Trucking

Seattle Rule 5-523 -- Sales of precious metal bullion and monetized bullion

Seattle Rule 5-530 -- Sale or rental of real estate, license to use real estate

Seattle Rule 5-531 -- Sales of real property, standing timber, minerals, natural resources

Seattle Rule 5-532 -- Real estate brokers and salesmen

Seattle Rule 5-600 -- Educational institutions, school districts, student organizations, and private schools

Seattle Rule 5-700 -- Amusement, Recreation, and Physical Fitness Services

Seattle Rule 5-723 -- Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc.

Seattle Rule 5-803 -- Consignees, bailees, factors, agents, and auctioneers

Seattle Rule 5-808 -- Advertising agencies

Seattle Rule 5-807 -- Outdoor advertising and advertising display services

**PUBLIC HEARING AND COMMENT:**  
The Department of Executive Administration has scheduled a public hearing on the proposed rule changes for 1:00 p.m. to 3:00 p.m. on Monday, April 4, 2005. The hearing will be held in a conference room on the 40th floor of the Seattle Municipal Tower, Suite 4086, located at 700 5th Avenue. All interested persons are invited to present data, views, or arguments, with regard to the proposed rules, orally at the hearing, or in writing at or before the hearing.

Written comments should be mailed or delivered to:

Department of Executive Administration, Attn.: Mel McDonald, Director, Revenue and Consumer Affairs, 700 5th Avenue - Suite 4250, Seattle, Washington 98104-5930.

The public may inspect copies of the proposed rules at the Revenue and Consumer Affairs offices, 700 5th Avenue, Suite 4200. If you would like a copy of the proposed rules, please call (206) 684-5300, FAX (206) 684-5170, email [ra\\_bislic@ci.seattle.wa.us](mailto:ra_bislic@ci.seattle.wa.us), or submit a written request to the address above.

Dated: March 21, 2005.

DWIGHT D. DIVELY,

Director, Department of Finance.

Date of publication in the Seattle Daily Journal of Commerce, March 21, 2005.

8721(183390)

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-130**

FILED  
CITY OF SEATTLE  
05 JUL 15 PM 2:49  
CITY CLERK

**Seattle Rule 5-130**      **Selling price--Advertised prices including sales tax**

**(1) Selling price.**

- (a) The term "Selling price" means the consideration, whether money, credits, rights, or other property expressed in the terms of money paid or delivered by a buyer to a seller without any deduction on account of the cost of tangible personal property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes other than sales tax imposed by the State of Washington if the seller advertises the price as including the sales tax or that the seller is paying the sales tax (see below), or any other expenses whatsoever paid or accrued and without any deduction on account of losses.
- (b) Concerning the business license tax liabilities in connection with "trade-in" transactions, see Seattle Rule 5-131.
- (c) The retail sales tax must be stated separately from the selling price on any sales invoice or other instrument of sale, i.e., contracts, sales slips, and/or customer billing receipts. (For an exception covering restaurant receipts of Class H liquor licensees, see Seattle Rule 5-405.) This is required even though the seller and buyer may know and agree that the price quoted is to include state and local taxes, including the retail sales tax. Selling prices may be advertised as including the tax or that the seller is paying the tax and, in such cases, the advertised price shall not be considered to be the taxable selling price as explained in this rule, however ***the actual sales invoices, receipts, contracts, billing documents, and sales journals must list the actual price of the goods, with the retail sales tax stated as a separate charge.*** Failure to comply with this requirement shall result in the retailing business license tax being computed on the total amount charged.

**(2) Advertising prices including tax.**

- (a) RCW 82.08.055 provides that a seller may advertise prices as including the sales tax or that the seller is paying the sales tax under the following conditions:
  - (i) Unless the advertised price is one in a list of prices, such as on a menu board, the words "tax included" are stated immediately following the advertised price in print size at least half as large as the advertised price print size;
  - (ii) If there is a list of advertised prices, the words "tax included in all prices" are placed conspicuously at the head of the list in the same print size as the list;
  - (iii) If the price is advertised as including tax, the price listed on any price tag shall be shown in the same manner; and
  - (iv) All advertised prices and the words "tax included" are stated in the same medium, whether oral or visual, and if oral, in substantially the same inflection and volume.
- (b) If these conditions are satisfied, then price lists, reader boards, menus, and other price information mediums need not reflect the actual item price and separately show the amount of sales tax being collected on any or all items.
- (c) The scope and intent of the foregoing is that buyers have the right to know whether retail sales tax is being included in advertised prices or not, and that the tax is not to be used for the competitive advantage or disadvantage of retail sellers.

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-130**

- (3) See Seattle Rule 5-133 for warranties (guarantees) and maintenance agreements (service contracts).

Effective: July 15, 2005

**THE CITY OF SEATTLE  
DIRECTOR'S RULE  
IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE  
RULE 5-130**

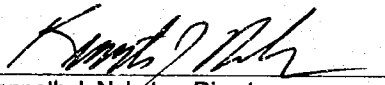
**DIRECTOR'S CERTIFICATION**

I Kenneth J. Nakatsu, Director of the Department of Executive Administration of the City of Seattle, do hereby certify under penalty of perjury of law, that the within and foregoing is a true and correct copy as adopted by the City of Seattle, Department of Executive Administration.

DATED this 15<sup>th</sup> day of July, 2005.

CITY OF SEATTLE,  
a Washington municipality

By:

  
Kenneth J. Nakatsu, Director  
Department of Executive Administration

NOTICE:  
IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE  
IT IS DUE TO THE QUALITY OF THE DOCUMENT.

**STATE OF WASHINGTON - KING COUNTY**

--SS.

183390  
CITY OF SEATTLE:Revenue &

No.

**Affidavit of Publication**

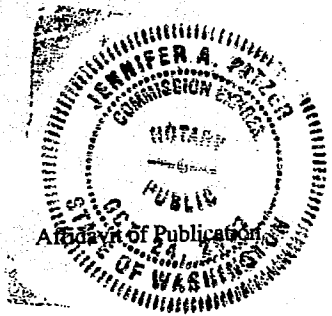
The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

**CT:RULE MAKING HEARING**

was published on

3/21/2005



*M. J. P.*

Subscribed and sworn to before me on

3/21/2005

*Jennifer A. Pitzer*  
Notary public for the State of Washington,  
residing in Seattle

IT IS DUE TO THE QUALITY OF THE DOCUMENT.  
IT IS LESS CLEAR THAN THIS NOTICE

# State of Washington, King County

## City of Seattle

### NOTICE OF PROPOSED RULE MAKING HEARING AND OPPORTUNITY TO COMMENT

The Director of Finance, acting under the authority of Seattle Municipal Code Chapters 8.02 and 5.56, proposes to adopt new rules for implementing the Seattle Business and Occupation Tax Ordinance (Seattle Municipal Code, Chapter 5.45). Please note that although these rules are applicable to SMC 5.45, the individual rules may also apply to other chapters of the City's Tax Code, including, but not limited to, SMC 5.30 (Definitions), SMC 5.32 (Revenue Code), SMC 5.40 (Admissions Tax), SMC 5.48 (Business Tax - Utilities) and SMC 5.52 (Gambling Tax). The following rules are proposed for adoption and will become effective as of April 30, 2005:

- Seattle Rule 5-006 -- Tax Returns -- Filing and Payment
- Seattle Rule 5-007 -- Penalties
- Seattle Rule 5-021 -- Measure of Tax -- Retailers and Wholesalers
- Seattle Rule 5-022 -- Meas. Tax -- Service and other business activities
- Seattle Rule 5-045 -- Right and Delivery Charges
- Seattle Rule 5-040 -- Corporations, Massachusetts trusts
- Seattle Rule 5-043 -- Engaging in Business
- Seattle Rule 5-063 -- Returned goods, allowances, cash discounts
- Seattle Rule 5-100 -- Extracting natural products
- Seattle Rule 5-112 -- Commercial or industrial use
- Seattle Rule 5-127 -- Sales to and by the State of Washington, counties, cities, school districts, and municipal subdivisions
- Seattle Rule 5-130 -- Selling price -- Advertised prices including sales tax
- Seattle Rule 5-131 -- Trade-ins, selling price, sellers' tax measures
- Seattle Rule 5-132 -- Leased departments

Seattle Rule 5-133 -- Warranties and maintenance agreements

Seattle Rule 5-702 -- Coin operated vending machines, amusement devices and service machines

Seattle Rule 5-404 -- Sales of meals

Seattle Rule 5-405 -- Restaurants, cocktail bars, taverns and similar businesses

Seattle Rule 5-481 -- Motor carriers -- Trucking

Seattle Rule 5-528 -- Sales of precious metal bullion and monetized bullion

Seattle Rule 5-530 -- Sale or rental of real estate, license to use real estate

Seattle Rule 5-531 -- Sales of real property, standing timber, minerals, natural resources

Seattle Rule 5-532 -- Real estate brokers and salesmen

Seattle Rule 5-600 -- Educational institutions, school districts, student organizations, and private schools

Seattle Rule 5-700 -- Amusement, Recreation, and Physical Fitness Services

Seattle Rule 5-720 -- Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc.

Seattle Rule 5-803 -- Consignees, bailees, factors, agents, and auctioneers

Seattle Rule 5-805 -- Advertising agencies

Seattle Rule 5-807 -- Outdoor advertising and advertising display services

### PUBLIC HEARING AND COMMENT:

The Department of Executive Administration has scheduled a public hearing on the proposed rule changes for 1:00 p.m. to 3:00 p.m. on Monday, April 4, 2005. The hearing will be held in a conference room on the 40th floor of the Seattle Municipal Tower, Suite 4095, located at 700 5th Avenue. All interested persons are invited to present data, views, or arguments, with regard to the proposed rules, orally at the hearing, or in writing at or before the hearing.

Written comments should be mailed or delivered to:

Department of Executive Administration, Attn: Mel McDonald, Director, Revenue and Consumer Affairs, 700 5th Avenue - Suite 4200, Seattle, Washington 98104-5028.

The public may inspect copies of the proposed rules at the Revenue and Consumer Affairs offices, 700 5th Avenue, Suite 4200. If you would like a copy of the proposed rules, please call (206) 684-8300, FAX (206) 684-5170, email [rca.bizinfr@ci.seattle.wa.us](mailto:rca.bizinfr@ci.seattle.wa.us), or submit a written request to the address above.

Dated: March 21, 2005.

DWIGHT D. DIVELY,

Director, Department of Finance.

Date of publication in the Seattle Daily Journal of Commerce, March 21, 2005.

3/21/183890

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-531**

FILED  
CITY OF SEATTLE  
05 JUL 15 PM 2:40  
CITY CLERK

**Seattle Rule 5-131**      **Trade-ins, selling price, sellers' tax measures.**

**(1) Business license tax.**

- (a) No deduction is allowed from the selling price or gross proceeds of sales for trade-ins.
- (b) The term "Selling price" means the consideration, whether money, credits, rights, or other property expressed in the terms of money paid or delivered by a buyer to a seller without any deduction on account of the cost of tangible personal property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes other than sales tax imposed by the State of Washington if the seller advertises the price as including the sales tax or that the seller is paying the sales tax (see rule 5-130), or any other expenses whatsoever paid or accrued and without any deduction on account of losses.
- (c) When tangible personal property is rented or leased, the "selling price" includes all charges to the renter or lessee for the use of the property rented or leased, including charges designated as insurance, interest and other costs recovered and stated separately from the regular rental or lease fee. When tangible personal property is rented or leased under circumstances that the consideration paid does not represent a reasonable rental for the use of the articles so rented or leased, the "selling price" must be determined as nearly as possible according to the value of such use at the places of use of similar products of like quality and character. In cases of doubt, all of the pertinent facts should be submitted to the department for an advisory determination.

Effective: July 15, 2005

**THE CITY OF SEATTLE  
DIRECTOR'S RULE  
IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE  
RULE 5-531**

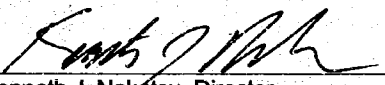
**DIRECTOR'S CERTIFICATION**

I Kenneth J. Nakatsu, Director of the Department of Executive Administration of the City of Seattle, do hereby certify under penalty of perjury of law, that the within and foregoing is a true and correct copy as adopted by the City of Seattle, Department of Executive Administration.

DATED this 15<sup>th</sup> day of July, 2005.

CITY OF SEATTLE,  
a Washington municipality

By:

  
Kenneth J. Nakatsu, Director  
Department of Executive Administration



---

**STATE OF WASHINGTON - KING COUNTY**

--SS.

---

183390  
CITY OF SEATTLE:Revenue &

No.

**Affidavit of Publication**

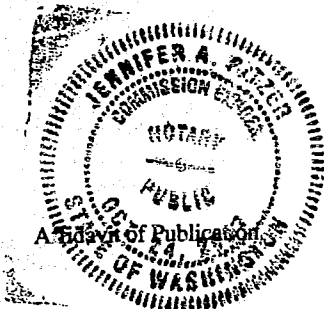
The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

**CT:RULE MAKING HEARING**

was published on

3/21/2005



*M. J. [Signature]*

Subscribed and sworn to before me on

3/21/2005

*Jennifer A. Zetzer [Signature]*  
Notary public for the State of Washington,  
residing in Seattle

State of Washington, King County  
City of Seattle

NOTICE OF PROPOSED RULE  
MAKING HEARING AND  
OPPORTUNITY TO COMMENT

The Director of Finance, acting under the authority of Seattle Municipal Code Chapters 8.02 and 8.55, proposes to adopt new rules for implementing the Seattle Business and Occupation Tax Ordinance (Seattle Municipal Code, Chapter 8.45). Please note that although these rules are applicable to SMC 8.45, the individual rules may also apply to other chapters of the City's Tax Code, including, but not limited to, SMC 8.30 (Definitions), SMC 8.32 (Revenue Code), SMC 8.40 (Admissions Tax), SMC 8.48 (Business Tax - Utilities) and SMC 8.52 (Gambling Tax). The following rules are proposed for adoption and will become effective as of April 20, 2005:

- Seattle Rule 5-006 -- Tax Returns -- Filing and Payment
- Seattle Rule 5-007 -- Penalties
- Seattle Rule 5-021 -- Measure of Tax -- Retailers and Wholesalers
- Seattle Rule 5-032 -- Measure of Tax -- Service and other business activities
- Seattle Rule 5-035 -- Freight and Delivery Charges
- Seattle Rule 5-040 -- Corporations, Massachusetts trusts
- Seattle Rule 5-043 -- Engaging in Business
- Seattle Rule 5-068 -- Returned goods, allowances, cash discounts
- Seattle Rule 5-100 -- Extracting natural products
- Seattle Rule 5-112 -- Commercial or industrial use
- Seattle Rule 5-127 -- Sales to and by the State of Washington, counties, cities, school districts, and municipal subdivisions
- Seattle Rule 5-130 -- Selling price -- Advertised prices including sales tax
- Seattle Rule 5-131 -- Trade-ins, selling price, sellers tax measures
- Seattle Rule 5-132 -- Leased departments

- Seattle Rule 5-133 -- Warranties and maintenance agreements
- Seattle Rule 5-702 -- Coin operated vending machines, amusement devices and service machines
- Seattle Rule 5-404 -- Sales of meals
- Seattle Rule 5-405 -- Restaurants, cocktail bars, taverns and similar businesses
- Seattle Rule 5-481 -- Motor carriers -- Trucking
- Seattle Rule 5-523 -- Sales of precious metal bullion and monetized bullion
- Seattle Rule 5-530 -- Sale or rental of real estate, license to use real estate
- Seattle Rule 5-581 -- Sales of real property, standing timber, minerals, natural resources
- Seattle Rule 5-532 -- Real estate brokers and salesmen
- Seattle Rule 5-600 -- Educational institutions, school districts, student organizations, and private schools
- Seattle Rule 5-700 -- Amusement, Recreation, and Physical Fitness Services
- Seattle Rule 5-720 -- Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc.
- Seattle Rule 5-803 -- Consignees, bailees, factors, agents, and auctioneers
- Seattle Rule 5-806 -- Advertising agencies
- Seattle Rule 5-807 -- Outdoor advertising and advertising display services

**PUBLIC HEARING AND COMMENT:**  
The Department of Executive Administration has scheduled a public hearing on the proposed rule changes for 1:00 p.m. to 3:00 p.m., on Monday, April 4, 2005. The hearing will be held in a conference room on the 40th floor of the Seattle Municipal Tower, Suite 4066, located at 700 5th Avenue. All interested persons are invited to present data, views, or arguments, with regard to the proposed rules, orally at the hearing, or in writing at or before the hearing.

Written comments should be mailed or delivered to:

Department of Executive Administration, Attn.: Mel McI said, Director, Revenue and Consumer Affairs, 700 5th Avenue, Suite 4200, Seattle, Washington 98104-5020.

The public may inspect copies of the proposed rules at the Revenue and Consumer Affairs offices, 700 5th Avenue, Suite 4200. If you would like a copy of the proposed rules, please call (206) 684-8200, FAX (206) 684-5170, email [his@cl.seattle.wa.us](mailto:his@cl.seattle.wa.us), or submit a written request to the address above.

Dated: March 21, 2005.

DWIGHT D. DIVELY,

Director, Department of Finance.

Date of publication in the Seattle Daily Journal of Commerce, March 21, 2005.

8/21 (83890)

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-132**

FILED  
CITY OF SEATTLE  
05 JUL 15 PM 2:49  
CITY CLERK

**Seattle Rule 5-132**      **Leased departments.**

- (1) **Definition.** "Leased departments" mean space within a store that is leased to another business in such a way that a purchaser would not necessarily know that the merchandise is from a business other than the store owner or operator. An example of this is that a meat department in a grocery store could be a leased department and operated by a business other than the grocery store owner, and under the grocery store's name.
  
- (2) **Reporting.** Any person who leases departments or space within their store or business to another business entity may include in its tax returns the gross receipts or gross sales made by the lessee where such lessor keeps the books for the lessee and makes collection on the latter's account; provided however, that each lessee must apply for and obtain from the Department a business license. The lessee will remain liable for its tax liability if the lessor fails to make the proper return or fails to pay taxes due.
  
- (3) **Business license tax.** Any taxpayer making tax returns for any such lessee shall report the lessee's total gross income under the applicable business license tax classification. The lessee in such case is not entitled to the taxable minimum provided in SMC 5.55.040.
  - (a) Where the lessor receives a flat monthly rental or a percentage of sales as compensation for a leased department or leased space, such income is presumed to be from the rental of real estate and is not taxable. In determining whether an occupancy is a rental of real estate, all the facts and circumstances of the agreement or arrangement, including the actual relationship of the parties, shall be considered (See Seattle Rule 5-530). Written agreements, while not required, are preferred and are given considerable weight in deciding the nature of the occupancy. A written agreement characterizing the occupancy as a "lease" is not sufficient by itself as proof of the rental of real estate. The following conditions must be met to establish a rental of real estate:
    - (i) The occupant is granted exclusive possession and control of the space;
    - (ii) The occupancy is for a time certain, which is more than 30 days, i.e. month to month, yearly, etc...; and
    - (iii) The parties are required to notify each other in the event of termination of the occupancy.
  - (b) If the lessor provides any clerical, credit, accounting, janitorial, or other services to the lessee, the lessor must report the income from these services under the service and other activities classification. The amounts for providing these services must be segregated from the amounts received from the rental of real estate. In the absence of a reasonable segregation, it will be presumed that the entire income is for providing these services.
  
- (3) **Examples.** The following examples identify a number of facts and then state a conclusion as to whether the situation is a rental of real estate (non-taxable), or a license to use real estate (taxable). These examples should be used only as a general guide. The tax status of each circumstance must be determined after a review of the agreement and all of the facts and circumstances.
  - (a) A retailer enters into a written occupancy agreement for space within a mall for a one year term. The agreement can be terminated upon 30 days written notice of either party, subject to some penalty provisions for early termination. The agreement provides that the retailer can decorate the store and arrange the inventory in any manner desired by

IT IS DUE TO THE QUALITY OF THE DOCUMENT.

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-132**

the retailer so long as the facility does not create a safety hazard to the mall or other tenants, and is consistent with the overall decor of the mall. The mall owner may enter the premises of the retailer during non-business hours only with the consent of the retailer except for emergencies where physical property is at risk. The retailer's area is separated from other lessees by walls with the exception of the front area which is open to the mall common area and is used as the entrance by potential customers and the retailer. The retailer has a movable partition that can be locked and is used to close off the entrance from the mall common area. The agreement calls for the retailer to be open for business at all times during the hours stipulated by the mall.

This is a rental of real estate with the rental term being for a fixed period. The agreement and the facts and circumstances have established a rental of real estate. The retailer has exclusive possession and control over a specific area as indicated by the control the retailer has over the premises, even to the exclusion of the mall owner. The restriction which requires the retailer to maintain the same business hours as other lessees does not make this a license to use real estate. The lessor can exclude from the business license tax that portion of the income which is from the rental of the real estate. The lessor must identify and pay a business license tax on the portion of the income which is from providing services such as security, janitorial, or accounting.

- (b) A hairdresser enters into an oral agreement with the operator of a hair salon for the use of a work station. The hairdresser has use of a specific work station during specific hours of every day. A particular work station may be used by more than one hairdresser during a particular month or even during a given day. This work station can not be closed off from other areas within the shop. The hairdresser must obtain advance permission from the owner to make any changes to the work area. This hairdresser also shares a sink, telephone, and other facilities with others in the shop.

This occupancy is not a rental of real estate. The hairdresser does not have exclusive possession and control over the premises to the exclusion of others as is indicated by the requirement that the hairdresser must obtain approval for any changes in the work area. This is further indicated by hairdressers' use of a specific work station only during specific hours of every day with multiple users of the same work station. The work station could not be closed off from other areas of the shop, but this in itself is not determinative of whether this is a rental of real estate or a license to use. The presence of walls or the lack of walls is not controlling. The fact that the agreement uses the term "lease" is also not controlling. This is a "license to use" taxable under the service and other activities classification.

- (c) Department store agrees to sell household paint for a paint supplier. The paint supplier checks on the inventory on a monthly basis and provides additional paint as needed. The department store handles stocking of shelves and all aspects of the sale. The department store makes a charge to the paint supplier based on the space required to maintain the inventory. By agreement of the parties, the department store agrees to report the retailing tax on paint sales.

This is not a leased department, a leased space, or a rental of real estate. The income is merely tied to the amount of space being used. However, the income is a commission from the sale of merchandise for the paint supplier and held on consignment. The retailing tax is the liability of the paint supplier and is paid by the department store only by agreement. The commission is taxable under the service business license tax classification. See Seattle Rule 5-803.

Effective: July 15, 2005

IT IS DUE TO THE QUALITY OF THE DOCUMENT.

**THE CITY OF SEATTLE  
DIRECTOR'S RULE  
IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE  
RULE 5-132**

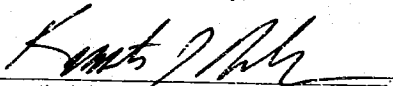
**DIRECTOR'S CERTIFICATION**

I Kenneth J. Nakatsu, Director of the Department of Executive Administration of the City of Seattle, do hereby certify under penalty of perjury of law, that the within and foregoing is a true and correct copy as adopted by the City of Seattle, Department of Executive Administration.

DATED this 15<sup>th</sup> day of July, 2005.

CITY OF SEATTLE,  
a Washington municipality

By:

  
Kenneth J. Nakatsu, Director  
Department of Executive Administration

IT IS DUE TO THE QUALITY OF THE DOCUMENT.

STATE OF WASHINGTON - KING COUNTY

--SS.

183390  
CITY OF SEATTLE:Revenue &

No.

**Affidavit of Publication**

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:RULE MAKING HEARING

was published on

3/21/2005



*M. J. [Signature]*

Subscribed and sworn to before me on

3/21/2005

*Jennifer A. Zeller [Signature]*

Notary public for the State of Washington,  
residing in Seattle

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

# State of Washington, King County

## City of Seattle

### NOTICE OF PROPOSED RULE MAKING HEARING AND OPPORTUNITY TO COMMENT

The Director of Finance, acting under the authority of Seattle Municipal Code Chapters 5.02 and 5.55, proposes to adopt new rules for implementing the Seattle Business and Occupation Tax Ordinance (Seattle Municipal Code, Chapter 5.45). Please note that although these rules are applicable to SMC 5.45, the individual rules may also apply to other chapters of the City's Tax Code, including, but not limited to, SMC 5.30 (Definitions), SMC 5.32 (Revenue Code), SMC 5.40 (Admissions Tax), SMC 5.48 (Business Tax - Utilities) and SMC 5.52 (Gambling Tax). The following rules are proposed for adoption and will become effective as of April 30, 2005:

Seattle Rule 5-006 -- Tax Returns -- Filing and Payment

Seattle Rule 5-007 -- Penalties

Seattle Rule 5-031 -- Measure of Tax -- Retailers and Wholesalers

Seattle Rule 5-032 -- Measure of Tax -- Service and other business activities

Seattle Rule 5-035 -- Freight and Delivery Charges

Seattle Rule 5-040 -- Corporations, Massachusetts trusts

Seattle Rule 5-043 -- Engaging in Business

Seattle Rule 5-063 -- Returned goods, allowances, cash discounts

Seattle Rule 5-100 -- Extracting natural products

Seattle Rule 5-112 -- Commercial or industrial use

Seattle Rule 5-127 -- Sales to and by the State of Washington, counties, cities, school districts, and municipal subdivisions

Seattle Rule 5-130 -- Selling price -- Advertised prices including sales tax

Seattle Rule 5-131 -- Trade-ins, selling price, sellers' tax measures

Seattle Rule 5-182 -- Leased departments

Seattle Rule 5-133 -- Warranties and maintenance agreements

Seattle Rule 5-702 -- Coin operated vending machines, amusement devices and service machines

Seattle Rule 5-404 -- Sales of meals

Seattle Rule 5-405 -- Restaurants, cocktail bars, taverns and similar businesses

Seattle Rule 5-481 -- Motor carriers -- Trucking

Seattle Rule 5-523 -- Sales of precious metal bullion and monetized bullion

Seattle Rule 5-530 -- Sale or rental of real estate, license to use real estate

Seattle Rule 5-531 -- Sales of real property, standing timber, minerals, natural resources

Seattle Rule 5-532 -- Real estate brokers and salesman

Seattle Rule 5-600 -- Educational institutions, school districts, student organizations, and private schools

Seattle Rule 5-700 -- Amusement, Recreation, and Physical Fitness Services

Seattle Rule 5-720 -- Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc.

Seattle Rule 5-803 -- Consignees, bailees, factors, agents, and auctioneers

Seattle Rule 5-806 -- Advertising agencies

Seattle Rule 5-807 -- Outdoor advertising and advertising display services

**PUBLIC HEARING AND COMMENT:** The Department of Executive Administration has scheduled a public hearing on the proposed rule changes for 1:00 p.m. to 3:00 p.m., on Monday, April 4, 2005. The hearing will be held in a conference room on the 40th floor of the Seattle Municipal Tower, Suite 4086, located at 700 5th Avenue. All interested persons are invited to present data, views, or arguments, with regard to the proposed rules, orally at the hearing, or in writing at or before the hearing.

Written comments should be mailed or delivered to:

Department of Executive Administration, Attn: Mel McDonald, Director, Revenue and Consumer Affairs, 700 5th Avenue - Suite 4250, Seattle, Washington 98104-5020.

The public may inspect copies of the proposed rules at the Revenue and Consumer Affairs offices, 700 5th Avenue, Suite 4200. If you would like a copy of the proposed rules, please call (206) 384-8300, FAX (206) 684-6170, email [rcabizlist@ci.seattle.wa.us](mailto:rcabizlist@ci.seattle.wa.us), or submit a written request to the address above.

Dated: March 21, 2005.

DWIGHT D. DIVELY,

Director, Department of Finance.

Date of publication in the Seattle Daily Journal of Commerce, March 21, 2005.

3/21(153590)

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-133**

FILED  
CITY OF SEATTLE  
05 JUL 15 PM 2:49  
CITY CLERK

**Seattle Rule 5-133**      **Warranties and maintenance agreements.**

- (1) **Definitions.** For the purposes of this rule, the following terms will apply:
- (a) **Warranties.** Warranties, sometimes referred to as guaranties, are agreements which call for the replacement or repair of a purchased product with no additional charge for parts and/or labor if the product is found to be defective or ceases to operate as designed during a specified warranty period.
  - (b) **Warrantor.** The warrantor is the person obligated, as specified in the warranty agreement, to perform labor and/or provide materials to the owner of the purchased product to which the warranty agreement relates. In most cases the warrantor is the manufacturer.
  - (c) **Maintenance agreements.** Maintenance agreements sometimes referred to as service contracts, are agreements which require the specific performance of repairing, cleaning, altering, or improving of tangible personal property on a regular or irregular basis to ensure its continued satisfactory operation.
- (2) **Business License Tax.**
- (a) **Manufacturer's warranties included in the retail selling price of the product being sold.**
    - (i) When a manufacturer's warranty is included in the retail selling price of the property sold and no additional charge is made, the value of the warranty is a part of the selling price. The value of the warranty is included in the "gross proceeds of sale" of the article sold and reported under the appropriate classification, e.g. retailing, wholesaling, etc...
    - (ii) When a repair is made by the warrantor under a manufacturer's warranty, the value of the labor and/or parts provided are not subject to the business license tax.
    - (iii) When a person other than the warrantor makes a repair for the warrantor, the person making the repair is making a wholesale sale of the repair service to the warrantor. The person doing the repair is liable for business license tax under the wholesaling classification on the value of the parts and labor provided.
  - (b) **Non-manufacturer's warranties and manufacturer's warranties not included in the retail selling price of the article being sold.**
    - (i) When a warranty is sold for a charge separately stated on the invoice from the charge of the product, e.g., a warranty extending the manufacturer's warranty, the charge is reported in the service classification of the business license tax.
    - (ii) When a repair is made by the warrantor under a warranty that was separated stated on the invoice from the charge for the product, the value of the labor and or parts provided are not subject to business license tax.
    - (iii) When a person other than the warrantor makes a repair for the warrantor, the person making the repair is making a retail sale of the repair service to the warrantor. The person making the repair is liable for business license tax under the retailing classification.
  - (c) **Maintenance agreements.** Maintenance agreements (service contracts) require the periodic specific performance of inspecting, cleaning, physical servicing, altering, and/or



**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-133**

improving of tangible personal property. Charges for maintenance agreements are retail sales, subject to retailing business license tax. Maintenance agreements or service contracts concerning non-tangible personal property, such as custom software, should be reported under the service classification.

- (d) Amounts received as a commission or other consideration for selling a warranty or maintenance agreement of a third-party warrantor or provider are generally subject to business license tax under the service and other activities classification.
  - (e) In the event a warrantor purchases an insurance policy to cover their obligations under the warranty, amounts received by the warrantor under the insurance policy are insurance claim reimbursements that are not subject to business license tax.
- (3) **Additional service - deductible.** If services are provided in addition to any warranty or maintenance agreement, such services are subject to retailing business license tax. This includes so-called "deductible" amounts not covered by a warranty or maintenance agreement.
- (4) **Mixed agreements.** If an agreement contains warranty provisions but also requires the actual specific performance of inspection, cleaning, servicing, altering, or improving the property on a regular or irregular basis, without regard to the operating condition of the property, such agreements are fully taxable as maintenance agreements, not warranties.
- (5) **Examples:**
- (a) An automobile dealer sells a vehicle to a customer for selling price of \$15,000 cash and the selling price includes a manufacturer's limited warranty for 5 years or 50,000 miles. The owner of the vehicle has \$600 (\$200 parts and \$400 labor) warranty work, paying no deductible, performed by the dealer who is not the manufacturer-warrantor. The \$15,000 selling price is reported under the retailing business license tax classification. The \$600 repair is reported under the wholesaling business license tax classification.
  - (b) The automobile dealer in example (a) also sells its own extended warranty to the customer for \$200. The dealer insures itself with an insurance carrier and under the terms of the policy, claims are paid on the retail value of the repairs. In addition to the repairs in example (a), the customer has the dealer complete \$500 of repairs under the dealer's extended warranty. The customer paid the \$100 deductible and the dealer received \$400 from his insurance carrier. In completing the repair, the dealer installed parts from its inventory which had a cost to the dealer of \$150 and subcontracted part of the repair to an electrical shop which charged the dealer \$200. The tax liability to the dealer and the subcontractor are as follows:
    - (i) The dealer reports the \$200 sale of the warranty under the service and other activities classification of business license tax.
    - (ii) The \$100 deductible received by the dealer is a retail sale subject to retailing business license tax.
    - (iii) The \$400 received by the dealer from the insurance company is a nontaxable insurance claim reimbursement.
    - (iv) The subcontractor is making a retail sale to the dealer subject to retailing business license.

Effective: July 15, 2005

**THE CITY OF SEATTLE  
DIRECTOR'S RULE  
IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE  
RULE 5-133**

**DIRECTOR'S CERTIFICATION**

I Kenneth J. Nakatsu, Director of the Department of Executive Administration of the City of Seattle, do hereby certify under penalty of perjury of law, that the within and foregoing is a true and correct copy as adopted by the City of Seattle, Department of Executive Administration.

DATED this 15<sup>th</sup> day of July, 2005.

CITY OF SEATTLE,  
a Washington municipality

By:

  
Kenneth J. Nakatsu, Director  
Department of Executive Administration

STATE OF WASHINGTON - KING COUNTY

--SS.

183390  
CITY OF SEATTLE:Revenue &

No.

**Affidavit of Publication**

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:RULE MAKING HEARING

was published on

3/21/2005

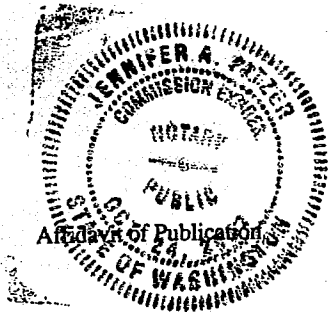
*Mad*

Subscribed and sworn to before me on

3/21/2005

*Jennifer A. Preter*

Notary public for the State of Washington,  
residing in Seattle



IT IS DUE TO THE QUALITY OF THE DOCUMENT.

# State of Washington, King County

## City of Seattle

### NOTICE OF PROPOSED RULE MAKING HEARING AND OPPORTUNITY TO COMMENT

The Director of Finance, acting under the authority of Seattle Municipal Code Chapters 5.02 and 5.55, proposes to adopt new rules for implementing the Seattle Business and Occupation Tax Ordinance (Seattle Municipal Code, Chapter 5.45). Please note that although these rules are applicable to SMC 5.45, the individual rules may also apply to other chapters of the City's Tax Code, including, but not limited to, SMC 5.30 (Definitions), SMC 5.32 (Revenue Code), SMC 5.40 (Admissions Tax), SMC 5.45 (Business Tax - Utilities) and SMC 5.52 (Gambling Tax). The following rules are proposed for adoption and will become effective as of April 30, 2005:

Seattle Rule 5-006 -- Tax Returns -- Filing and Payment

Seattle Rule 5-007 -- Penalties

Seattle Rule 5-031 -- Measure of Tax -- Retailers and Wholesalers

Seattle Rule 5-032 -- Measure of Tax -- Service and other business activities

Seattle Rule 5-035 -- Freight and Delivery Charges

Seattle Rule 5-040 -- Corporations, Massachusetts trusts

Seattle Rule 5-043 -- Engaging in Business

Seattle Rule 5-053 -- Returned goods, allowances, cash discounts

Seattle Rule 5-100 -- Extracting natural products

Seattle Rule 5-112 -- Commercial or industrial use

Seattle Rule 5-127 -- Sales to and by the State of Washington, counties, cities, school districts, and municipal subdivisions

Seattle Rule 5-130 -- Selling price -- Advertised prices including sales tax

Seattle Rule 5-131 -- Trade-ins, selling price, sellers' tax measures

Seattle Rule 5-132 -- Leased departments

Seattle Rule 5-133 -- Warranties and maintenance agreements

Seattle Rule 5-702 -- Coin operated vending machines, amusement devices and service machines

Seattle Rule 5-404 -- Sales of meals

Seattle Rule 5-405 -- Restaurants, cocktail bars, taverns and similar businesses

Seattle Rule 5-481 -- Motor carriers -- Trucking

Seattle Rule 5-523 -- Sales of precious metal bullion and monetized bullion

Seattle Rule 5-530 -- Sale or rental of real estate, license to use real estate

Seattle Rule 5-531 -- Sales of real property, standing timber, minerals, natural resources

Seattle Rule 5-532 -- Real estate brokers and salesmen

Seattle Rule 5-600 -- Educational institutions, school districts, student organizations, and private schools

Seattle Rule 5-700 -- Amusement, Recreation, and Physical Fitness Services

Seattle Rule 5-720 -- Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc.

Seattle Rule 5-803 -- Consignees, bailees, factors, agents, and auctioneers

Seattle Rule 5-806 -- Advertising agencies

Seattle Rule 5-807 -- Outdoor advertising and advertising display services

**PUBLIC HEARING AND COMMENT:**  
The Department of Executive Administration has scheduled a public hearing on the proposed rule changes for 1:00 p.m. to 3:00 p.m. on Monday, April 4, 2005. The hearing will be held in a conference room on the 40th floor of the Seattle Municipal Tower, Suite 4096, located at 700 5th Avenue. All interested persons are invited to present data, views, or arguments, with regard to the proposed rules, orally at the hearing, or in writing at or before the hearing.

Written comments should be mailed or delivered to:

Department of Executive Administration, Attn.: Mel McDonald, Director, Revenue and Consumer Affairs, 700 5th Avenue - Suite 4250, Seattle, Washington 98104-5020.

The public may inspect copies of the proposed rules at the Revenue and Consumer Affairs offices, 700 5th Avenue, Suite 4200. If you would like a copy of the proposed rules, please call (206) 684-8300, FAX (206) 684-5170, email [rcabizinfo@ci.seattle.wa.us](mailto:rcabizinfo@ci.seattle.wa.us), or submit a written request to the address above.

Dated: March 21, 2005.

DWIGHT D. DIVELY,

Director, Department of Finance.

Date of publication in the Seattle Daily Journal of Commerce, March 21, 2005.

3/21(13259)

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-404**

FILED  
CITY OF SEATTLE  
05 JUL 15 PM 2:19  
CITY CLERK

**Seattle Rule 5-404**      **Sales of meals.**

- (1) **Introduction.** Generally, this rule explains Seattle's business license tax applications to the sales of meals. More specifically, this rule gives tax reporting information to persons who provide meals without a specific charge as well as an explanation as to how meals furnished to employees are taxed. Persons in the business of operating restaurants should also refer to Seattle Rule 5-405 and persons operating hotels, motels, boarding houses, or similar businesses should refer to Seattle Rule 5-720.
  
- (2) **Business license tax.** The sales of meals and the providing of meals in consideration of services rendered are subject to tax as follows:
  - (a) **Retailing.** The retailing business license tax applies as follows:
    - (i) **Restaurants, cafeterias and other eating places.** Sales of meals to consumers by restaurants, cafeterias, clubs, and other eating places are subject to the retailing tax. (See Seattle Rule 5-405 Restaurants, cocktail bars, taverns and similar businesses.)
    - (ii) **Caterers.** Sales of meals and prepared food by caterers are subject to the retailing tax when sold to consumers. "Caterer" means a person who provides, prepares, and serves meals for immediate consumption at a location selected by the customer. The tax liability is the same whether the meals are prepared at the customer's site or the caterer's site. The retailing tax also applies when caterers prepare and serve meals using ingredients provided by the customer. Persons providing a food service for others should refer to the subsection below entitled "Food service contractors."
    - (iii) **Hotels, motels, bed and breakfast facilities, resort lodges and other establishments offering meals and transient lodging.** Sales of meals by hotels, motels and other persons who provide transient lodging are subject to the retailing tax.
    - (iv) **Boarding houses, American plan hotels, and other establishments offering meals and non-transient lodging.** Sales of meals by boarding houses and other such places are subject to the retailing tax.
      - (A) Except for guest ranches and summer camps, when a lump sum is charged to non-transients for providing both lodging and meals, the fair market value of the meals is subject to the retailing tax. Unless accounts are kept showing the fair market value, the tax will be computed upon double the cost of the meals served. This cost includes the price paid for food and drinks served, the cost of preparing and serving meals, and all other incidental costs, including an appropriate portion of overhead expenses.
      - (B) It will be presumed that guest ranches and summer camps are not making sales of meals when a lump sum is charged for the furnishing of lodging, and meals are included.
  - (v) **Railroad, dining car, ship, airplane, or other transportation company diners.** Sales of meals by a railroad, dining car, ship, airplane, or other transportation company served at fixed locations in Seattle, or served upon the carrier itself while within Seattle, are subject to the retailing tax.

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-404**

Where no specific charge is made for meals separate and apart from the transportation charge, the entire amount charged is deemed a charge for transportation and the retailing tax does not apply to any part of the charge.

- (vi) Hospitals, nursing homes, and other similar institutions. The serving of meals by hospitals, nursing homes, sanitariums, and similar institutions to patients as a part of the service rendered in the course of business by such institutions is not a sale at retail, but rather, taxable under the applicable tax classification for the overall service rendered. However, many hospitals and similar institutions have cafeterias or restaurants through which meals are sold for cash or credit to doctors, visitors, nurses and other employees. These meals are subject to the retailing tax. Some of these institutions also have agreements where the employees are paid a fixed wage in payment for services rendered and are provided meals at no charge. The sales of meals to employees are subject to the retailing tax, including the value of meals provided at no charge to employees. Refer to the subsection below entitled "Meals furnished to employees." For retirement homes, a charge for meals served is subject to the retailing tax, even if included in a rental agreement, and even if meals are for the retirement home residents only.
  
- (vii) School, college, or university dining rooms. Public schools, high schools, colleges, universities, or private schools operating lunch rooms, cafeterias, dining rooms, or snack bars for the exclusive purpose of providing students and faculty with meals or prepared foods are not considered to be engaged in the business of making retail sales of meals. However, if guests are permitted to dine with students or faculty in such areas, the sales of meals to the guests are retail sales.
  - (A) Unless the eating area is situated so that it is available only to students and faculty, the lunch room, cafeteria, dining room, or snack bar must have a posted sign stating that the area is only open to students and faculty. In the absence of such a sign, there will be a presumption that the facility is not exclusively for the use of students and faculty. The actual policy in practice in these areas must be consistent with the posted policy.
  - (B) If the cafeteria, lunch room, dining room, or snack bar is generally open to the public, all sales of meals, including meals sold to students, are considered retail sales.
  - (C) For some educational institutions, the meals provided to students are considered to be part of the charge for tuition and may not be subject to the business license tax. Public schools, high schools, colleges, universities, and private schools should refer to Seattle Rule 5-600 to determine whether the retailing business license tax applies to the sales of meals described above.
  
- (viii) Fraternities and sororities. Fraternities, sororities, and other groups of individuals who reside in one place and jointly share the expenses of the household including expense of meals are not considered to be making sales when meals are furnished to members.

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-404**

- (b) Wholesaling. Persons making sales of prepared meals to persons who will be reselling the meals are subject to the wholesaling classification. Sellers must obtain resale certificates from their customers to support the resale nature of any transaction.
  - (c) Service and other business activities. Private schools, which do not meet the definition of "educational institutions," operating lunch rooms, cafeterias, or dining rooms for the exclusive purpose of providing meals to students and faculty are subject to the service business license tax on the charges to students and faculty for meals. (See Seattle Rule 5-600 for definitions of the terms "private school" and "educational institution.") Persons managing a food service operation for a private school should refer to the subsection below entitled "Food service contractors."
- (3) **Sales by persons having a food and beverage worker's permit.** Retail vendors who are required by law to have a food and beverage service worker's permit pursuant to RCW 69.06.010 are subject to the retailing tax on sales of prepared food products. This includes, but is not limited to, sales of sandwiches prepared or chicken cooked on the premises, deli trays, home delivered pizzas, etc...
- (4) **Food service contractors.** The term "food service contractor" means a person who operates a food service at a kitchen, cafeteria, dining room, or similar facility owned by an institution or business. Food service contractors may manage the food service operation on behalf of the institution or business, or may actually make sales of meals or prepared foods.
- (a) Sales of meals. Food service contractors who sell meals or prepared foods to consumers are subject to the retailing business license tax upon their gross proceeds of sales. For example, the operation of a cafeteria which provides meals to employees of a manufacturing or financial business is generally a retail activity. The food service contractor is considered to be making retail sales of meals, whether payment for the meal is made by the employees or the business, unless the business itself is reselling the meals to the employees.
- In all cases where the meals are prepared at off-site facilities not owned by the institution or business, the food service contractor is considered to be making sales of meals and the retailing business license tax applies to the gross proceeds of sale, or gross income for sales to consumers.
- (b) Food service management. The gross proceeds derived from the management of a food service operation are subject to the service business license and other business activities business license tax. These tax reporting provisions apply whether the staff actually preparing the meals or prepared foods is employed by the institution or business hiring the food service contractor, or by the food service contractor itself. If the food service contractor merely manages the food service operation on behalf of an institution or business, that institution or business is considered to be selling meals or providing the meals as a part of the services the institution or business renders to its customers. These institutions and businesses should refer to the subsection (2) above to determine their business license business license tax liabilities.

Food service management includes, but is not limited to, the following activities:

- (i) Food service contractors operating a cafeteria or similar facility which provides meals and prepared food for employees and/or guests of a business, but only where the business owning the facility is the one actually selling the meals to its employees.

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-404**

- (ii) Food service contractors managing and/or operating a cafeteria, lunch room, or similar facility for the exclusive use of students or faculty at an educational institution or private school. The educational institution or private school provides these meals to the students and faculty as a part of its educational services. The food service contractor is managing a food service operation on behalf of the institution, and is not making retail sales of meals to the students, faculty, or institution. Sales of meals or prepared foods to guests in such areas are, however, subject to the retailing business license tax. (Refer also to subsection above entitled "School, college, or university dining rooms.")
  - (iii) Food service contractors managing and/or operating the dietary facilities of a hospital, nursing home, or similar institution, for the purpose of providing meals or prepared foods to patients or residents thereof. These meals are provided to the patients or residents by the hospital, nursing home, or similar institution as a part of the services rendered by the institution. The food service contractor is managing a food service operation on behalf of the institution, and is not considered to be making retail sales of meals to the patients, residents, or institution. Meals sold to doctors, nurses, visitors, and other employees through a cafeteria or similar facility are, however, subject to the retailing business license tax. (Refer also to the subsection above entitled "Hospitals, nursing homes, and other similar institutions.")
- (c) The following examples explain the application of the business license tax to typical situations involving food service contractors managing a food service operation. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances.
- (i) GC Inc. is a food service contractor managing and operating an on-site cafeteria for B College. This cafeteria is operated for the exclusive use of students and faculty. However, guests of students or faculty members are allowed to use the facilities. All monies collected in the cafeteria are retained by B College. College B pays GC's direct costs for managing and operating the cafeteria, including the costs of the unprepared food products, employee salaries, and overhead expenses. GC also receives a management fee.  
  
GC Inc. is managing a food service operation. The measure of tax is the gross proceeds received from B College. GC Inc. may not claim a deduction on account of cost of materials, salaries, or any other expense. The gross proceeds are subject to the service business license tax. B College is considered to be making retail sales of meals to the guests. B College should refer to Seattle Rule 5-600 to determine whether the retailing business license tax applies.
  - (ii) DF Food Service contracts with Hospital A to manage and operate Hospital A's dietary and cafeteria facilities. DF is to receive a per meal fee for meals provided to Hospital A's patients. DF Food Service retains all proceeds for sales of meals to physicians, nurses, and visitors in the cafeteria.  
  
The gross proceeds received from Hospital A, in regards to the meals provided to the patients are derived from the management of a food service operation. These proceeds are subject to the service business license tax. However, DF is making retail sales of meals to physicians, nurses, and visitors in the cafeteria. DF Food Service must pay retailing business license tax on the gross proceeds derived from the cafeteria sales.

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.



**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-404**

- (5) **Meals furnished to employees.** Sales of meals to employees are sales at retail and subject to the retailing business license tax. This is true whether individual meals are sold, whether a flat charge is made, or whether meals are furnished as a part of the compensation for services rendered.
- (a) Where a specific and reasonable charge is made to the employee, the measure of the tax is the selling price.
  - (b) Where no specific charge is made, the measure of the tax will be the average cost per meal served to each employee, based upon the actual cost of the food.
  - (c) Where meals furnished to employees are not recorded as sales, the tax due shall be presumed to apply according to the following formula for determining meal count unless rebutted under particular circumstances substantiated by the business:
    - (i) Those employees working shifts up to five hours, one meal; and
    - (ii) employees working shifts of more than five hours, two meals.
- (6) **Sales of meals, beverages, and food at prices including sales tax.** Persons who advertise and/or sell meals, alcoholic or other beverages, should refer to Seattle rule 5-405 (Restaurants, cocktail bars, taverns, and similar businesses), and Seattle Rule 5-130 (Selling price--Advertised prices including sales tax) and may exclude the amount of sales tax so collected from the gross revenue reported for business license tax purposes. The taxability of persons operating class H licensed restaurants is specifically addressed in Seattle Rule 5-405.
- (7) **Gratuities.** Tips or gratuities representing donations or gifts by customers under circumstances which are clearly voluntary are not part of the selling price subject to tax. However, mandatory additions to the price by the seller whether labeled service charges, tips, gratuities or otherwise must be included in the selling price and are subject to the retailing classification of the business license tax.
- (8) **Examples.** The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances.
- (a) ABC Hospital operates a cafeteria and sells meals to physicians and to persons who are visiting patients in the hospital. Meals are also provided to its employees at no charge. However, there is no accounting for the number of meals consumed by the employees. Payroll records do record the number of hours worked. On average, employees working shifts of up to five hours consume one meal while those working shifts of more than five hours consume two meals.

ABC Hospital is subject to retailing business license tax on the gross proceeds derived from the sales of meals to physicians and visitors. The retailing tax also applies to the value of the meals consumed by ABC's employees. The value subject to tax is determined by the average cost of meals consumed by the employees, based upon the actual cost of the food items, multiplied by the number of meals as determined through a review of the payroll records. While the presumption is that employees working shifts of up to five hours consume one meal with those working shifts of five to eight hours consuming two, this presumption may be rebutted under particular circumstances.
  - (b) X operates a boarding house and provides lodging and meals to ten non-transient residents. Each resident is charged a lump sum to cover both lodging and meals with no

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-404**

accounting for a fair market value for the meals. X is making retail sales of meals to its residents. Retailing business license tax is due on the value of the meals served. This value must be computed as double the cost of the meal, including the cost of the food and drink ingredients, costs of meal preparation, and other costs associated with the meal preparation such as overhead expenses.

- (c) Y Motor Inn contracts with Z Company to provide catering services for a function to be held at the motor inn. During discussions concerning the services to be provided, Z Company is informed that a 15% gratuity is generally recommended. Z Company negotiates the gratuity percentage to 10% and signs a catering contract stating that the agreed gratuity will be added. The gratuity charged to Z Company is subject to the retailing tax. This is not a voluntary gratuity since it is required to be paid as a condition of the contract. Gratuities are not considered to be part of the selling price when they are strictly voluntary.

Effective: July 15, 2005

**THE CITY OF SEATTLE  
DIRECTOR'S RULE  
IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE  
RULE 5-404**

**DIRECTOR'S CERTIFICATION**

I Kenneth J. Nakatsu, Director of the Department of Executive Administration of the City of Seattle, do hereby certify under penalty of perjury of law, that the within and foregoing is a true and correct copy as adopted by the City of Seattle, Department of Executive Administration.

DATED this 15<sup>th</sup> day of July, 2005.

CITY OF SEATTLE,  
a Washington municipality

By:

  
Kenneth J. Nakatsu, Director  
Department of Executive Administration

IT IS DUE TO THE QUALITY OF THE DOCUMENT.

**STATE OF WASHINGTON - KING COUNTY**

--SS.

183390  
CITY OF SEATTLE.Revenue &

No.

**Affidavit of Publication**

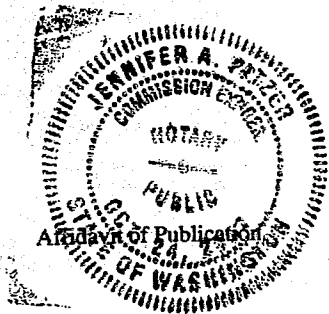
The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

**CT:RULE MAKING HEARING**

was published on

3/21/2005



*M. J. P.*

Subscribed and sworn to before me on

3/21/2005

*Jennifer A. Ziefer*  
Notary public for the State of Washington,  
residing in Seattle

# State of Washington, King County

## City of Seattle

### NOTICE OF PROPOSED RULE MAKING HEARING AND OPPORTUNITY TO COMMENT

The Director of Finance, acting under the authority of Seattle Municipal Code Chapters 5.02 and 5.55, proposes to adopt new rules for implementing the Seattle Business and Occupation Tax Ordinance (Seattle Municipal Code, Chapter 5.45). Please note that although these rules are applicable to EMC 5.45, the individual rules may also apply to other chapters of the City's Tax Code, including, but not limited to, EMC 5.30 (Definitions), EMC 5.32 (Revenue Code), EMC 5.40 (Admissions Tax), EMC 5.48 (Business Tax - Utilities) and EMC 5.52 (Gambling Tax). The following rules are proposed for adoption and will become effective as of April 30, 2006.

Seattle Rule 5-006 -- Tax Returns --  
Filing and Payment

Seattle Rule 5-007 -- Penalties

Seattle Rule 5-031 -- Measure of Tax --  
Retailers and Wholesalers

Seattle Rule 5-032 -- Measure of Tax --  
Service and other business activities

Seattle Rule 5-035 -- Freight and  
Delivery Charges

Seattle Rule 5-040 -- Corporations,  
Massachusetts trusts

Seattle Rule 5-043 -- Engaging in  
Business

Seattle Rule 5-068 -- Returned goods,  
allowances, cash discounts

Seattle Rule 5-100 -- Extracting natural  
products

Seattle Rule 5-112 -- Commercial or  
industrial use

Seattle Rule 5-127 -- Sales to and by the  
State of Washington, counties, cities,  
school districts, and municipal subdivi-  
sions

Seattle Rule 5-130 -- Selling price --  
Advertised prices including sales tax

Seattle Rule 5-131 -- Trade-ins, selling  
price, sellers' tax measures

Seattle Rule 5-132 -- Leased depart-  
ments

Seattle Rule 5-133 -- Warranties and  
maintenance agreements

Seattle Rule 5-702 -- Coin operated  
vending machines, amusement devices  
and service machines

Seattle Rule 5-404 -- Sales of meals

Seattle Rule 5-405 -- Restaurants, cock-  
tail bars, taverns and similar business-  
es

Seattle Rule 5-481 -- Motor carriers --  
Trucking

Seattle Rule 5-528 -- Sales of precious  
metal bullion and monetized bullion

Seattle Rule 5-530 -- Sale or rental of  
real estate, license to use real estate

Seattle Rule 5-531 -- Sales of real prop-  
erty, standing timber, minerals, natural  
resources

Seattle Rule 5-532 -- Real estate brokers  
and salesmen

Seattle Rule 5-600 -- Educational insti-  
tutions, school districts, student organi-  
zations, and private schools

Seattle Rule 5-700 -- Amusement,  
Recreation, and Physical Fitness  
Services

Seattle Rule 5-720 -- Hotels, motels,  
boarding houses, rooming houses,  
resorts, summer camps, trailer camps,  
etc.

Seattle Rule 5-803 -- Consignees,  
bailees, factors, agents, and auctioneers

Seattle Rule 5-805 -- Advertisi-  
ng agencies

Seattle Rule 5-807 -- Outdoor advertis-  
ing and advertising display services

**PUBLIC HEARING AND COMMENT:**  
The Department of Executive Administra-  
tion has scheduled a public hearing on the  
proposed rule change for 1:00 p.m. to 3:00  
p.m., on Monday, April 4, 2005. The hearing  
will be held in a conference room on the 40th  
floor of the Seattle Municipal Tower, Suite  
4096, located at 700 5th Avenue. All interest-  
ed persons are invited to present data, views,  
or arguments, with regard to the proposed  
rules, orally at the hearing, or in writing at  
or before the hearing.

Written comments should be mailed or  
delivered to:

Department of Executive Administra-  
tion, Attn.: Mel McDonald,  
Director, Revenue and Consumer  
Affairs, 700 5th Avenue - Suite 4250,  
Seattle, Washington 98104-5828.

The public may inspect copies of the pro-  
posed rules at the Revenue and Consumer  
Affairs offices, 700 5th Avenue, Suite 4200.  
If you would like a copy of the proposed rules,  
please call (206) 684-8300, FAX (206) 684-  
8170, email rca.bislictr@cl.seattle.wa.us,  
or submit a written request to the address  
above.

Dated: March 21, 2005.

DWIGHT D. DIVELY,

Director, Department of Finance.

Date of publication in the Seattle Daily  
Journal of Commerce, March 21, 2005.

3/21/050890

IT IS DUE TO THE QUALITY OF THE DOCUMENT.

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-405**

FILED  
CITY OF SEATTLE  
05 JUL 15 PM 2:49  
CITY CLERK

**Seattle Rule 5-405**     **Restaurants, cocktail bars, taverns and similar businesses.**

- (1) **Introduction.** This rule explains the application of Seattle's business license tax to sales by restaurants and similar businesses. It discusses the sales of meals, beverages, and foods at prices inclusive of the retail sales tax. This rule also explains how discounted and promotional meals are taxed. Persons who merely manage the operations of a restaurant or similar business should refer to Seattle Rule 5-404 to determine their tax liability. The term "restaurants, cocktail bars, taverns, and similar businesses" means every place where prepared foods and beverages are sold and served to individuals, generally for consumption on the premises where sold.
  
- (2) **Business license tax.** The tax liability of restaurants, cocktail bars, taverns, and similar businesses is as follows:
  - (a) **Retailing.** Sales to consumers of meals and prepared foods by restaurants, cocktail bars, taverns, and similar businesses are subject to the retailing tax classification on the gross proceeds of such sales unless the sales price of the meal is advertised as including the retail sales tax. In such case, the retail sales tax may be deducted to arrive at the gross proceeds from the sale of meals. (See Seattle Rule 5-130.) Meals provided to employees are presumed to be in exchange for services rendered by employees and are classified as retail sales, and therefore subject to the retailing tax. (See Seattle Rule 5-404, Sales of meals.)
  - (b) **Wholesaling.** Persons making sales of prepared meals to persons who will be reselling the meals are subject to the wholesaling tax classification.
  - (c) **Service and other activities.** Compensation received from owners of coin-operated machines for allowing the placement of those machines at the restaurant, cocktail bar, tavern, or similar business is subject to the service and other classification.
  
- (3) **Discounted meals, promotional meals, and meals given away.** Persons who sell meals on a "two for one" or similar basis are not giving away a free meal, but rather are selling two meals at a discounted price. The retailing business license tax should be calculated on the reduced price actually received by the seller.
  - (a) Persons who provide meals free of charge to persons other than employees are not subject to tax. For example, a restaurant providing meals to the homeless or hot dogs free of charge to a little league team will not incur a business license tax liability with respect to these items given away. A sale has not occurred.
  - (b) Meals provided to employees are presumed to be in exchange for services rendered by the employee and are not considered to be given away. These meals are retail sales. (See Seattle Rule 5-404 regarding employee meals.)
  
- (4) **Sales of meals, beverages, and food at prices including sales tax.** Persons may advertise and/or sell meals, beverages, or any kind of food product at prices including sales tax.
  - (a) Any person electing to advertise and/or make sales in this manner must clearly indicate this pricing method on the menus and other price information.
  - (b) If sales slips, sales invoices, or dinner checks are given to the customer, the sales tax must be separately stated on all such sales receipts. If not separately stated on the sales receipt, it will be determined that retail sales tax was not collected. In such cases the measure of tax will be gross receipts. (Refer to Seattle Rule 5-130, Selling price -- Advertised prices including sales tax).

IT IS DUE TO THE QUALITY OF THE DOCUMENT.

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-405**

- (c) Restaurants operating under the authority of a class H liquor license generally have both dining and cocktail lounge areas. Customers purchasing beverages or food in lounge areas are generally not given sales invoices, sales slips, or dinner checks, nor are they generally provided with menus.
  - (i) Many class H restaurants elect to sell beverages or food at prices inclusive of the sales tax in the cocktail lounge area. If this pricing method is used, notification that retail sales tax is included in the price of the beverages or foods must be posted in the lounge area in a manner and location so that customers can see the notice without entering employee work areas. It will be concluded that no retail sales tax has been collected or is included in the gross receipts when a notice is not posted and the customer does not receive a sales slip or sales invoice separately stating the retail sales tax.
  - (ii) The election to include retail sales tax in the selling price in one area of a location does not preclude the restaurant operator from selling beverages or food at a price exclusive of sales tax in another. For example, an operator of a class H restaurant may elect to include the retail sales tax in the price charged for beverages in the lounge area, while the price charged in the dining area is exclusive of the sales tax.
  - (iii) Class H restaurants are not required to post actual drink prices in the cocktail lounge areas. However, if actual prices are posted, the advertising requirements expressed in Seattle Rule 5-130 must be met.
- (5) **Gratuities.** Tips or gratuities, when made voluntarily by customers, are not part of the selling price and not subject to the retailing business license tax. However, mandatory additions to the price by the seller, whether labeled service charges, tips, gratuities or otherwise must be included in the selling price and are subject to the retailing business license tax. (Refer also to Seattle Rule 5-404.) Mandatory gratuities on group meals and banquets will be determined to be on the meal sales and 100% taxable unless split between the meals, and any alcoholic beverages (not taxable) on a percentage basis and separately stated by the server on the sales invoice.
- (6) **Exemption.** Sales of alcoholic beverages are exempt from Seattle's business license tax per SMC 5.45.090 (W) and RCW 66.08.120.

Effective: July 15, 2005

**THE CITY OF SEATTLE  
DIRECTOR'S RULE  
IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE  
RULE 5-405**

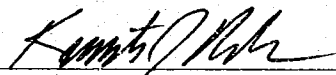
**DIRECTOR'S CERTIFICATION**

I Kenneth J. Nakatsu, Director of the Department of Executive Administration of the City of Seattle, do hereby certify under penalty of perjury of law, that the within and foregoing is a true and correct copy as adopted by the City of Seattle, Department of Executive Administration.

DATED this 15<sup>th</sup> day of July, 2005.

CITY OF SEATTLE,  
a Washington municipality

By:

  
Kenneth J. Nakatsu, Director  
Department of Executive Administration

NOTICE:  
IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE  
IT IS DUE TO THE QUALITY OF THE DOCUMENT.



STATE OF WASHINGTON - KING COUNTY

--SS.

183390  
CITY OF SEATTLE:Revenue &

No.

**Affidavit of Publication**

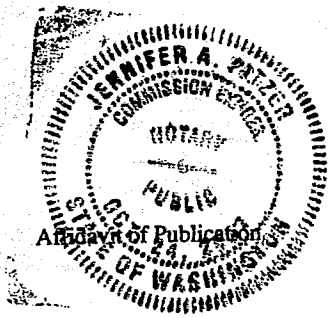
The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:RULE MAKING HEARING

was published on

3/21/2005



*mdf*

Subscribed and sworn to before me on

3/21/2005

*Jennifer Preizer*

Notary public for the State of Washington,  
residing in Seattle

IT IS DUE TO THE QUALITY OF THE DOCUMENT.

State of Washington, King County  
City of Seattle

NOTICE OF PROPOSED RULE  
MAKING HEARING AND  
OPPORTUNITY TO COMMENT

The Director of Finance, acting under the authority of Seattle Municipal Code Chapters 5.02 and 5.55, proposes to adopt new rules for implementing the Seattle Business and Occupation Tax Ordinance (Seattle Municipal Code, Chapter 5.45). Please note that although these rules are applicable to SMC 5.45, the individual rules may also apply to other chapters of the City's Tax Code, including, but not limited to, SMC 5.30 (Definitions), SMC 5.32 (Revenue Code), SMC 5.40 (Admissions Tax), SMC 5.48 (Business Tax - Utilities) and SMC 5.52 (Gambling Tax). The following rules are proposed for adoption and will become effective as of April 30, 2005:

- Seattle Rule 5-005 -- Tax Returns -- Filing and Payment
- Seattle Rule 5-007 -- Penalties
- Seattle Rule 5-021 -- Measure of Tax -- Retailers and Wholesalers
- Seattle Rule 5-032 -- Measure of Tax -- Service and other business activities
- Seattle Rule 5-035 -- Freight and Delivery Charges
- Seattle Rule 5-040 -- Corporations, Massachusetts trusts
- Seattle Rule 5-043 -- Engaging in Business
- Seattle Rule 5-063 -- Returned goods, allowances, cash discounts
- Seattle Rule 5-100 -- Extracting natural products
- Seattle Rule 5-112 -- Commercial or industrial use
- Seattle Rule 5-127 -- Sales to and by the State of Washington, counties, cities, school districts, and municipal subdivisions
- Seattle Rule 5-130 -- Selling price -- Advertised prices including sales tax
- Seattle Rule 5-131 -- Trade-ins, selling price, sellers' tax measures
- Seattle Rule 5-132 -- Leased departments

- Seattle Rule 5-133 -- Warranties and maintenance agreements
- Seattle Rule 5-702 -- Coin operated vending machines, amusement devices and service machines
- Seattle Rule 5-404 -- Sales of seals
- Seattle Rule 5-405 -- Restaurants, cocktail bars, taverns and similar businesses
- Seattle Rule 5-481 -- Motor carriers -- Trucking
- Seattle Rule 5-523 -- Sales of precious metal bullion and monetized bullion
- Seattle Rule 5-530 -- Sale or rental of real estate, license to use real estate
- Seattle Rule 5-531 -- Sales of real property, standing timber, minerals, natural resources
- Seattle Rule 5-532 -- Real estate brokers and salesmen
- Seattle Rule 5-600 -- Educational institutions, school districts, student organizations, and private schools
- Seattle Rule 5-700 -- Amusement, Recreation, and Physical Fitness Services
- Seattle Rule 5-720 -- Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc.
- Seattle Rule 5-803 -- Consignees, bailees, factors, agents, and auctioneers
- Seattle Rule 5-806 -- Advertising agencies
- Seattle Rule 5-807 -- Outdoor advertising and advertising display services

**PUBLIC HEARING AND COMMENT:**  
The Department of Executive Administration has scheduled a public hearing on the proposed rule changes for 1:00 p.m. to 3:00 p.m. on Monday, April 4, 2005. The hearing will be held in a conference room on the 40th floor of the Seattle Municipal Tower, Suite 4086, located at 700 5th Avenue. All interested persons are invited to present data, views or arguments, with regard to the proposed rules, orally at the hearing, or in writing at or before the hearing.

Written comments should be mailed or delivered to:

Department of Executive Administration, Attn.: Mel McDonald, Director, Revenue and Consumer Affairs, 700 5th Avenue - Suite 4250, Seattle, Washington 98104-5629.

The public may inspect copies of the proposed rules at the Revenue and Consumer Affairs offices, 700 5th Avenue, Suite 4250. If you would like a copy of the proposed rules, please call (206) 864-8300, FAX (206) 664-5170, email rca.bialictr@cl.seattle.wa.us, or submit a written request to the address above.

Dated: March 21, 2005.

DWIGHT D. DIVELY,

Director, Department of Finance.  
Date of publication in the Seattle Daily Journal of Commerce, March 21, 2005.  
3/21 (185390)

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-481**

FILED  
CITY OF SEATTLE  
05 JUL 15 PM 2:49  
CITY CLERK

**Seattle Rule 5-481**     **Motor carriers—Trucking.**

- (1) **Introduction.** This rule provides an overview of the taxation of motor carriers and trucking activities within the City of Seattle as of July 1, 2002. For periods prior to July 1, 2002 a motor carrier may report their motor transportation revenue pursuant to RCW 35.21.840, pursuant to the provisions contained in this rule, or pursuant to the language contained in Seattle Rule 5-44-193D.
- (2) **Definitions.**
- (a) "Agent"—a person performing motor transportation service for another motor carrier under the other carrier's direction pursuant to a preexisting agreement which provides for a continuing relationship, precluding the exercise of discretion on the part of the agent in allocating traffic between the carrier and others. Agents may operate under their own operating authority or the operating authority of their principal.
  - (b) "Ancillary Activities"—activities conducted by the motor carrier that are not part of the contracted transportation charge, and include, but are not limited to, stevedoring, separately invoiced charges for loading, unloading, sorting, storage, and consolidation charges. If the contract between the shipper and motor carrier includes the requirement that the motor carrier pack, load, and store the property in addition to the transportation then those activities will be included as part of the motor transportation revenue, provided that any storage over one month will be deemed to be an ancillary activity charge whether or not the storage is part of the contract or invoiced separately.
  - (c) "Broker"—A person who sells, provides for, or arranges transportation by a motor carrier for compensation. A freight broker acts as a middle person in bringing a shipper and motor carrier together, for which they earn a commission or mark-up between the amount billed to the shipper and the amount paid to the motor carrier. A broker is not licensed to operate as a motor carrier. A broker does not generally transport or contractually incur the obligation to transport property themselves. However, a person who acts as a broker and also acts as a motor carrier must segregate these activities on their books of record and tax returns.
  - (d) "Freight Forwarder"—a person providing transportation of property on a for-hire basis and in the ordinary course of its business:
    - (i) assembles and consolidates shipments or provides for break-bulk and distribution operations of the shipments;
    - (ii) assumes responsibility for the transportation from the place of receipt to the place of destination; and
    - (iii) uses motor carriers for any part of the transportation services.
  - (e) "Motor carrier"—shall mean the carriers described in the definitions of "common carrier", and "contract carrier" as defined in RCW 81.80.010, providing transportation of property for hire over public highways. The term includes "agents", "freight forwarders" and "owner-operators" if they are under contract to haul property.

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-481**

- (f) "Owner-Operator"—a person that leases motor carrier equipment with operators to motor carriers under federal or state leasing rules pertaining to motor carriers. It does not include persons leasing motor carrier equipment without operators.
  - (g) "Picking up"—means taking the first initial possession of freight or property by the motor carrier. Transfers between agents, motor carriers, or freight forwarders constitutes a "pick up," whereas transfers between transportation equipment owned by the same motor carrier does not constitute a "pick up". Generally, "picking up" is the beginning of the transportation for that particular motor carrier. A motor carrier contracting with another as a subcontractor is "picking up" when it first takes possession of the freight or property.
  - (h) "Public highway"—every street, road, freeway or highway in the State of Washington.
- (3) **Measure of the tax on Motor Carriers of property for hire.** Persons engaged as a motor carrier within the City of Seattle are subject to tax pursuant to section 5.45.050(F) (motor carriers). The gross income of such person that is subject to tax shall be the gross income received from the transport of freight picked up in the City of Seattle, regardless of where the business was solicited, and regardless of whether the person has an office, terminal or place of business within the City.
- (4) **Taxing Authority.** The act of "picking up" property or freight within the City creates a "nexus" for taxation and requires the person to maintain a business license and report all applicable taxes.
- (5) **Measure of the tax on ancillary activities and commissions.** Motor carriers engaging in ancillary activities shall separately record and report the gross income from such activities under the "service and other" business tax classification (SMC 5.45.050(G)). Brokers earning commissions by arranging the transportation between the shipper and the motor carrier shall report those commissions under the service and other business tax classification. Gross income from ancillary activities and broker commissions are subject to the revenue assignment provisions contained in SMC sections 5.45.075 and 5.45.080.
- (6) **Exemptions and Deductions.**
- (a) Interstate Trucking. A deduction is allowed in the amount of the gross income received by a motor carrier from the transportation of property picked up within the City of Seattle and delivered by the motor carrier to a point outside the State of Washington. A motor carrier that does not transport the property across the state boundary is not entitled to a deduction, even though the freight is destined for, and is ultimately transported, outside Washington. The contract maintained by the motor carrier shall determine whether the haul is deductible. Such contract may be with a shipper, carrier, consolidator, logistics firm, or any other person or party, provided that the motor carrier is required to transport the freight to a location outside the state. Freight forwarders, agents, and owner-operators are eligible for this deduction where the requirements of this section are met. The fact that the goods themselves are being transported under an interstate "through bill of lading" will not suffice as proof that the carrier was responsible to transport the goods across Washington State boundaries. (See section (7) for document requirements to substantiate the interstate haul).
  - (b) Empty Containers as part of a round trip haul. In computing the tax imposed by SMC 5.45.050 (F) there may be deducted from the measure of the tax the amount of gross income from the transport of empty containers picked up in the City if 1) a loaded container transported from outside the City is exchanged for the empty container at the time of pick-up, and 2) the transport of the loaded container and empty container are billed to the customer as a round trip charge. Any charge for picking up and transporting an

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-481**

empty container that is not part of a round trip billing or represents a one-way haul of an empty container is subject to the motor carrier tax.

The intent of this subsection is to permit a deduction for empty containers consistent with the measure of the tax in section (3) above. This deduction is intended to apply where a driver picks up a loaded container outside the city, delivers it to a location inside the City, and picks up an empty for the return trip. The location of the delivery of the loaded container and pickup of the empty need not be identical, but must be within the City. The location where the loaded container was picked up outside the City and the location of delivery of the empty container must also be within the same city or location, and both hauls (loaded and empty) billed as a round trip charge to the same customer.

- (c) Revenue from "pick ups" outside the City. All revenues generated by transportation or moving of property which is picked up outside the City and delivered within the City or elsewhere shall be excluded from the measure of the tax regardless of where the solicitation of the business activity took place.
- (7) **Documentation required for Exemptions and Deductions.** For each haul, the motor carrier (including agent or owner/operator) must maintain documentation showing the place of pick up and place of delivery for which the motor carrier is responsible. All forms substantiating the points of pick up and delivery, and whether or not the transportation was an interstate haul may be in paper or in electronic form. Such forms or documents must clearly substantiate where pick up occurred and, if the delivery was made to a point outside the state, that the motor carrier was required to transport the goods to the location outside the state. Valid documentation may include: billing documents, bills of lading, master agreements, price lists, shipping contracts, interchange receipts, delivery receipts, authorizations, work orders, interstate authority documentation, lease agreements and other documents showing the facts associated with the haul. Some of these documents, by themselves, will not be sufficient to prove an interstate deduction. The primary documents examined will be the invoice or billing document and the motor carrier's own bill of lading along with any contractual documents.
- (8) **Handling of solid waste, construction/demolition landfill (CDL) or garbage.** A person contracting to collect garbage, CDL, or solid waste (including any transportation, handling or processing of such material) is subject to the utility tax. A person that subcontracts with the "collector" to haul solid waste, CDL or garbage on behalf of the collector shall be deemed to be a motor carrier and subject to the business and occupation tax under the service and other classification for pick ups of such materials inside the City.
- (9) **Examples.** The following examples show how the above rule will be applied:
- (a) Barge Lines, Inc., who has a single terminal based in Seattle, contracts with a seller to haul freight from Seattle to Anchorage, Alaska. Barge Lines picks up the freight in Seattle with its own trucks and delivers the freight to Barge Lines' barge, which hauls the freight to Alaska. Neither the pick up leg nor the line haul is taxable, since Barge Lines is responsible for, and does take goods across state lines.
- (b) Same facts as example (a) above, except the pick up in Seattle is made by a trucking subsidiary of the Barge Lines. Subsidiary is taxable on the Seattle pick up leg since subsidiary does not take the goods across state lines. Barge Lines is exempt, since separate entities are taxed on their own activities, not that of the parent or affiliated entity.
- (c) A motor carrier contracts to haul goods from Seattle to Alaska, invoices the seller, and issues a bill of lading showing these points. The motor carrier picks up the freight in Seattle and hauls it to an unrelated barge lines in Bellingham, who then hauls the goods to Alaska under a subcontract with the motor carrier. Since the motor carrier has

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-481**

contracted and is paid to haul the goods to Alaska, and the barge lines is acting as subcontractor to the motor carrier, then the motor carrier is taking the goods across the state lines and the interstate deduction applies to the motor carrier's revenues for the shipment.

- (d) A freight broker with a single office in Seattle arranges for transportation between various points in the country, including Seattle. The shippers and carriers are in different states. The broker's job is arranging the transportation; the broker does not issue a bill of lading. The broker collects the price of the move from the shipper, pays the carrier, and keeps the difference. The transportation broker is merely brokering the transportation activity and therefore is taxable on its commission income or the difference between contract price and transportation costs. The transportation broker may not use the interstate deduction since it is not a motor carrier. Transportation brokerage is a local activity. To the extent such activity takes place within Seattle, it is taxable under the service and other business tax classification. If the freight broker's only office was located outside Seattle, its gross revenues would not be taxable.
- (e) A freight forwarder with a terminal in Seattle contracts with, and invoices a shipper (seller) to haul a shipment to Los Angeles. The forwarder picks up the shipment in Seattle with its own truck, and hauls it to the forwarder's terminal. A subcontract carrier (another motor carrier, agent, or owner-operator) hauls it to Los Angeles. The freight forwarder and the subcontract carrier are not taxable since both are contractually responsible for getting the shipment across state boundaries.
- (f) A full load motor carrier contracts to haul goods from Denver to Bellingham. The carrier hauls the load from Denver to Seattle, where it is given to a subcontract carrier to haul from Seattle to Bellingham. The motor carrier is not taxable, but the subcontract carrier is taxable for the haul from Seattle to Bellingham.
- (g) ABC Household Goods Mover, who is an agent of XYZ Van Lines, executes a contract and bill of lading on behalf of XYZ with a Seattle homeowner to move the homeowner's household goods from Seattle to Phoenix. XYZ Van Lines is the motor carrier named in the bill of lading. ABC provides a van, loads the goods, and hauls them to ABC's warehouse in Washington. The goods are then picked up by an owner-operator of another agent of XYZ Van Lines, who hauls them to Phoenix. XYZ Van Lines is the motor carrier and receives the interstate deduction. ABC is taxable on its haul to the warehouse because it has not crossed, or contracted to cross, a state border.
- (h) Same facts as example (g) above, except ABC also hauls the goods from its warehouse to Phoenix with its own driver (employed or owner-operator). ABC is not taxable because it has transported the load across the border. An Owner-Operator driver would also not be taxable for the same reason.
- (i) A regional motor carrier contracts to pick up goods in Salt Lake City and deliver the goods to Vancouver, WA. The carrier hauls the goods to Seattle where they are transloaded into a delivery truck belonging to the regional motor carrier for delivery to Vancouver. The entire haul is not taxable because the freight was picked up in Salt Lake City and changes in equipment or intermediate stoppages and storage does not change the place of pick up as long as the goods are traveling under one invoice and one bill of lading by the same carrier.
- (j) A dump truck operator hauls excavated material from a construction site in Seattle to another construction site in Woodinville. The haul involves a transportation service, and a Seattle pick up, and is thus taxable. If the load had been picked up outside Seattle and delivered in Seattle, there would be no Seattle pick up and thus no tax.

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-481**

- (k) A motor carrier with a Seattle terminal or office picks up freight in Kent and hauls it to Everett. There is no tax because there is no Seattle pick up.
- (l) A regional, less-than-truckload, carrier contracts and invoices to haul a shipment from Seattle to Billings, Montana. It interlines (subcontracts) the shipment with another regional carrier in Spokane who then continues the shipment to Billings. Both carriers are not taxable because both have contracted to cross the border. The interline carrier contracts to cross the border when it agrees to transport the shipment from Spokane to Billings.
- (m) Same facts as example (l) above, except a national carrier is designated as the carrier on the bill of lading. (The national carrier is then presumed to be the entity that contracted to ship the goods from Seattle to Billings.) The national carrier then subcontracts with the two regional carriers. The originating regional carrier is taxable, because it has not contracted to cross the border (only from Seattle to Spokane). The second regional carrier is not taxable because it has contracted to haul the goods across the border, and also did not pick up the goods in Seattle.
- (n) A carrier picks up a loaded container at the Port of Seattle and drops it at a customer's location in Kent. The customer unloads the container and the next day the carrier picks it up and returns it to a container yard inside the Port of Seattle. The carrier bills the steamship lines for the round trip. The entire round trip charge is taxable because the pickup of the loaded container was made inside Seattle. It makes no difference who was billed, or that the empty container was picked up the day after the loaded container was delivered.
- (o) A carrier picks up an empty container at the Port of Seattle, hauls it to a customer's location in Tukwila, drops the empty, picks up a loaded container in Tukwila for the customer, and hauls it to the Port of Seattle. The carrier bills the customer for the round trip. The round trip is not taxable, because the loaded container was picked up outside Seattle. It makes no difference that the empty container was picked up in Seattle, because the empty and loaded containers were billed as a round trip.
- (p) Same facts as example (o) above, except the carrier invoices the customer separately for hauling the empty container and the loaded container. The revenue from transporting the loaded container is not taxable because the pickup occurred outside Seattle. The revenue from transporting the empty container is taxable because the pick up was inside Seattle and by invoicing separately it is presumed that the hauls were under separate contracts.
- (q) ABC trucking signs a contract with the Smiths to move their furniture from Seattle to Vancouver, WA. As part of the agreement the Smiths desire to move out of their present home and wait for three weeks before the furniture is delivered to their new home in Vancouver. The packing, loading, and three weeks of storage is part of the move and is taxed by Seattle under the Motor Carrier classification because the pick up took place in Seattle. If the Smiths were moving to Portland, OR then the entire contract amount is not taxable since the move is an interstate move and ABC was required to deliver the furniture outside the state. If the storage period were longer than one month, then the storage charges would be considered an ancillary charge and taxable under the "service and other" business tax classification.
- (r) XYZ trucking is located in Tukwila and contracts with the Smiths to pack, load, and store their property, while ABC trucking contracts to move the property. Since the packing and loading occur in Seattle, XYZ trucking is taxable under the "service and other" business

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-481**

tax classification on these ancillary activities. If the storage by XYZ takes place in Tukwila, the storage charges would not be subject to tax in Seattle. Since ABC trucking is still making the haul from Seattle to Vancouver via the storage warehouse, the haul would still be taxable in Seattle since pick up occurred in Seattle.

Effective: July 15, 2005



**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-481**

**DIRECTOR'S CERTIFICATION**

I Kenneth J. Nakatsu, Director of the Department of Executive Administration of the City of Seattle, do hereby certify under penalty of perjury of law, that the within and foregoing is a true and correct copy as adopted by the City of Seattle, Department of Executive Administration.

DATED this 15<sup>th</sup> day of July, 2005.

CITY OF SEATTLE,  
a Washington municipality

By:

  
\_\_\_\_\_  
Kenneth J. Nakatsu, Director  
Department of Executive Administration

IT IS DUE TO THE QUALITY OF THE DOCUMENT.

STATE OF WASHINGTON - KING COUNTY

--SS.

183390  
CITY OF SEATTLE:Revenue &

No.

**Affidavit of Publication**

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:RULE MAKING HEARING

was published on

3/21/2005

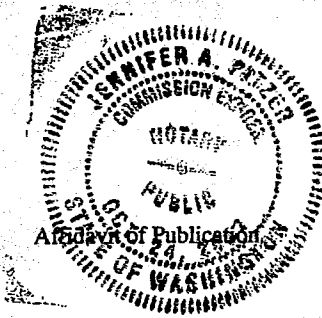
*msd*

Subscribed and sworn to before me on

3/21/2005

*Jennifer A. Prizer*

Notary public for the State of Washington,  
residing in Seattle



IT IS DUE TO THE QUALITY OF THE DOCUMENT.

# State of Washington, King County

## City of Seattle

### NOTICE OF PROPOSED RULE MAKING HEARING AND OPPORTUNITY TO COMMENT

The Director of Finance, acting under the authority of Seattle Municipal Code Chapters 5.02 and 5.55, proposes to adopt new rules for implementing the Seattle Business and Occupation Tax Ordinance (Seattle Municipal Code, Chapter 5.46). Please note that although these rules are applicable to SMC 5.46, the individual rules may also apply to other chapters in the City's Tax Code, including, but not limited to, SMC 5.30 (Definitions), SMC 5.32 (Revenue Code), SMC 5.40 (Admissions Tax), SMC 5.48 (Business Tax - Utilities) and SMC 5.52 (Gambling Tax). The following rules are proposed for adoption and will become effective as of April 30, 2005:

- Seattle Rule 5-005 -- Tax Returns -- Filing and Payment
- Seattle Rule 5-007 -- Penalties
- Seattle Rule 5-031 -- Measure of Tax -- Retailers and Wholesalers
- Seattle Rule 5-032 -- Measure of Tax -- Service and other business activities
- Seattle Rule 5-035 -- Freight and Delivery Charges
- Seattle Rule 5-040 -- Corporations, Massachusetts trusts
- Seattle Rule 5-043 -- Engaging in Business
- Seattle Rule 5-063 -- Returned goods, allowances, cash discounts
- Seattle Rule 5-100 -- Extracting natural products
- Seattle Rule 5-112 -- Commercial or industrial use
- Seattle Rule 5-127 -- Sales to and by the State of Washington, counties, cities, school districts, and municipal subdivisions
- Seattle Rule 5-130 -- Selling price -- Advertised prices including sales tax
- Seattle Rule 5-131 -- Trade-ins, selling price, sellers tax measures
- Seattle Rule 5-132 -- Leased departments

Seattle Rule 5-133 -- Warranties and maintenance agreements

Seattle Rule 5-702 -- Coin operated vending machines, amusement devices and service machines

Seattle Rule 5-404 -- Sales of meals

Seattle Rule 5-405 -- Restaurants, cocktail bars, taverns and similar businesses

Seattle Rule 5-481 -- Motor carriers -- Trucking

Seattle Rule 5-523 -- Sales of precious metal bullion and monetized bullion

Seattle Rule 5-530 -- Sale or rental of real estate, license to use real estate

Seattle Rule 5-531 -- Sales of real property, standing timber, minerals, natural resources

Seattle Rule 5-532 -- Real estate brokers and salesmen

Seattle Rule 5-600 -- Educational institutions, school districts, student organizations, and private schools

Seattle Rule 5-700 -- Amusement, Recreation, and Physical Fitness Services

Seattle Rule 5-720 -- Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc.

Seattle Rule 5-803 -- Consignees, bailees, factors, agents, and auctioneers

Seattle Rule 5-806 -- Advertising agencies

Seattle Rule 5-907 -- Outdoor advertising and advertising display services

**PUBLIC HEARING AND COMMENT:** The Department of Executive Administration has scheduled a public hearing on the proposed rule changes for 1:00 p.m. to 3:00 p.m. on Monday, April 4, 2005. The hearing will be held in a conference room on the 46th floor of the Seattle Municipal Tower, Suite 4095, located at 700 5th Avenue. All interested persons are invited to present data, views, or arguments, with regard to the proposed rules, orally at the hearing, or in writing at or before the hearing.

Written comments should be mailed or delivered to:

Department of Executive Administration, Attn.: Mel McDonald, Director, Revenue and Consumer Affairs, 700 5th Avenue - Suite 4250, Seattle, Washington 98104-5020.

The public may inspect copies of the proposed rules at the Revenue and Consumer Affairs offices, 700 5th Avenue, Suite 4200. If you would like a copy of the proposed rules, please call (206) 684-3300, FAX (206) 684-3170, email [rulelist@seattle.wa.us](mailto:rulelist@seattle.wa.us), or submit a written request to the address above.

Dated: March 21, 2005.

DWIGHT D. DIVELY,

Director, Department of Finance.

Date of publication in the Seattle Daily Journal of Commerce, March 21, 2005.  
S21(133590)

IT IS DUE TO THE QUALITY OF THE DOCUMENT.

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-523**

FILED  
CITY OF SEATTLE  
05 JUL 15 PM 2:55  
CITY CLERK

**Seattle Rule 5-523**      **Sales of precious metal bullion and monetized bullion.**

- (1) **Introduction.** This rule defines the terms "precious metal bullion" and "monetized bullion," explains the business license tax deduction that applies to retail and wholesale sales of these items, and provides examples of those types of sales that qualify for the deduction. This rule also explains the applicability of the business license tax on those who sell precious metal bullion and monetized bullion on a commission basis.
  
- (2) **Definitions.**
  - (a) The term, "precious metal bullion," as defined in SMC 5.30.040, means "any precious metal which has been put through a process of smelting or refining, including, but not limited to, gold, silver, platinum, rhodium, and palladium, and which is in such state or condition that its value depends upon its contents and not upon its form."
  
  - (b) The term, "monetized bullion," as defined in SMC 5.30.040, means "coins or other forms of money manufactured from gold, silver, or other metals and heretofore, now, or hereafter used as a medium of exchange under the laws of this state, the United States, or any foreign nation, but does not include coins or money sold to be manufactured into jewelry or works of art."
  
- (3) **Business License Tax.**
  - (a) Amounts received as commissions upon sales of precious metals by dealers, brokers, and other selling and/or buying agents who sell or buy precious metal bullion or monetized bullion for the accounts of customers are subject to the service and other activities classification of business license tax.
  
  - (b) Deduction for sales at wholesale or retail. Pursuant to SMC 5.45.100(N), in computing the business license tax, there may be deducted from the measure of the tax amounts derived from the sale at wholesale or retail of precious metal bullion and monetized bullion. This deduction applies equally to sales of precious metal bullion or monetized bullion transferred through documents of ownership, certificates, confirmation slips, or other indicia of ownership.
  
- (4) **Examples.**
  - (a) Precious metal bullion.
    - (i) Sales of processed or refined precious metal valued solely upon the content thereof, whatever its form, are not subject to tax. This includes processed nuggets, bars, sticks, dust, and other processed forms of precious metal. For example, sales of gold or silver in raw, refined forms to dentists, laboratories, jewelers, and other persons, for their own consumption or for resale are not taxable.
  
    - (ii) However, sales of precious metal which has been manufactured or further processed into any form which determines or adds to the value thereof are fully taxable. For example, sales of jewelry items, medallions, artworks, and other items, the value of which is dependent upon more than the mere content of precious metal therein, are subject to wholesaling or retailing business license tax, whichever is applicable.

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-523**

(b) Monetized bullion.

- (i) Sales of metal money, in coined or other form, which is recognized as a medium of exchange in the financial marketplace, are not taxable.
- (ii) However, sales of coin or money, whether or not recognized as a medium of exchange, to jewelers or other persons for the purpose of manufacturing jewelry or artwork therefrom are fully taxable. For example, sales of coins for necklaces or to be used as buttons or in paintings or painting frames are taxable.
- (iii) To receive a deduction for sales of coins or metal money, persons who knowingly sell such things to buyers who are regularly engaged in the business of manufacturing jewelry or works of art must take a written, signed, and dated statement from such buyers that the coins or metal money are not being purchased for use in manufacturing jewelry or works of art.

Effective: July 15, 2005

NOTICE:  
IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE  
IT IS DUE TO THE QUALITY OF THE DOCUMENT.

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-523**

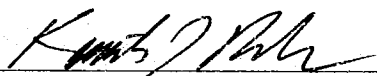
**DIRECTOR'S CERTIFICATION**

I Kenneth J. Nakatsu, Director of the Department of Executive Administration of the City of Seattle, do hereby certify under penalty of perjury of law, that the within and foregoing is a true and correct copy as adopted by the City of Seattle, Department of Executive Administration.

DATED this 15<sup>th</sup> day of July, 2005.

CITY OF SEATTLE,  
a Washington municipality

By:

  
Kenneth J. Nakatsu, Director  
Department of Executive Administration

IT IS DUE TO THE QUALITY OF THE DOCUMENT.

STATE OF WASHINGTON - KING COUNTY

-SS.

183390  
CITY OF SEATTLE:Revenue &

No.

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:RULE MAKING HEARING

was published on

3/21/2005

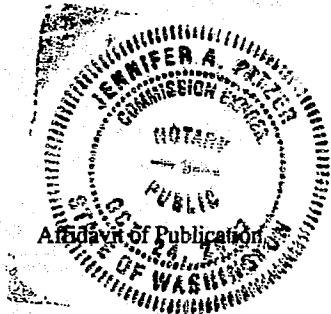
*M. D. P.*

Subscribed and sworn to before me on

3/21/2005

*Jennifer A. Preter*

Notary Public for the State of Washington,  
residing in Seattle



# State of Washington, King County

## City of Seattle

### NOTICE OF PROPOSED RULE MAKING HEARING AND OPPORTUNITY TO COMMENT

The Director of Finance, acting under the authority of Seattle Municipal Code Chapters 5.02 and 5.55, proposes to adopt new rules for implementing the Seattle Business and Occupation Tax Ordinance (Seattle Municipal Code, Chapter 5.45). Please note that although these rules are applicable to EMC 5.45, the individual rules may also apply to other chapters of the City's Tax Code, including, but not limited to, EMC 5.30 (Definitions), EMC 5.32 (Revenue Code), EMC 5.40 (Admissions Tax), EMC 5.45 (Business Tax - Utilities) and EMC 5.52 (Gambling Tax). The following rules are proposed for adoption and will become effective as of April 30, 2005:

- Seattle Rule 5-006 -- Tax Returns -- Filing and Payment
- Seattle Rule 5-007 -- Penalties
- Seattle Rule 5-031 -- Measure of Tax -- Retailers and Wholesalers
- Seattle Rule 5-032 -- Measure of Tax -- Service and other business activities
- Seattle Rule 5-035 -- Freight and Delivery Charges
- Seattle Rule 5-040 -- Corporations, Massachusetts trusts
- Seattle Rule 5-043 -- Engaging in Business
- Seattle Rule 5-063 -- Returned goods, allowances, cash discounts
- Seattle Rule 5-100 -- Extracting natural products
- Seattle Rule 5-112 -- Commercial or industrial use
- Seattle Rule 5-127 -- Sales to and by the State of Washington, counties, cities, school districts, and municipal subdivisions
- Seattle Rule 5-130 -- Selling price -- Advertised prices including sales tax
- Seattle Rule 5-131 -- Trade-ins, selling price, sellers' tax measures
- Seattle Rule 5-182 -- Leased departments

Seattle Rule 5-133 -- Warranties and maintenance agreements

Seattle Rule 5-702 -- Coin operated vending machines, amusement devices and service machines

Seattle Rule 5-404 -- Sales of meals

Seattle Rule 5-405 -- Restaurants, cocktail bars, taverns and similar businesses

Seattle Rule 5-481 -- Motor carriers -- Trucking

Seattle Rule 5-523 -- Sales of precious metal bullion and monetized bullion

Seattle Rule 5-530 -- Sale or rents of real estate, license to use real estate

Seattle Rule 5-521 -- Sales of real property, standing timber, minerals, natural resources

Seattle Rule 5-532 -- Real estate brokers and salesmen

Seattle Rule 5-600 -- Educational institutions, school districts, student organizations, and private schools

Seattle Rule 5-700 -- Amusement, Recreation, and Physical Fitness Services

Seattle Rule 5-720 -- Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc.

Seattle Rule 5-803 -- Consignees, bailees, factors, agents, and auctioneers

Seattle Rule 5-805 -- Advertising agencies

Seattle Rule 5-807 -- Outdoor advertising and advertising display services

**PUBLIC HEARING AND COMMENT.**  
The Department of Executive Administration has scheduled a public hearing on the proposed rule changes for 1:00 p.m. to 3:00 p.m., on Monday, April 4, 2005. The hearing will be held in a conference room on the 40th floor of the Seattle Municipal Tower, Suite 4095, located at 700 5th Avenue. All interested persons are invited to present data, views, or arguments, with regard to the proposed rules, orally at the hearing, or in writing at or before the hearing.

Written comments should be mailed or delivered to:

Department of Executive Administration, Attn.: Mel McDonald, Director, Revenue and Consumer Affairs, 700 5th Avenue - Suite 4350, Seattle, Washington 98104-5820.

The public may inspect copies of the proposed rules at the Revenue and Consumer Affairs offices, 700 5th Avenue, Suite 4200. If you would like a copy of the proposed rules, please call (206) 684-6300, FAX (206) 684-5170, email [rea.bidlists@cl.seattle.wa.us](mailto:rea.bidlists@cl.seattle.wa.us), or submit a written request to the address above.

Dated: March 21, 2005.

DWIGHT D. DIVELY,

Director, Department of Finance.

Date of publication in the Seattle Daily Journal of Commerce, March 21, 2005.

3/21(158390)



**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-530**

FILED  
CITY OF SEATTLE  
05 JUL 15 PM 2:50  
CITY CLERK

**Seattle Rule 5-530      Sale or rental of real estate, license to use real estate.**

- (1) **Amounts derived from the sale of real estate or from the rental of real estate are exempt** from taxation under the business license tax. Sales of real estate are subject to the Real Estate Excise Tax (REET) as contained in RCW 82.46, and not subject to the business license tax. Amounts received from a lease or rental of real estate are those amounts where the lease or rental of real property conveys an estate or interest in a certain designated area of real property with an exclusive right in the lessee or renter of continuous possession against the world, including the owner, and grants to the lessee or renter the absolute right of control and occupancy during the term of the lease or rental agreement. An agreement will not be construed as a lease or rental of real estate unless a relationship of "landlord and tenant" is created thereby. It is presumed that the sale of lodging by a hotel, motel, tourist court, etc., for a continuous period of thirty days or more is a rental of real estate. It is further presumed that all rentals of mini-storage facilities, apartments and leased departments constitute rentals of real estate. The rental of a parking space, boat moorage slip, or an airplane hangar/tie down site is presumed to be a rental of real estate only if a specific space, slip, or site is assigned and the rental is for a period of thirty days or longer.
- (2) **License to use real estate is taxable.** A license to use real estate grants merely a right to use the real property of another but does not confer exclusive control or dominion over the same. Usually, where the grantor/owner conveys only a license to use, the owner controls such things as lighting, heating, cleaning, repairing, and opening and closing the premises. Amounts derived from the granting of a license to use real property are taxable under the service business license tax classification unless otherwise taxed under another classification by specific statute, e.g., sale of lodging taxed under retailing. (See 5.45.050 (G) and SMC 5.30.050, respectively). Further, no exemption is allowed for amounts received as commissions for the sale or rental of real estate (SMC 5.45.090 (T)), nor for interest received by persons engaged in the business of selling real estate on time or installment contracts unless the contract is secured by a first mortgage.
- (3) **Distinguishing rental or lease of real property and a license to use real estate.** For purposes of distinguishing the lease or rental of real estate from the granting of a license to use real estate the Department will be guided by the following principles.
- (a) It will be presumed that a taxable license to use or enjoy real property is granted in the rental of, including but not limited to, the following:
- (i) Hotel rooms (for periods of less than 30 continuous days; see Seattle Rule 5-720).
  - (ii) Motels, tourist courts and trailer parks (for periods of less than 30 continuous days; see Seattle Rule 5-720).
  - (iii) Cold storage lockers.
  - (iv) Safety deposit boxes and private mail boxes.
  - (v) Storage space--unless the period is for longer than 30 continuous days and the renter or lessee has access to the storage space or storage unit at all times and controls access to that space against all others (see Seattle Rule 5-700).
  - (vi) Space within park or fair grounds to a concessionaire.
  - (vii) Hairdressers, barbers, or manicurists who lease space within another business (see Seattle Rule 5-132 Leased departments).
  - (viii) Use of boat launch facilities for recreational purposes.

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

NS

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-530**

- (ix) Space on a building, or other real property, for the attachment of advertising signs, including for periods in excess of 30 continuous days.
- (4) **Hotels, motels, etc.** SMC 5.30.050 B (3) (f) specifically defines services of a hotel, motel, or similar businesses as being retail sales (with some exceptions such as telephone services). Thus, the rentals of meeting rooms, display rooms, games rooms, or ball rooms are retail sales when rented out by such businesses. Persons who are not in the business of selling lodging are taxable under the service classification on income from the rental of meeting rooms.

Effective: July 15, 2005

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-530**

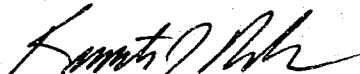
**DIRECTOR'S CERTIFICATION**

I Kenneth J. Nakatsu, Director of the Department of Executive Administration of the City of Seattle, do hereby certify under penalty of perjury of law, that the within and foregoing is a true and correct copy as adopted by the City of Seattle, Department of Executive Administration.

DATED this 15<sup>th</sup> day of July, 2005.

CITY OF SEATTLE,  
a Washington municipality

By:

  
Kenneth J. Nakatsu, Director  
Department of Executive Administration

IT IS DUE TO THE QUALITY OF THE DOCUMENT.

STATE OF WASHINGTON - KING COUNTY

--SS.

183390  
CITY OF SEATTLE:Revenue &

No.

**Affidavit of Publication**

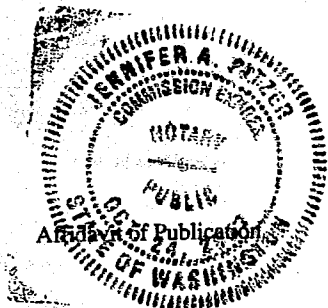
The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:RULE MAKING HEARING

was published on

3/21/2005



*mdf*

Subscribed and sworn to before me on

3/21/2005

*Jennifer Patzer*

Notary public for the State of Washington,  
residing in Seattle

IT IS DUE TO THE QUALITY OF THE DOCUMENT.

# State of Washington, King County

## City of Seattle

### NOTICE OF PROPOSED RULE MAKING HEARING AND OPPORTUNITY TO COMMENT

The Director of Finance, acting under the authority of Seattle Municipal Code Chapters 5.02 and 5.55, proposes to adopt new rules for implementing the Seattle Business and Occupation Tax Ordinance (Seattle Municipal Code, Chapter 5.45). Please note that although these rules are applicable to SMC 5.45, the individual rules may also apply to other chapters of the City's Tax Code, including, but not limited to, SMC 5.30 (Definitions), SMC 5.32 (Revenue Code), SMC 5.40 (Admissions Tax), SMC 5.45 (Business Tax - Utilities) and SMC 5.52 (Gambling Tax). The following rules are proposed for adoption and will become effective as of April 30, 2005:

Seattle Rule 5-006 -- Tax Returns -- Filing and Payment

Seattle Rule 5-007 -- Penalties

Seattle Rule 5-031 -- Measure of Tax -- Retailers and Wholesalers

Seattle Rule 5-032 -- Measure of Tax -- Service and other business activities

Seattle Rule 5-035 -- Freight and Delivery Charges

Seattle Rule 5-040 -- Corporations, Massachusetts trusts

Seattle Rule 5-043 -- Engaging in Business

Seattle Rule 5-058 -- Returned goods, allowances, cash discounts

Seattle Rule 5-100 -- Extracting natural products

Seattle Rule 5-112 -- Commercial or industrial use

Seattle Rule 5-127 -- Sales to and by the State of Washington, counties, cities, school districts, and municipal subdivisions

Seattle Rule 5-130 -- Selling price -- Advertised prices including sales tax

Seattle Rule 5-131 -- Trade-ins, selling price, sellers' tax measures

Seattle Rule 5-132 -- Leased departments

Seattle Rule 5-133 -- Warranties and maintenance agreements

Seattle Rule 5-703 -- Coin operated vending machines, amusement devices and service machines

Seattle Rule 5-404 -- Sales of meals

Seattle Rule 5-405 -- Restaurants, cocktail bars, taverns and similar businesses

Seattle Rule 5-481 -- Motor carriers -- Trucking

Seattle Rule 5-528 -- Sales of precious metal bullion and monetized bullion

Seattle Rule 5-530 -- Sale or rental of real estate, license to use real estate

Seattle Rule 5-531 -- Sales of real property, standing timber, minerals, natural resources

Seattle Rule 5-532 -- Real estate brokers and salesmen

Seattle Rule 5-600 -- Educational institutions, school districts, student organizations, and private schools

Seattle Rule 5-700 -- Amusement, Recreation, and Physical Fitness Services

Seattle Rule 5-720 -- Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc.

Seattle Rule 5-803 -- Consignees, bailees, factors, agents, and auctioneers

Seattle Rule 5-806 -- Advertising agencies

Seattle Rule 5-907 -- Outdoor advertising and advertising display services

**PUBLIC HEARING AND COMMENT:**  
The Department of Executive Administration has scheduled a public hearing on the proposed rule changes for 1:00 p.m. to 3:00 p.m. on Monday, April 4, 2005. The hearing will be held in a conference room on the 40th floor of the Seattle Municipal Tower, Suite 4006, located at 700 5th Avenue. All interested persons are invited to present data, views, or arguments, with regard to the proposed rules, orally at the hearing, or in writing at or before the hearing.

Written comments should be mailed or delivered to:

Department of Executive Administration, Attn.: Mel McDonald, Director, Revenue and Consumer Affairs, 700 5th Avenue - Suite 4250, Seattle, Washington 98104-5020.

The public may inspect copies of the proposed rules at the Revenue and Consumer Affairs office, 700 5th Avenue, Suite 4200. If you would like a copy of the proposed rules, please call (206) 684-8300, FAX (206) 684-5170, email [rea.bizrules@ci.seattle.wa.us](mailto:rea.bizrules@ci.seattle.wa.us), or submit a written request to the address above.

Dated: March 21, 2005.

DWIGHT D. DIVELY,

Director, Department of Finance.

Date of publication in the Seattle Daily Journal of Commerce, March 21, 2005.

371(183890)

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-531**

**Seattle Rule 5-531**     **Sales of real property, standing timber, minerals, natural resources.**

- (1) Amounts derived from the sale of real estate are not subject to tax under the business license tax. However, no exemption is allowed where a mere license to use real estate is granted (see Seattle Rule 5-530). Further, no exemption is allowed for commissions received in connection with sales of real estate or for interest received by persons engaged in the business of selling real estate on time or installments contracts; see SMC 5.45.090 T and Seattle Rule 5-530 and 5-532.
- (2) Sales of standing timber, minerals in place, and other natural resources in place are sales of real estate, and are not subject to tax under the business license tax.
- (3) Timber, minerals, and other natural resources, after being severed from the real estate, lose their identity as real property, and sales thereof after severance are subject to the provisions of the business license tax.
- (4) Any person who cuts timber, or who mines or quarries minerals, or who takes other natural resources from their own land is subject to tax as an extractor under the business license. (See Seattle Rule 5-100).

Effective: July 15, 2005

05 JUL 15 PM 2:50  
CITY OF SEATTLE  
FILED

IT IS DUE TO THE QUALITY OF THE DOCUMENT.

**THE CITY OF SEATTLE  
DIRECTOR'S RULE  
IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE  
RULE 5-531**

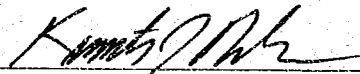
**DIRECTOR'S CERTIFICATION**

I, Kenneth J. Nakatsu, Director of the Department of Executive Administration of the City of Seattle, do hereby certify under penalty of perjury of law, that the within and foregoing is a true and correct copy as adopted by the City of Seattle, Department of Executive Administration.

DATED this 15<sup>th</sup> day of July, 2005.

CITY OF SEATTLE,  
a Washington municipality

By:

  
Kenneth J. Nakatsu, Director  
Department of Executive Administration

IT IS DUE TO THE QUALITY OF THE DOCUMENT.

**STATE OF WASHINGTON - KING COUNTY**

--SS.

183390  
CITY OF SEATTLE:Revenue &

No.

**Affidavit of Publication**

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:RULE MAKING HEARING

was published on

3/21/2005

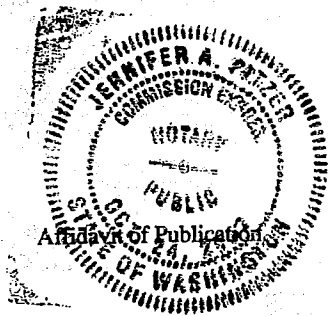
*M. J. [Signature]*

Subscribed and sworn to before me on

3/21/2005

*Jennifer [Signature]*

Notary public for the State of Washington,  
residing in Seattle





# State of Washington, King County

## City of Seattle

### NOTICE OF PROPOSED RULE MAKING HEARING AND OPPORTUNITY TO COMMENT

The Director of Finance, acting under the authority of Seattle Municipal Code Chapters 5.02 and 5.35, proposes to adopt new rules for implementing the Seattle Business and Occupation Tax Ordinance (Seattle Municipal Code, Chapter 5.45). Please note that although these rules are applicable to SMC 5.45, the individual rules may also apply to other chapters of the City's Tax Code, including, but not limited to, SMC 5.30 (Definitions), SMC 5.32 (Revenue Code), SMC 5.40 (Admissions Tax), SMC 5.48 (Business Tax - Utilities) and SMC 5.62 (Gambling Tax). The following rules are proposed for adoption and will become effective as of April 23, 2005:

- Seattle Rule 5-006 -- Tax Returns -- Filing and Payment
- Seattle Rule 5-007 -- Penalties
- Seattle Rule 5-031 -- Measure of Tax -- Retailers and Wholesalers
- Seattle Rule 5-032 -- Measure of Tax -- Service and other business activities
- Seattle Rule 5-035 -- Freight and Delivery Charges
- Seattle Rule 5-040 -- Corporations, Massachusetts trusts
- Seattle Rule 5-043 -- Engaging in Business
- Seattle Rule 5-053 -- Returned goods, allowances, cash discounts
- Seattle Rule 5-100 -- Extracting natural products
- Seattle Rule 5-112 -- Commercial or industrial use
- Seattle Rule 5-127 -- Sales to and by the State of Washington, counties, cities, school districts, and municipal subdivisions
- Seattle Rule 5-130 -- Selling price -- Advertised prices including sales tax
- Seattle Rule 5-131 -- Trade-ins, selling price, sellers' tax measures
- Seattle Rule 5-132 -- Leased departments

Seattle Rule 5-133 -- Warranties and maintenance agreements

Seattle Rule 5-702 -- Coin operated vending machines, amusement devices and service machines

Seattle Rule 5-404 -- Sales of meals

Seattle Rule 5-405 -- Restaurants, cocktail bars, taverns and similar businesses

Seattle Rule 5-461 -- Motor carriers -- Trucks

Seattle Rule 5-523 -- Sales of precious metal bullion and monetized bullion

Seattle Rule 5-530 -- Sale or rental of real estate, license to use real estate

Seattle Rule 5-531 -- Sales of real property, standing timber, minerals, natural resources

Seattle Rule 5-532 -- Real estate brokers and salesman

Seattle Rule 5-600 -- Educational institutions, school districts, student organizations, and private schools

Seattle Rule 5-700 -- Amusement, Recreation, and Physical Fitness Services

Seattle Rule 5-720 -- Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc.

Seattle Rule 5-803 -- Consignees, bailees, factors, agents, and auctioneers

Seattle Rule 5-806 -- Advertising agencies

Seattle Rule 5-807 -- Outdoor advertising and advertising display services

### PUBLIC HEARING AND COMMENT:

The Department of Executive Administration has scheduled a public hearing on the proposed rule changes for 1:00 p.m. to 3:00 p.m. on Monday, April 4, 2005. The hearing will be held in a conference room on the 40th floor of the Seattle Municipal Tower, Suite 4086, located at 700 5th Avenue. All interested persons are invited to present data, views, or arguments, with regard to the proposed rules, orally at the hearing, or in writing at or before the hearing.

Written comments should be mailed or delivered to:

Department of Executive Administration, Attn.: Mel McDonald, Director, Revenue and Consumer Affairs, 700 5th Avenue - Suite 4250, Seattle, Washington 98104-8920.

The public may inspect copies of the proposed rules at the Revenue and Consumer Affairs offices, 700 5th Avenue, Suite 4200. If you would like a copy of the proposed rules, please call (206) 684-8300, FAX (206) 684-5170, email [rcabialictx@ci.seattle.wa.us](mailto:rcabialictx@ci.seattle.wa.us), or submit a written request to the address above.

Dated: March 21, 2005.

DWIGHT D. DIVELY,

Director, Department of Finance.  
Date of publication in the Seattle Daily Journal of Commerce, March 21, 2005.

2/21(183390)

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-532**

FILED  
CITY OF SEATTLE  
05 JUL 15 PM 2:50  
CITY CLERK

**Seattle Rule 5-532 Real estate brokers and salesman.**

**(1) Definitions.**

- (a) The terms "real estate broker" and "real estate salesman" mean, respectively, a person licensed as such under the provisions of chapter 18.85 RCW. A real estate broker is a person licensed by the State of Washington who acts for others, for commissions or other compensation or acting on their own behalf, sells or offers to sell, lists, buys or offers to buy, negotiates or offers to negotiate, real estate, business opportunities or mobile homes, or any interest therein. A real estate salesman is a person who works either directly or indirectly for a real estate broker in the performance of any of the acts permitted to a real estate broker.
- (b) The term "gross income of the business" includes gross income from commissions, fees and other emoluments, however designated, which the person receives or becomes entitled to receive, but does not include amounts held in trust for others. SMC 5.30.035 (D) ("*gross income of the business*" defined).

**(2) Business License Tax.**

- (a) A real estate broker is engaged in business as an independent contractor and is taxable under the service and other business activities classification upon the gross income of the business.
- (b) A real estate salesman is presumed to be an independent contractor and is taxable under the service and other business activities classification upon the gross income of the business.
- (c) Except as expressly provided for in this rule, no deduction or exclusion from gross income for real estate brokers or salesmen is allowed. For example, you may not deduct commissions, fees, salaries paid to another broker or salesman, dues, any charges to others, referral fees, or fees paid to multiple listing associations.

**(3) Tax on Real Estate Commissions.**

- (a) The measure of the tax on real estate commissions earned by a real estate broker is the gross commission earned by the particular real estate brokerage office including that portion of the commission paid to salesmen or associate brokers in the same office. Where the broker has paid the tax on 100 percent of the gross commission earned by that office from a particular transaction, salesmen and associated brokers in the same office are not required to pay tax on their share of the commission from that transaction. Where the brokerage office at which the real estate salesman or associate broker's license is required to be posted has not paid the tax on 100 percent of the gross commission earned by that office on a particular transaction, each real estate salesman or associated broker who receives a share of the gross commission shall pay tax on his or her share.
- (b) Where there is an agreement between an originating brokerage office and a cooperating brokerage office to effectuate a particular transaction, each brokerage office shall pay tax only upon its respective share of the commission from that transaction (SMC 5.45.090 (AA)). Except as expressly provided in this subsection (3)(b), a broker may not exclude commissions from income.

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-532**

**(4) Shared Expenses.**

- (c) Where a broker charges salesmen or associate brokers for providing space and other facilities such as telephone, advertising, multiple-listing service, and office supplies, the broker is subject to business license tax on such charges, in addition to the tax on gross commissions, regardless of whether a fixed amount per month, a percentage of commissions, or a percentage of sales is used as the basis for the charges. The business license tax applies to the charges even if the broker is simply, without markup, attempting to recover the costs which are incurred by having the salesman or associate broker within the office. The recovery of these costs does not qualify as a nontaxable reimbursement unless the broker is acting as the agent of the salesmen or associate brokers in incurring the costs, and does not have either primary or secondary liability to pay the provider of the supplies or services. See SMC 5.45.040 (C) for provisions governing the exclusion of advances and reimbursements.
  
- (b) A broker may enter into written agreements with salesmen or associate brokers where it is agreed that the broker is solely liable for all expenses incurred by the real estate brokerage office, and that the salesman or associate broker is under no obligation to reimburse the broker for expenses. In such cases, the broker is deemed not to have received income from the payment of expenses on behalf of the salesmen or associate broker if, and only if, such written agreement:
  - (i) provides that the salesman or associate broker is not entitled to any commission unless and until the broker has recouped its expenses;
  - (ii) provides that the salesman or associate broker has no liability to pay the broker's expenses even if the gross commission is not adequate to pay them; and
  - (iii) contains a predetermined amount of any net commission to which the salesman or associate broker is entitled, which commission amount may be determined on a formula or percentage basis.

Effective: July 15, 2005

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-532**

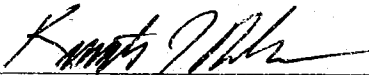
**DIRECTOR'S CERTIFICATION**

I Kenneth J. Nakatsu, Director of the Department of Executive Administration of the City of Seattle, do hereby certify under penalty of perjury of law, that the within and foregoing is a true and correct copy as adopted by the City of Seattle, Department of Executive Administration.

DATED this 15<sup>th</sup> day of July, 2005.

CITY OF SEATTLE,  
a Washington municipality

By:

  
Kenneth J. Nakatsu, Director  
Department of Executive Administration

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE  
IT IS DUE TO THE QUALITY OF THE DOCUMENT.

STATE OF WASHINGTON - KING COUNTY

--SS.

183390  
CITY OF SEATTLE:Revenue &

No.

**Affidavit of Publication**

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:RULE MAKING HEARING

was published on

3/21/2005



*MAD*

Subscribed and sworn to before me on

3/21/2005

*Jennifer A. Preizer*  
Notary public for the State of Washington,  
residing in Seattle

IT IS DUE TO THE QUALITY OF THE DOCUMENT.

# State of Washington, King County

## City of Seattle

### NOTICE OF PROPOSED RULE MAKING HEARING AND OPPORTUNITY TO COMMENT

The Director of Finance, acting under the authority of Seattle Municipal Code Chapters 5.02 and 5.55, proposes to adopt new rules for implementing the Seattle Business and Occupation Tax Ordinance (Seattle Municipal Code, Chapter 5.45). Please note that although these rules are applicable to SMC 5.45, the individual rules may also apply to other chapters of the City's Tax Code, including, but not limited to, SMC 5.30 (Definitions), SMC 5.31 (Code), SMC 5.40 (Admissions Tax), 5.48 (Business Tax -- Utilities) and SMC 5.49 (Gambling Tax). The following rules are proposed for adoption and will become effective as of April 30, 2006:

- Seattle Rule 5-006 -- Tax Returns -- Filing and Payment
- Seattle Rule 5-007 -- Penalties
- Seattle Rule 5-031 -- Measure of Tax -- Retailers and Wholesalers
- Seattle Rule 5-032 -- Measure of Tax -- Service and other business activities
- Seattle Rule 5-035 -- Freight and Delivery Charges
- Seattle Rule 5-040 -- Corporations, Massachusetts trusts
- Seattle Rule 5-043 -- Engaging in Business
- Seattle Rule 5-063 -- Returned goods, allowances, cash discounts
- Seattle Rule 5-100 -- Extracting natural products
- Seattle Rule 5-112 -- Commercial or industrial use
- Seattle Rule 5-127 -- Sales to and by the State of Washington, counties, cities, school districts, and municipal subdivisions
- Seattle Rule 5-130 -- Selling price -- Advertised prices including sales tax
- Seattle Rule 5-131 -- Trade-ins, selling price, sellers' tax measures
- Seattle Rule 5-182 -- Leased departments

- Seattle Rule 5-132 -- Warranties and maintenance agreements
- Seattle Rule 5-702 -- Coin operated vending machines, amusement devices and service machines
- Seattle Rule 5-404 -- Sales of meals
- Seattle Rule 5-405 -- Restaurants, cocktail bars, taverns and similar businesses
- Seattle Rule 5-481 -- Motor carriers -- Trucking
- Seattle Rule 5-528 -- Sales of precious metal bullion and monetized bullion
- Seattle Rule 5-530 -- Sale or rental of real estate, license to use real estate
- Seattle Rule 5-531 -- Sales of real property, standing timber, minerals, natural resources
- Seattle Rule 5-532 -- Real estate brokers and salesman
- Seattle Rule 5-600 -- Educational institutions, school districts, student organizations, and private schools
- Seattle Rule 5-700 -- Amusement, Recreation, and Physical Fitness Services
- Seattle Rule 5-720 -- Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc.
- Seattle Rule 5-803 -- Consignees, bailees, factors, agents, and auctioneers
- Seattle Rule 5-806 -- Advertising agencies
- Seattle Rule 5-807 -- Outdoor advertising and advertising display services

**PUBLIC HEARING AND COMMENT:**  
The Department of Executive Administration has scheduled a public hearing on the proposed rule changes for 1:00 p.m. to 3:00 p.m., on Monday, April 4, 2006. The hearing will be held in a conference room on the 40th floor of the Seattle Municipal Tower, Suite 4096, located at 700 5th Avenue. All interested persons are invited to present data, views, or arguments, with regard to the proposed rules, orally at the hearing, or in writing at or before the hearing.

Written comments should be mailed or delivered to:

Department of Executive Administration, Attn.: Mel McDonald, Director, Revenue and Consumer Affairs, 700 5th Avenue - Suite 4250, Seattle, Washington 98104-5020.

The public may inspect copies of the proposed rules at the Revenue and Consumer Affairs offices, 700 5th Avenue, Suite 4200. If you would like a copy of the proposed rules, please call (206) 684-8300, FAX (206) 684-6170, email [rcabix@ci.seattle.wa.us](mailto:rcabix@ci.seattle.wa.us), or submit a written request to the address above.

Dated: March 21, 2005.

DWIGHT D. DIVELY,

Director, Department of Finance.

Date of publication in the Seattle Daily Journal of Commerce, March 21, 2006.

8721(183390)

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-600**

FILED  
CITY OF SEATTLE  
05 JUL 15 PM 2:50  
CITY CLERK

**Seattle Rule 5-600**     **Educational institutions, school districts, student organizations, private schools and child care services.**

- (1) **Introduction.** This section explains the application of Seattle's business license tax to educational institutions, school districts, student organizations, and private schools. It also gives tax reporting information to persons operating nursery schools, preschools, kindergartens and day care.
- (2) **Definitions.** For the purposes of this section, the following definitions apply:
- (a) The term "tuition fees" includes fees for instruction, library, laboratory, and health services. The term also includes special fees and amounts charged for room and board when the property or service for which such charges are made is furnished exclusively to the students or faculty of the institution.
  - (b) "Educational institutions" means the following:
    - (i) Institutions which are established, operated, and governed by this state or its political subdivisions under Titles 28A (Common school provisions), 28B (Higher education), or 28C (Vocational education) RCW.
    - (ii) Nonpublic schools, including parochial or independent schools or school districts, carrying out a program for any, or all, of the grades one through twelve, which have been approved by the Washington state board of education. (See also chapter 180-90 WAC.)
    - (iii) Degree-granting institutions offering educational credentials, instruction, or services prerequisite to or indicative of an academic or professional degree or certificate beyond the secondary level, provided the institution is accredited by an accrediting association recognized by the United States Secretary of Education and offers to students an educational program of a general academic nature. Degree-granting institutions should refer to chapter 28B.85 RCW for information about the requirement for authorization by the Washington higher education coordinating board.
    - (iv) Institutions which are not operated for profit, and which are privately endowed under a deed of trust to offer instruction in trade, industry, and agriculture.
    - (v) Programs that an educational institution co-sponsors with a nonprofit organization, as defined by the Internal Revenue Code Sec. 501(c)(3), provided that educational institution grants college credit for course work successfully completed through the educational program.
    - (vi) Certain branch campuses of foreign degree-granting institutions provided, the following requirements, among others, are satisfied:
      - (A) The branch campus must be owned and operated directly by a foreign degree-granting institution or indirectly through a Washington profit or nonprofit corporation in which the foreign degree-granting institution is the sole or controlling shareholder or member;
      - (B) Courses must be provided solely and exclusively to students enrolled in a degree-granting program offered by the institution;

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-600**

- (C) The branch campus must be approved by the Washington higher education coordinating board to operate in this state; and
  - (D) The branch campus must be recognized to be exempt from income taxes pursuant to 26 U.S.C. Sec. 501(c).
  - (vii) "Educational institutions" does not include any entity defined as a "private vocational school" under chapter 28C.10 RCW and/or any entity defined as a "degree-granting private vocational school" under chapters 28C.10 and 28B.85 RCW (other than those described in (b)(iv) of this subsection).
  - (c) "Private schools" means all schools and institutions which are excluded from the above definition of "educational institutions." For example, an elementary school operated by a church organization is a "private school" if the school is not approved by the Washington state board of education.
- (3) **Business license tax.** Departments and educational institutions of the state of Washington are not subject to the business license tax. Private schools, student organizations, and educational institutions which are not departments or institutions of the State of Washington are subject to the business license tax as follows:
- (a) **Service and other business activities.** The service business license B&O tax applies to the following nonexclusive lists of activities or sources of income:
    - (i) Tuition fees received by private schools. All educational institutions, as defined above, may deduct amounts derived from tuition fees. (Refer to SMC 5.45.100 (B)).
    - (ii) Rental of conference facilities to various organizations or groups.
    - (iii) Rental by private schools of dormitories or other student lodging facilities which are not generally available to the public and where the student does not have an absolute right of control and occupancy. (See Seattle Rule 5-530.) However, educational institutions may deduct the income from charges for lodging made to students. These amounts are defined by law as being tuition.
    - (iv) Amounts received by private schools for providing meals to students where the meals are provided exclusively for students, teachers, staff, and their guests. However, refer to the comments under retailing for the taxability of meals sold to guests of students. Income from providing meals to students by educational institutions is deductible.
    - (v) Amounts received from owners of coin operated vending machines or amusement devices for allowing the placement of those machines on the premises of the school.
  - (b) **Retailing.** The retailing business license tax applies to the following activities or sources of income, including but not limited to:
    - (i) Sales of tangible personal property or services classified as retail sales. This includes sales of books and supplies to students where these materials are not supplied as part of the tuition charge.
    - (ii) Charges for making copies of public records or documents, such as transcripts.



**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-600**

- (iii) Sales of meals to guests of students.
- (iv) Sales of meals or prepared foods in facilities which are generally open to the public, including those sold to students. (See also Seattle Rule 404.)

**(4) Deductions and exemptions for child care services.**

- (a) Day care provided by churches. Gross receipts derived from day care services for the care of children of any age for periods of less than twenty-four (24) hours provided by a church exempt from property tax pursuant to RCW 84.36.020, are exempt from the City's business license tax. (SMC 5.45.090 (B)).
- (b) Day care activities. Gross receipts derived from day care activities for periods of less than twenty-four (24) hours by any organization which is exempt from taxation pursuant to Section 501 (c)(3) of the Internal Revenue Code may be deducted from the measure of the tax. However, amounts derived from selling, altering, or repairing tangible personal property are not deductible. (SMC 5.45.100 (E)).
- (c) Privately operated kindergarten. Any fees, dues, or charges made from the operation of privately operated kindergartens may be deducted from the measure of the tax. (SMC 5.45.100 (B)(7)).

**(5) Examples.** The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances.

- (a) MN University is an educational institution created by the state of Washington. MN University operates a bookstore at which it sells textbooks, school supplies, and apparel to students and non-students. As an institution of the state of Washington, MN University is exempt from the business license tax with respect to all sales, irrespective that sales are made to non-students.
- (b) DMG College is a degree-granting institution approved by an accrediting association recognized by the United States Secretary of Education. DMG College is an educational institution operated by a church. DMG makes charges to its students for tuition, meals, and lodging. Its bookstore makes sales of books to students that are not part of the tuition and fees. It also receives income for occasionally providing lodging and meals to guests of its students during the year. DMG also rents its conference and dormitory facilities to various groups during the summer, providing cafeteria services when needed. The income from tuition, meals, and lodging received from the students is exempt of business license tax because this entity comes within the definition of an educational institution. The bookstore sales to students and others are reported under the retailing classification. DMG must report the retailing business license tax upon the gross proceeds derived from the sales of meals and prepared foods to the conference attendees and guests. The income derived from the rental of the conference and dormitory facilities to various groups and student guests is subject to the service business license tax. The college is not considered as holding itself out for the sale of lodging to the general public which would classify it as a hotel and subject to the retailing business tax.
- (c) JB College is an educational institution which is not a department or institution of the state of Washington. JB College has converted five housing units from student use for use by non-students. Guests of the administration use these units for stays of two or three days,

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-600**

and are charged a specific amount per night. The college provides linen, towels, etc., to the users. These units are always rented for periods under thirty days. JB College must report this rental income under the retailing business license tax. This income is not derived from the occasional rental of student lodging facilities, but is derived from the rental of accommodations specifically maintained for public use.

- (d) Jane Doe operates a private kindergarten, providing care and elementary education for children. She also provides after hours childcare. Jane Doe may claim a deduction for the income received for the private kindergarten, however, the after hours childcare or daycare would be taxable under the service and other business activities classification. Non-profit 501(c)(3) organizations, who provide day care or after hour child care, are allowed a deduction for revenue received from these services.

Effective: July 15, 2005

**THE CITY OF SEATTLE  
DIRECTOR'S RULE  
IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE  
RULE 5-600**

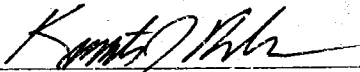
**DIRECTOR'S CERTIFICATION**

I Kenneth J. Nakatsu, Director of the Department of Executive Administration of the City of Seattle, do hereby certify under penalty of perjury of law, that the within and foregoing is a true and correct copy as adopted by the City of Seattle, Department of Executive Administration.

DATED this 15<sup>th</sup> day of July, 2005.

CITY OF SEATTLE,  
a Washington municipality

By:

  
Kenneth J. Nakatsu, Director  
Department of Executive Administration

NOTICE: IF THE DOCUMENT IN THIS FOLDER IS SEEN TO BE A COPY OF THE ORIGINAL DOCUMENT, IT IS DUE TO THE QUALITY OF THE DOCUMENT.

STATE OF WASHINGTON - KING COUNTY

--SS.

183390  
CITY OF SEATTLE:Revenue &

No.

**Affidavit of Publication**

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:RULE MAKING HEARING

was published on

3/21/2005

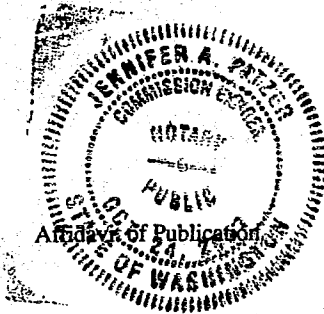
*Mad*

Subscribed and sworn to before me on

3/21/2005

*Jennifer A. Pritzer*

Notary public for the State of Washington,  
residing in Seattle



IT IS DUE TO THE QUALITY OF THE DOCUMENT. THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE.

# State of Washington, King County

## City of Seattle

### NOTICE OF PROPOSED RULE MAKING HEARING AND OPPORTUNITY TO COMMENT

The Director of Finance, acting under the authority of Seattle Municipal Code Chapters 8.02 and 5.55, proposes to adopt new rules for implementing the Seattle Business and Occupation Tax Ordinance (Seattle Municipal Code, Chapter 5.45). Please note that although these rules are applicable to SMC 5.45, the individual rules may also apply to other chapters of the City's Tax Code, including, but not limited to, SMC 5.30 (Definitions), SMC 5.32 (Revenue Code), SMC 5.40 (Admissions Tax), SMC 5.48 (Business Tax -- Utilities) and SMC 5.52 (Gambling Tax). The following rules are proposed for adoption and will become effective as of April 30, 2005:

- Seattle Rule 5-006 -- Tax Returns -- Filing and Payment
- Seattle Rule 5-007 -- Penalties
- Seattle Rule 5-031 -- Measure of Tax -- Retailers and Wholesalers
- Seattle Rule 5-032 -- Measure of Tax -- Service and other business activities
- Seattle Rule 5-035 -- Freight and Delivery Charges
- Seattle Rule 5-040 -- Corporations, Massachusetts trusts
- Seattle Rule 5-043 -- Engaging in Business
- Seattle Rule 5-063 -- Returned goods, allowances, cash discounts
- Seattle Rule 5-100 -- Extracting natural products
- Seattle Rule 5-112 -- Commercial or industrial use
- Seattle Rule 5-127 -- Sales to and by the State of Washington, counties, cities, school districts, and municipal subdivisions
- Seattle Rule 5-130 -- Selling price -- Advertised prices including sales tax
- Seattle Rule 5-131 -- Trade-ins, selling price, sellers tax measures
- Seattle Rule 5-132 -- Leased departments

Seattle Rule 5-133 -- Warranties and maintenance agreements

Seattle Rule 5-702 -- Coin operated vending machines, amusement devices and service machines

Seattle Rule 5-404 -- Sales of meals

Seattle Rule 5-405 -- Restaurants, cocktail bars, taverns and similar businesses

Seattle Rule 5-481 -- Motor carriers -- Trucking

Seattle Rule 5-523 -- Sales of precious metal bullion and monetized bullion

Seattle Rule 5-530 -- Sale or rental of real estate, license to use real estate

Seattle Rule 5-531 -- Sales of real property, standing timber, minerals, natural resources

Seattle Rule 5-532 -- Real estate brokers and salesman

Seattle Rule 5-600 -- Educational institutions, school districts, student organizations, and private schools

Seattle Rule 5-700 -- Amusement, Recreation, and Physical Fitness Services

Seattle Rule 5-720 -- Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc.

Seattle Rule 5-803 -- Consignees, bailees, factors, agents, and auctioneers

Seattle Rule 5-805 -- Advertising agencies

Seattle Rule 5-807 -- Outdoor advertising and advertising display services

**PUBLIC HEARING AND COMMENT:**  
The Department of Executive Administration has scheduled a public hearing on the proposed rule changes for 1:00 p.m. to 3:00 p.m. on Monday, April 4, 2005. The hearing will be held in a conference room on the 40th floor of the Seattle Municipal Tower, Suite 4095, located at 700 5th Avenue. All interested persons are invited to present data, views, or arguments, with regard to the proposed rules, orally at the hearing, or in writing at or before the hearing.

Written comments should be mailed or delivered to:

Department of Executive Administration, Attn: Mel McDonald, Director, Revenue and Consumer Affairs, 700 5th Avenue - Suite 4200, Seattle, Washington 98104-5028.

The public may inspect copies of the proposed rules at the Revenue and Consumer Affairs offices, 700 5th Avenue, Suite 4200. If you would like a copy of the proposed rules, please call (206) 654-8300, FAX (206) 654-5170, email [rca.bizlctr@ci.seattle.wa.us](mailto:rca.bizlctr@ci.seattle.wa.us), or submit a written request to the address above.

Dated: March 21, 2005.

DWIGHT D. DIVELY,

Director, Department of Finance.

Date of publication in the Seattle Daily Journal of Commerce, March 21, 2005.

8/21(184390)

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-700**

FILED  
CITY OF SEATTLE  
05 JUL 15 PM 2:50  
CITY CLERK

**Seattle Rule 5-700**      **Amusement, Recreation, and Physical Fitness Services.**

- (1) **Introduction.** This section provides tax reporting instructions for persons who provide amusement, recreation, and physical fitness services, including persons who receive their income in the form of dues and initiation fees.
- (a) Local governmental agencies that provide amusement, recreation, and physical fitness services should also refer to Seattle Rule 5-127 (Sales to and by the state of Washington, counties, cities, school districts, and other municipal subdivisions).
  - (b) Persons engaged in operating coin operated amusement devices should refer to Seattle Rule 5-400 (Coin operated vending machines, amusement devices and service machines).
  - (c) Persons engaged in providing camping and outdoor living facilities should refer to Seattle Rule 5-530 (Sale or rental of real estate, license to use real estate) and Seattle Rule 5-720 (Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc...).
- (2) **Definitions.** The following definitions apply throughout this section:
- (a) "Amounts derived" means gross income from whatever source and however designated. It includes "gross proceeds of sales" and "gross income of the business" as those terms are defined by SMC 5.30.035. It shall also include income attributable to bona fide "initiation fees" and bona fide "dues."
  - (b) "Amusement and recreation services" include, but are not limited to: Golf, pool, billiards, skating, bowling, swimming, bungee jumping, ski lifts and tows, basketball, racquet ball, handball, squash, tennis, and all batting cages, day trips for sightseeing purposes, and others, when provided to consumers. "Amusement and recreation services" also include the provision of related facilities such as basketball courts, tennis courts, handball courts, swimming pools, and charges made for providing the opportunity to dance. The term "amusement and recreation services" does not include instructional lessons to learn a particular activity such as tennis lessons, swimming lessons, or archery lessons.
  - (c) "Any additional charge" means a price or payment other than bona fide initiation fees or dues, paid by persons for particular goods and services received. The additional charge must be reasonable, and any business and/or sales taxes must be paid upon such charges in order for the income designated as "bona fide dues" or "fees" to qualify as deductible. The reasonableness of any additional charge will be based on one of the following two criteria:
    - (i) It must cover all costs reasonably related to furnishing the goods or services; or
    - (ii) It must be comparable with charges made for similar goods or services by other comparable businesses.
  - (d) "Direct overhead costs" include all items of expense immediately associated with the specific goods or services for which the costs of production method is used. For

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-700**

example, the salary of a swimming pool lifeguard or the salary of a golf club's greens keeper are both direct overhead costs in providing swimming and golfing respectively.

- (e) "Dues" are those amounts periodically paid by members solely for the purpose of entitling those persons to continued membership in the club or similar organization. It shall not include any amounts paid for goods or services rendered to the member by the club or similar organization.
- (f) "Entry fees" means those amounts paid solely to allow a person the privilege of entering a tournament or other type of competition. The term does not include any amounts charged for the underlying activity.
- (g) "Goods or services rendered" shall include use amusement, recreation, and physical fitness services defined to be retail sales in (m) of this subsection. Also see, SR 5-720 (Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc.). The term shall include the totality or aggregate of goods or services available to members. It is not determinative that some members actually receive more goods or actually enjoy more services than others so long as the totality of the goods or services offered are made available to members in general.
- (h) "Indirect overhead costs" means overhead costs incurred by the service provider that are not immediately associated with the specific goods and services. These costs include a pro rata share of total operating costs, including all executive salaries and employee salaries that are not "direct overhead costs" as that term is defined in (d) of this subsection, as well as a pro rata share of administrative expenses and the cost of depreciable capital assets.
- (i) "Initiation fees" means those amounts paid solely to initially admit a person as a member to a club or organization. "Bona fide initiation fees" within the context of this rule shall include only those one-time amounts paid which genuinely represent the value of membership in a club or similar organization. It shall not include any amount paid for or attributable to the privilege of receiving any goods or services other than mere nominal membership.
- (j) "League fees" means those amounts paid solely for the privilege of allowing a person or a person's team to join an association of sports teams or clubs that compete chiefly amongst themselves. The term does not include any amounts charged for the underlying activity.
- (k) "Nonprofit youth organization" means a nonprofit organization engaged in character building of youth which is exempt from property tax under RCW 84.36.030.
- (l) "Physical fitness services" include, but are not limited to: All exercise classes, whether aerobic, dance, water, jazzercise, etc., providing running tracks, weight lifting, weight training, use of exercise equipment, such as treadmills, bicycles, stair-masters and rowing machines, and providing personal trainers (i.e., a person who assesses an individual's workout needs and tailors a physical fitness workout program to meet those individual needs). "Physical fitness services" do not include instructional lessons such as those for self-defense, martial arts, yoga, and stress-management. Nor do these services include instructional lessons for activities such as tennis, golf, swimming, etc... "Instructional lessons" can be distinguished from "exercise classes" in that instruction in

IT IS DUE TO THE QUALITY OF THE DOCUMENT.

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-700**

the activity is the primary focus in the former and exercise is the primary focus in the latter.

- (m) "Retail service" includes the sale or charge made by persons engaged in providing "amusement and recreation services" and "physical fitness services" as those terms are defined in (b) and (l) of this subsection. The term "retail service" does not include: The sale of or charge made for providing facilities where a person is merely a spectator, such as movies, concerts, sporting events, and the like; the sale of or charge made for instructional lessons, or league fees and/or entry fees; charges made for carnival rides where the customer purchases tickets at a central ticket distribution point and then the customer is subsequently able to use the purchased tickets to gain admission to an assortment of rides or attractions; or, the charge made for entry to an amusement park or theme park where the predominant activities in the area are similar to those found at carnivals.
- (n) "Significant amount" relates to the quantity or degree of goods or services rendered and made available to members by the organization. "Significant" is defined as having great value or the state of being important.
- (o) "Value of the goods or services" means the market value of similar goods or services or computed value based on costs of production.

**(3) Business and occupation tax.**

- (a) Retail service classification. Gross receipts from the kind of amusement, recreation, and physical fitness services defined as retail service in subsection (m) of this section are taxable under the retail service classification. Generally, admissions to actively participate in a recreational activity will be reported under the retail service classification. Persons engaged in providing these activities are also taxable under the retail service classification upon gross receipts from sales of meals, drinks, articles of clothing, or other property sold by them.
- (b) Service and other activities classification. Gross receipts from activities not defined to be retail service, such as tennis lessons, golf lessons, and other types of instructional lessons, are taxable under the service and other activities classification. Also, persons providing licenses to use real property, such as locker rentals, gym rentals, pool rentals, and instances where you have the exclusive right to use a recreational facility, are also taxable under this classification. See SR 5-530 (Sale or rental of real estate, license to use real estate).

**(4) Calculating taxable income when receiving income in the form of dues and/or initiation fees.**

- (a) General principles. For the purposes of the business and occupation tax, all amounts derived from initiation fees and dues must be reported as gross income which then must be apportioned between taxable and deductible income. The following general principles apply to providing amusement, recreation, and physical fitness services when income is received in the form of dues and/or initiation fees:
  - (iii) SMC 5.45.100 (B) provides for a business and occupation tax deduction for amounts derived from activities and charges of essentially a non-business nature. The scope of this statutory deduction is limited to situations where no

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.



**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-700**

business or proprietary activity (including the rendering of goods or services) is engaged in which directly generates the income claimed for deduction. Many for-profit or nonprofit entities may receive "amounts derived," as defined in this section, which consist of a mixture of tax deductible amounts (bona fide initiation fees and dues) and taxable amounts (payment for significant goods and services rendered). To distinguish between these kinds of income, the law requires that tax exemption provisions be strictly construed against the person claiming exemption. Also, SMC 5.55.060 requires the maintenance of suitable records as may be necessary to determine the amount of any tax due. The result of these statutory requirements is that all persons must keep adequate records sufficient to establish their entitlement to any claimed tax exemption or deduction.

- (v) The law does not contemplate that the deduction provided for by SMC 5.45.100 (B) should be granted merely because the payments required to be made by members or customers are designated as "initiation fees" or "dues." The statutory deduction is not available for outright sales of tangible personal property or for providing facilities or services for a specific charge. Neither is it available if dues are in exchange for any significant amounts of goods or services rendered by the recipient thereof to members without any additional charge to the member, or if the dues are graduated upon the amount of goods or services rendered. Thus, it is only those initiation fees and dues which are paid solely and exclusively for the express privilege of belonging as a member of a club, organization, or society, which are deductible.
  - (v) In applying SMC 5.45.100 (B), no distinction is made between the kinds of clubs, organizations, associations, or other entities which may be eligible for this deduction. They may be operated for profit or nonprofit. They may be owned by the members, incorporated, or operating as a partnership, limited liability company, joint venture, sole proprietorship, or cooperative group. They may be of a charitable, fraternal, social, political, benevolent, commercial, or other nature. The availability of the deduction is determined solely by the nature of the activity or charge which generates the "amounts derived" as that term is defined in subsection (2)(a) of this section.
  - (vi) Nonprofit youth organizations, as defined in subsection (2)(k) of this section, may deduct fees or dues received from members even though the members are entitled to use the organization's facilities, including camping and recreational facilities, in return for such payments (SMC 5.45.100 (A)).
- (b) Allocation of income. Persons who derive income from initiation fees and dues may find that they have incurred business and occupation tax liability under both the retail service and service and other activities classifications. For example, an organization may furnish exercise equipment for the customer's use as well as provide lessons in martial arts to its members in return for payment of dues. The former is a retail service taxable activity while the latter is taxable under the service and other activities business tax. These taxes are at different rates. Once the income has been allocated between taxable and deductible amounts, the parts of taxable income attributable to either retail service activities or service and other activities must be reported on the combined excise tax return under the appropriate classification.

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-700**

- (c) Alternative methods of reporting. Persons who receive any "amounts derived" from initiations fees and/or dues may report their tax liabilities and determine the amount of tax reportable under different classifications (retail service or service and other activities) by use of two alternative allocation methods. The taxpayer may only change its selected allocation method annually and all changes are prospective only. These mutually exclusive methods are:
- (i) Actual records of facilities usage.
- (A) Actual records of facilities usage may be used to allocate income. This method is accomplished by either: The allocation of a reasonable charge for the specific goods or services rendered; or, the average comparable charges for such goods or services made by other comparable businesses. In no case shall any charges under either method be calculated to be less than the actual cost of providing the respective good or service. When using the average comparable charges method the term "comparable businesses" shall not include charges made by a subsidized public facility.
- (B) The actual records of facilities usage method must reflect the nature of the goods or services and the frequency of use by the membership, either from an actual tally of times used or a periodic study of the average membership use of facilities. Actual usage reporting may also be based upon a graduated or sliding fees and dues structure. For example, an organization may charge different initiation fees or dues rates for a social membership than for a playing membership. The difference between such rates is attributable to the value of the goods or services rendered. It constitutes the taxable portion of the "amounts derived" allocable to that particular activity. Because of the broad diversification of methods by which "amounts derived" may be assessed or charged to members, the actual records of usage method of reporting may vary from organization to organization.
- (C) Organizations which provide more than one kind of "goods or services" as defined in subsection (2)(g) of this section, may provide actual records for each separate kind of goods or services rendered. Based upon this method, the total of apportioned "taxable" income may be subtracted from total gross income to derive the amount of gross income which is entitled to deduction as "bona fide initiation fees and dues" under SMC 5.45.100 (B); or
- (ii) Cost of production method.
- (A) The cost of production allocation method is based upon the cost of production of goods or services rendered. Persons using this method are advised to seek the department's review of the cost accounting methods applied, in order to avoid possible tax deficiency assessment if the records are audited. In such cases, the cost of production shall include all items of expense attributable to the particular goods or services made available to members, including direct and indirect overhead costs.

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-700**

- (B) No portion of assets which have been fully depreciated will be included in computing overhead costs, nor will any costs attributable to membership recruitment and advertising, or providing members with the indicia of membership (membership cards, certificates, contracts of rights, etc...) be included.
  - (C) The cost of production method is performed by multiplying gross income (all "amounts derived") by a fraction, the numerator of which is the direct and indirect costs associated with providing any specific goods or service, and the denominator of which is the organization's total operating costs. The result is the portion of "amounts derived" that is allocable to the taxable goods or services rendered. If more than one kind of goods or services is made available to members, this formula must be applied for each group of goods or services in order to determine the total of taxable and deductible amounts and to determine the amount of taxable income to report as either retail service or service and other activities. The balance of gross amounts derived is deductible as bona fide initiation fees or dues.
  - (D) Under very unique circumstances and only upon advance written request and approval, the department will consider variations of the foregoing accounting methods as well as unique factors.
  - (E) Unless income accounting and reporting are accomplished by one or a combination of methods outlined in this section, or under a unique reporting method authorized in advance by the department, it will be presumed that all "amounts derived" by any person who provides "goods or services" as defined herein, constitute taxable, nondeductible amounts.
- (5) **Admission Tax.** Persons collecting an admission charge for those recreational activities subject to the admission tax per SMC 5.40 should collect and remit the tax on the admission charge.

Effective: July 15, 2005

**THE CITY OF SEATTLE  
DIRECTOR'S RULE  
IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE  
RULE 5-700**

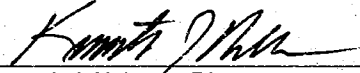
**DIRECTOR'S CERTIFICATION**

I Kenneth J. Nakatsu, Director of the Department of Executive Administration of the City of Seattle, do hereby certify under penalty of perjury of law, that the within and foregoing is a true and correct copy as adopted by the City of Seattle, Department of Executive Administration.

DATED this 15<sup>th</sup> day of July, 2005.

CITY OF SEATTLE,  
a Washington municipality

By:

  
Kenneth J. Nakatsu, Director  
Department of Executive Administration

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

STATE OF WASHINGTON - KING COUNTY

--SS.

183390  
CITY OF SEATTLE:Revenue &

No.

**Affidavit of Publication**

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:RULE MAKING HEARING

was published on

3/21/2005

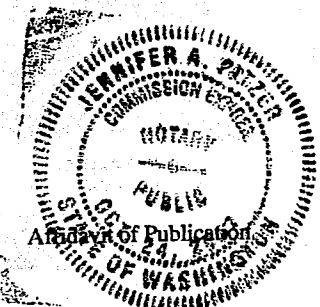
*Mad*

Subscribed and sworn to before me on

3/21/2005

*Jennifer A. Proctor*

Notary public for the State of Washington,  
residing in Seattle



IT IS DUE TO THE QUALITY OF THE DOCUMENT.

# State of Washington, King County

## City of Seattle

### NOTICE OF PROPOSED RULE MAKING HEARING AND OPPORTUNITY TO COMMENT

The Director of Finance, acting under the authority of Seattle Municipal Code Chapters 5.02 and 5.55, proposes to adopt new rules for implementing the Seattle Business and Occupation Tax Ordinance (Seattle Municipal Code, Chapter 5.45). Please note that although these rules are applicable to SMC 5.45, the individual rules may also apply to other chapters of the City's Tax Code, including, but not limited to, SMC 5.30 (Definitions), SMC 5.32 (Revenue Code), SMC 5.40 (Admissions Tax), SMC 5.48 (Business Tax - Utilities) and SMC 5.52 (Gambling Tax). The following rules are proposed for adoption and will become effective as of April 30, 2005:

- Seattle Rule 5-006 -- Tax Returns -- Filing and Payment
- Seattle Rule 5-007 -- Penalties
- Seattle Rule 5-031 -- Measure of Tax -- Retailers and Wholesalers
- Seattle Rule 5-032 -- Measure of Tax -- Service and other business activities
- Seattle Rule 5-035 -- Freight and Delivery Charges
- Seattle Rule 5-040 -- Corporations, Massachusetts trusts
- Seattle Rule 5-043 -- Engaging in Business
- Seattle Rule 5-063 -- Returned goods, allowances, cash discounts
- Seattle Rule 5-100 -- Extracting natural products
- Seattle Rule 5-112 -- Commercial or industrial use
- Seattle Rule 5-127 -- Sales to and by the State of Washington, counties, cities, school districts, and municipal subdivisions
- Seattle Rule 5-130 -- Selling price -- Advertised prices including sales tax
- Seattle Rule 5-131 -- Trade-ins, selling price, sellers' tax measures
- Seattle Rule 5-132 -- Leased departments

Seattle Rule 5-133 -- Warranties and maintenance agreements

Seattle Rule 5-702 -- Coin operated vending machines, amusement devices and service machines

Seattle Rule 5-404 -- Sales of meals

Seattle Rule 5-405 -- Restaurants, cocktail bars, taverns and similar businesses

Seattle Rule 5-481 -- Motor carriers -- Trucking

Seattle Rule 5-523 -- Sales of precious metal bulions and monetized bullion

Seattle Rule 5-530 -- Sale or rental of real estate, license to use real estate

Seattle Rule 5-531 -- Sales of real property, standing timber, minerals, natural resources

Seattle Rule 5-532 -- Real estate brokers and salesmen

Seattle Rule 5-600 -- Educational institutions, school districts, student organizations, and private schools

Seattle Rule 5-700 -- Amusement, Recreation, and Physical Fitness Services

Seattle Rule 5-720 -- Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc.

Seattle Rule 5-803 -- Consignees, bailees, factors, agents, and auctioneers

Seattle Rule 5-806 -- Advertising agencies

Seattle Rule 5-807 -- Outdoor advertising and advertising display services

**PUBLIC HEARING AND COMMENT:** The Department of Executive Administration has scheduled a public hearing on the proposed rule changes for 1:00 p.m. to 3:00 p.m., on Monday, April 4, 2005. The hearing will be held in a conference room on the 40th floor of the Seattle Municipal Tower, Suite 4096, located at 700 5th Avenue. All interested persons are invited to present data, views, or arguments, with regard to the proposed rules, orally at the hearing, or in writing at or before the hearing.

Written comments should be mailed or delivered to:

Department of Executive Administration, Attn.: Mel McDonald, Director, Revenue and Consumer Affairs, 700 5th Avenue - Suite 4250, Seattle, Washington 98104-5026.

The public may inspect copies of the proposed rules at the Revenue and Consumer Affairs office, 700 5th Avenue, Suite 4206. If you would like a copy of the proposed rules, please call (206) 684-5200, FAX (206) 684-5170, email rca.bislic@ci.seattle.wa.us, or submit a written request to the address above.

Dated: March 21, 2005.

DWIGHT D. DIVELY,

Director, Department of Finance.

Date of publication in the Seattle Daily Journal of Commerce, March 21, 2005.

3/21(183890)

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-702**

FILED  
CITY OF SEATTLE  
05 JUL 15 PM 2:50  
CITY CLERK

**Seattle Rule 5-702**     **Coin operated vending machines, amusement devices and service machines.**

**(1) Definitions.** As used herein:

- (a) The term "coin operated vending machines" means machines which, through the insertion of a coin, will return to the patron a predetermined specific article of merchandise or provide facilities for installing, repairing, cleaning, altering, imprinting, or improving tangible personal property of or for consumers. It includes machines which vend photographs, toilet articles, cigarettes, and confections as well as machines which provide laundry and cleaning services. Effective July 1, 2002, public pay telephones are considered to be coin operated vending machines (See subsection (2)(a)(iii) below).
- (b) The term "coin operated amusement devices" means any machine or device which, through the insertion of a coin, provides recreation or entertainment. It includes, but is not limited to, pool and billiard tables, shuffleboards, music machines, video games, pinball games, riding devices, panoram and peepshow devices, televisions and devices for display of pictures or views on film, and those machines or devices which permit the patron to see, hear or read something of interest.
- (c) The term "coin operated service machines" means any coin-operated machines other than those defined as "coin operated vending machines" or "coin operated amusement devices." It includes, for example, scales and luggage lockers.

**(2) Business license tax.**

**(a) Retailing Classification.**

- (i) Persons operating coin operated vending machines are engaged in a retailing business and must report and pay tax under the retailing classification with respect to the gross proceeds of sales.
- (ii) Persons engaged in operating shuffleboards or games of pool or billiards are taxable under the retailing classification on the gross receipts therefrom.
- (iii) Effective July 1, 2002, persons engaged in operating pay telephones which are activated by inserting coins, calling collect, using a calling card or credit card, or dialing a toll-free number, and the provider of the service owns or leases the telephone equipment but does not own the telephone line providing the service to that equipment and has not affiliation with the owner of the telephone line shall report under those amounts under the retailing classification (RCW 35.21.710).

**(b) Service and Other Business Activities Classification.**

- (i) Persons operating coin operated amusement devices, except shuffleboard, pool, and billiard games, are taxable under the service and other business activities classification on the gross receipts therefrom.
- (ii) Persons operating coin operated service machines are taxable under the service and other classification upon the gross receipts therefrom.

**(3) License to use real property.** When any coin operated machine is placed at a location owned or operated by a person other than the owner of the machines, under any arrangement for

IT IS DUE TO THE QUALITY OF THE DOCUMENT.

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-702**

compensation to the operator of the location, the person operating the location has granted a license to use real property to the owner of the machine, and will be responsible for reporting and paying tax upon his or her gross receipts therefrom under the service and other business activities classification.

- (4) **Amusement devices.** Where the owner of amusement devices, which are placed at the location of another, has failed to pay the gross receipts tax, the Director may proceed directly against the operator of the location for full payment of all tax due.
- (5) **Sales of equipment.** Sales of coin operated vending machines, coin operated service machines, and coin operated amusement devices to persons who will operate the same are sales at retail and reportable under the retailing classification.
- (6) **Apportionment -- Inside the City and Outside the City.** Persons located within the City and taxable under either the retailing or service and other classification, as detailed above, must report the revenue received from all of their machines and devices located within the State of Washington, except as provided below. Persons located outside the City and taxable under either the retailing or service and other classification must report the revenue received from machines and devices located within the City of Seattle. If the person has an office or place of business both inside the City and outside the City, then the revenue earned on machines outside the City should be apportioned to that office which supports those machines.
  - (a) A deduction may be taken in the following situation: A machine or device is located in a city which levies a gross receipt tax similar to the City of Seattle, and the person pays the tax on the revenue generated to the other city.
  - (b) For purposes of apportionment, a coin operated machine or coin operated amusement device is not considered an office or place of business.

Effective: July 15, 2005



**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-702**

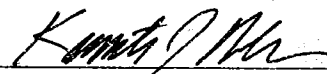
**DIRECTOR'S CERTIFICATION**

I Kenneth J. Nakatsu, Director of the Department of Executive Administration of the City of Seattle, do hereby certify under penalty of perjury of law, that the within and foregoing is a true and correct copy as adopted by the City of Seattle, Department of Executive Administration.

DATED this 15<sup>th</sup> day of July, 2005.

CITY OF SEATTLE,  
a Washington municipality

By:

  
\_\_\_\_\_  
Kenneth J. Nakatsu, Director  
Department of Executive Administration

**STATE OF WASHINGTON - KING COUNTY**

--SS.

183390  
CITY OF SEATTLE: Revenue &

No.

**Affidavit of Publication**

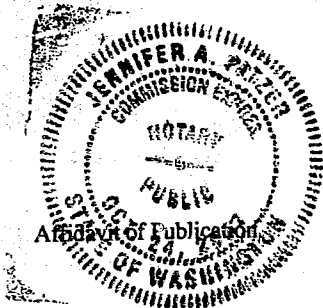
The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

**CT:RULE MAKING HEARING**

was published on

3/21/2005



*M. J. P.*

Subscribed and sworn to before me on

3/21/2005

*Jennifer Pate*

Notary public for the State of Washington,  
residing in Seattle

# State of Washington, King County

## City of Seattle

### NOTICE OF PROPOSED RULE MAKING HEARING AND OPPORTUNITY TO COMMENT

The Director of Finance, acting under the authority of Seattle Municipal Code Chapters 5.02 and 5.55, proposes to adopt new rules for implementing the Seattle Business and Occupation Tax Ordinance (Seattle Municipal Code, Chapter 5.45). Please note that although these rules are applicable to EMC 5.45, the individual rules may also apply to other chapters of the City's Tax Code, including, but not limited to, EMC 5.30 (Definitions), EMC 5.32 (Revenue Code), EMC 5.40 (Admissions Tax), EMC 5.49 (Business Tax - Utilities) and EMC 5.52 (Gambling Tax). The following rules are proposed for adoption and will become effective as of April 30, 2005:

- Seattle Rule 5-006 -- Tax Returns -- Filing and Payment
- Seattle Rule 5-007 -- Penalties
- Seattle Rule 5-021 -- Measure of Tax -- Retailers and Wholesalers
- Seattle Rule 5-032 -- Measure of Tax -- Service and other business activities
- Seattle Rule 5-035 -- Freight and Delivery Charges
- Seattle Rule 5-040 -- Corporations, Massachusetts trusts
- Seattle Rule 5-043 -- Engaging in Business
- Seattle Rule 5-063 -- Returned goods, allowances, cash discounts
- Seattle Rule 5-100 -- Extracting natural products
- Seattle Rule 5-112 -- Commercial or industrial use
- Seattle Rule 5-127 -- Sales to and by the State of Washington, counties, cities, school districts, and municipal subdivisions
- Seattle Rule 5-130 -- Selling price -- Advertised prices including sales tax
- Seattle Rule 5-131 -- Trade-ins, selling price, sellers' tax measures
- Seattle Rule 5-132 -- Leased departments

Seattle Rule 5-133 -- Warranties and maintenance agreements

Seattle Rule 5-702 -- Coin operated vending machines, amusement devices and service machines

Seattle Rule 5-404 -- Sales of meals

Seattle Rule 5-405 -- Restaurants, cocktail bars, taverns and similar businesses

Seattle Rule 5-481 -- Motor carriers -- Trucking

Seattle Rule 5-523 -- Sales of precious metal bullion and monetized bullion

Seattle Rule 5-530 -- Sale or rental of real estate, license to use real estate

Seattle Rule 5-531 -- Sales of real property, standing timber, minerals, natural resources

Seattle Rule 5-532 -- Real estate brokers and salesman

Seattle Rule 5-600 -- Educational institutions, school districts, student organizations, and private schools

Seattle Rule 5-700 -- Amusement, Recreation, and Physical Fitness Services

Seattle Rule 5-720 -- Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc.

Seattle Rule 5-803 -- Consignees, bailees, factors, agents, and auctioneers

Seattle Rule 5-306 -- Advertising agencies

Seattle Rule 5-807 -- Outdoor advertising and advertising display services

**PUBLIC HEARING AND COMMENT:**  
The Department of Executive Administration has scheduled a public hearing on the proposed rule changes for 1:00 p.m. to 3:00 p.m., on Monday, April 4, 2005. The hearing will be held in a conference room on the 40th floor of the Seattle Municipal Tower, Suite 4085, located at 700 5th Avenue. All interested persons are invited to present data, views, or arguments, with regard to the proposed rules, orally at the hearing, or in writing at or before the hearing.

Written comments should be mailed or delivered to:

Department of Executive Administration, Attn.: Mel McDonald, Director, Revenue and Consumer Affairs, 700 5th Avenue - Suite 4200, Seattle, Washington 98104-5320.

The public may inspect copies of the proposed rules at the Revenue and Consumer Affairs offices, 700 5th Avenue, Suite 4200. If you would like a copy of the proposed rules, please call (206) 684-8300, FAX (206) 684-8170, email [rca.bisilictx@cl.seattle.wa.us](mailto:rca.bisilictx@cl.seattle.wa.us), or submit a written request to the address above.

Dated: March 21, 2005.

DWIGHT D. DIVELY,

Director, Department of Finance.

Date of publication in the Seattle Daily Journal of Commerce, March 21, 2005.

5/21 (183890)

THE CITY OF SEATTLE  
DIRECTOR'S RULE  
IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE  
RULE 5-720

FILED  
CITY OF SEATTLE  
05 JUL 15 PM 2:50  
CITY CLERK

**Seattle Rule 5-720**

**Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc.**

- (1) **Introduction.** This rule explains the taxation of persons operating establishments such as hotels, motels, and bed and breakfast facilities, which provide lodging and related services to transient customers for a charge.
- (a) In addition to persons operating hotels or motels, this section applies to persons operating the following establishments:
- (i) Trailer camps and recreational vehicle parks which charge for the rental of space to transient customers for locating or parking house trailers, campers, recreational vehicles, mobile homes, tents, etc...
  - (ii) Educational institutions which sell overnight lodging to persons other than students. See Seattle Rule 5-600.
  - (iii) Private lodging houses, dormitories, bunkhouses, etc., operated by or on behalf of business and industrial firms or schools solely for the accommodation of employees of such firms or students which are not held out to the public as a place where sleeping accommodations may be obtained. As will be discussed more fully below, in some circumstances these businesses may not be making retail sales of lodging.
  - (iv) Various camps which, in addition to supplying meals and lodging, offer special recreation facilities and instruction in sports, boating, riding, outdoor living, etc. In some cases these businesses may not be making retail sales, as discussed below.
- (b) This rule does not apply to persons operating the following establishments:
- (i) Hospitals, sanitariums, nursing homes, rest homes, and similar institutions.
  - (ii) Establishments such as apartments or condominiums where the rental is for longer than one month. See Seattle Rule 5-530 for the distinction between a rental of real estate and the license to use real estate.
- (2) **Transient defined.** The term "transient" as used in this section means any guest, resident, or other occupant to whom lodging and other services are furnished under a license to use real property for less than one month, or less than thirty continuous days if the rental period does not begin on the first day of the month. An occupant remaining in continuous occupancy for thirty days or more is considered a non-transient upon the thirtieth day. An occupant who contracts in advance and does remain in continuous occupancy for the initial thirty days will be considered a non-transient from the start of the occupancy.

No deduction from the measure of the tax is allowed when an occupant does not contract in advance to stay at least thirty days and then the rental period extends past thirty days.

For example, a tenant rents the same motel room on a weekly basis. The tenant is considered a transient for the first twenty-nine days of occupancy and the taxpayer must report the income under the retailing classification and pay the business license tax on the rental charges. The rental charges become exempt from the business license tax beginning on the thirtieth day. The

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-720**

taxpayer is not entitled to a refund of the business license taxes paid on the rental charges for the first twenty-nine days.

- (3) **Business license tax.** Where lodging is sold to a non-transient, the transaction is a rental of real estate, and exempt from the business license tax. (See SMC 5.45.090 (T) and Seattle Rule 5-530) Sales of lodging and related services to transients are subject to the business license tax, including transactions which may have been identified or characterized as membership fees or dues. The business license tax applies as follows:

- (a) **Retailing.** Amounts derived from the following charges to transients are retail sales and subject to the retailing business license tax: Rental of rooms for lodging, rental of radio and television sets, coin operated laundries, rental of rooms, space and facilities not for lodging, such as ballrooms, display rooms, meeting rooms, etc., sales of postage stamps, copier and fax/modem charges, automobile parking or storage, and the sale or rental of tangible personal property at retail. See below for a more detailed explanation of the charges included in the retailing classification.

Persons providing lodging and other services must report their gross income on their charges for lodging and other services as discussed below.

- (i) **Lodging.** All charges for lodging and related services to transients are retail sales. Included are charges for vehicle parking and storage and for space and other facilities, including charges for water and electricity services, in a trailer camp.
- (ii) **Meals and entertainment.** All charges for food, beverages, and entertainment are retail sales.
- (A) Charges for related services such as room service, banquet room services, and service charges and gratuities which are agreed to in advance by customers or added to their bills by the service provider are also retail sales.
- (B) In the case of meals sold under a "two meals for the price of one" promotion, the taxable selling price is the actual amount received as payment for the meals.
- (C) Meals sold to employees are also subject to the retailing tax. See Seattle Rule 5-404 for detail on tax applicability on meals furnished to employees.
- (D) Sale of food and other items sold through vending machines that are owned by the taxpayer are retail sales.
- (E) Except for various camps, when a lump sum is charged for lodging to non-transients and for meals furnished, the retailing business license tax is reported upon the fair selling price of such meals. Unless accounts are kept showing the fair selling price, the tax will be computed upon double the cost of the meals served. The cost includes the price paid for food and drinks served, the cost of preparing and serving meals, and all other costs incidental thereto, including an appropriate portion of overhead expenses.

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-720**

- (F) Cover charges for dancing and entertainment provided by hotels, motels, etc. are retail sales.
- (iii) Laundry services. Charges for laundry services provided by a hotel/motel in the hotel's name, or by the user if coin operated laundry facilities, are retail sales. SMC 5.30.050 (B)(3)(a) excludes from the definition of retail sale charges for the use of coin-operated laundry facilities located in rooming houses or mobile home parks for the exclusive use of the tenants. Such charges to tenants of rooming houses or mobile home parks for coin-operated laundry facilities are subject to the service and other business license tax.
- (iv) Rentals. Rentals of tangible personal property such as movies and sports equipment are retail sales.
- (v) Sales to the United States government. Sales made directly to the United States government or its employees are retail sales.
- (b) Service and other classification. Commissions, amounts derived from accommodations not available to the public, and certain unsegregated charges are taxable under this classification.
  - (i) Hotels, motels, and similar businesses may receive commissions from various sources which are generally taxable under the service classification. The following are examples of such commissions:
    - (A) Commissions received from acting as a laundry agent for guests when someone other than the hotel provides the laundry service.
    - (B) Commissions received from telephone companies for long distance telephone calls where the hotel or motel is merely acting as an agent and commissions received from coin-operated telephones. Refer to the telephone subsection below for a further discussion of telephone charges.
    - (C) Commissions or license fees for permitting a satellite antenna to be installed on the premises or as a commission for permitting a broadcaster or cable operator to make sales to the guest of the hotel or motel.
    - (D) Commissions from the rental of videos for use by guests of the hotel or motel when the hotel or motel operator is clearly making such sales as an agent for a seller.
    - (E) Commissions received from the operation of amusement devices.
  - (ii) Taxable under this classification are amounts derived from the rental of sleeping accommodations by private lodging houses, and by dormitories, bunkhouses, etc., operated by or on behalf of business and industrial firms and which are not held out to the public as a place where sleeping accommodations may be obtained.
  - (iii) Various camps, and similar establishments making an unsegregated charge for meals, lodging, instruction and the use of recreational facilities must report the

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-720**

gross income from such charges under the service and other business activities classification.

- (iv) Deposits retained by the business as a penalty charged to a customer for failure to timely cancel a reservation is taxable under the service and other business activities classification.
  - (v) "Message service" and other business service charges are subject to the service business license tax.
- (4) **Telephone charges.** If the hotel/motel leases telephone lines and then provides telephone services for a charge to its guests, these charges are taxable under the business utility tax per SMC 5.48.050 (A). In this case the hotel/motel is in the telephone business.
- If the hotel/motel is acting as an agent for a telephone service provider who provides long distance telephone service to the guest, the actual long distance telephone charges are not taxable income to the hotel/motel. (This agency arrangement must be evidenced by a written agency agreement between the hotel/motel and the telephone service provider, see SMC 5.45.040.) These amounts are advances and reimbursements. Any local line charge, additional handling charge, or other charge which the hotel/motel may add to the actual long distance telephone charge is subject to the business utility tax.
- (5) **Deductions – Amounts representing rental of real estate for boarding homes.** In computing tax, there may be deducted from the measure of the tax amounts representing the value of the rental of real estate for "boarding homes." To qualify for the deduction, the boarding home must meet the definition of "boarding home" found in RCW 18.20.020, and must be licensed by the State of Washington under RCW Chapter 18.20. The deduction shall be in the amount of twenty-five (25) percent of the gross monthly billing when the boarder has resided within the boarding home for longer than thirty (30) days. (See SMC 5.45.100 (O).)
- (6) **Television charges.** Charges for providing extended television reception beyond the basic channels to guests are subject to the City of Seattle Utility tax; see SMC 5.48.050 (H).

Effective: July 15, 2005

IT IS DUE TO THE QUALITY OF THE DOCUMENT.

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-720**

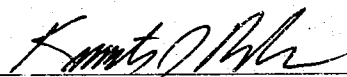
**DIRECTOR'S CERTIFICATION**

I Kenneth J. Nakatsu, Director of the Department of Executive Administration of the City of Seattle, do hereby certify under penalty of perjury of law, that the within and foregoing is a true and correct copy as adopted by the City of Seattle, Department of Executive Administration.

DATED this 15<sup>th</sup> day of July, 2005.

CITY OF SEATTLE,  
a Washington municipality

By:

  
Kenneth J. Nakatsu, Director  
Department of Executive Administration

IT IS DUE TO THE QUALITY OF THE DOCUMENT.



STATE OF WASHINGTON - KING COUNTY

--SS.

183390  
CITY OF SEATTLE:Revenue &

No.

**Affidavit of Publication**

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:RULE MAKING HEARING

was published on

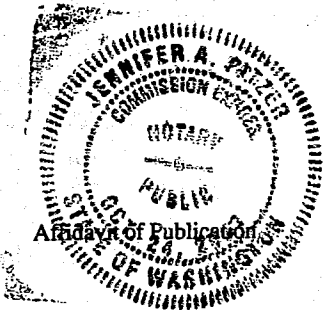
3/21/2005

*M. D. J.*

Subscribed and sworn to before me on

3/21/2005

Notary public for the State of Washington,  
residing in Seattle



THIS IS ONE OF THE QUALITY OF THE DOCUMENT.

# State of Washington, King County

## City of Seattle

### NOTICE OF PROPOSED RULE MAKING HEARING AND OPPORTUNITY TO COMMENT

The Director of Finance, acting under the authority of Seattle Municipal Code Chapters 5.02 and 5.55, proposes to adopt new rules for implementing the Seattle Business and Occupation Tax Ordinance (Seattle Municipal Code, Chapter 5.45). Please note that although these rules are applicable to SMC 5.45, the individual rules may also apply to other chapters of the City's Tax Code, including, but not limited to, SMC 5.30 (Definitions), SMC 5.32 (Revenue Code), SMC 5.40 (Admissions Tax), SMC 5.48 (Business Tax - Utilities) and SMC 5.52 (Gambling Tax). The following rules are proposed for adoption and will become effective as of April 30, 2005:

Seattle Rule 5-006 -- Tax Returns --  
Filing and Payment

Seattle Rule 5-007 -- Penalties

Seattle Rule 5-031 -- Measure of Tax --  
Retailers and Wholesalers

Seattle Rule 5-032 -- Measure of Tax --  
Service and other business activities

Seattle Rule 5-035 -- Freight and  
Delivery Charges

Seattle Rule 5-040 -- Corporations,  
Marshall's trusts

Seattle Rule 5-043 -- Engaging in  
Business

Seattle Rule 5-063 -- Returned goods,  
allowances, cash discounts

Seattle Rule 5-100 -- Extracting natural  
products

Seattle Rule 5-112 -- Commercial or  
industrial use

Seattle Rule 5-127 -- Sales to and by the  
State of Washington, counties, cities,  
school districts, and municipal subdivi-  
sions

Seattle Rule 5-130 -- Selling price --  
Advertised prices including sales tax

Seattle Rule 5-131 -- Trade-ins, selling  
price, seller's tax measures

Seattle Rule 5-132 -- Leased depart-  
ments

Seattle Rule 5-133 -- Warranties and  
maintenance agreements

Seattle Rule 5-702 -- Coin operated  
vending machines, amusement devices  
and service machines

Seattle Rule 5-404 -- Sales of meals

Seattle Rule 5-405 -- Restaurants, cock-  
tail bars, taverns and similar business-  
es

Seattle Rule 5-481 -- Motor carriers --  
Trucking

Seattle Rule 5-523 -- Sales of precious  
metal bullion and monetized bullion

Seattle Rule 5-530 -- Sale or rental of  
real estate, license to use real estate

Seattle Rule 5-531 -- Sales of real prop-  
erty, standing timber, minerals, natural  
resources

Seattle Rule 5-532 -- Real estate brokers  
and salesman

Seattle Rule 5-600 -- Educational insti-  
tutions, school districts, student organi-  
zations, and private schools

Seattle Rule 5-706 -- Amusement,  
Recreation, and Physical Fitness  
Services

Seattle Rule 5-720 -- Hotels, motels,  
boarding houses, rooming houses,  
resorts, summer camps, trailer camps,  
etc.

Seattle Rule 5-803 -- Consignees,  
bailees, factors, agents, and auctioneers

Seattle Rule 5-806 -- Advertising agen-  
cies

Seattle Rule 5-807 -- Outdoor adverti-  
sing and advertising display services

**PUBLIC HEARING AND COMMENT:**  
The Department of Executive Administra-  
tion has scheduled a public hearing on the  
proposed rule changes for 1:00 p.m. to 3:00  
p.m. on Monday, April 4, 2005. The hearing  
will be held in a conference room on the 40th  
floor of the Seattle Municipal Tower, Suite  
4085, located at 700 5th Avenue. All interest-  
ed persons are invited to present data, views,  
or arguments, with regard to the proposed  
rules, orally at the hearing, or in writing at  
or before the hearing.

Written comments should be mailed or  
delivered to:

Department of Executive Administra-  
tion, Attn.: Mel McDonald,  
Director, Revenue and Consumer  
Affairs, 700 5th Avenue - Suite 4250,  
Seattle, Washington 98104-5020.

The public may inspect copies of the pro-  
posed rules at the Revenue and Consumer  
Affairs offices, 700 5th Avenue, Suite 4200.  
If you would like a copy of the proposed rules,  
please call (206) 684-8300, FAX (206) 684-  
8170, email [rcabialista@ci.seattle.wa.us](mailto:rcabialista@ci.seattle.wa.us),  
or submit a written request to the address  
above.

Dated: March 21, 2005.

DWIGHT D. DIVELY,

Director, Department of Finance.

Date of publication in the Seattle Daily  
Journal of Commerce, March 21, 2005.

3/21(182390)

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-803**

FILED  
CITY OF SEATTLE  
05 JUL 15 11:25 AM  
CITY CLERK

**Seattle Rule 5-803**

**Consignees, bailees, factors, agents and auctioneers of tangible personal property.**

- (1) **Introduction.** A consignee, bailee, factor, agent or auctioneer, refers to one who has either actual or constructive possession of tangible personal property belonging to another person, and selling or calling for bids on such property on behalf of the owner(see SMC 5.45.040).
- (2) **Definition.** The term "constructive possession" means possession of the power to transfer the title of tangible personal property belonging to others.
- (3) **Business License Tax.**

- (a) **Retailing and wholesaling.** Every person acting as an agent, including consignee, bailee, factor or auctioneer having either actual or constructive possession of tangible personal property, or having possession of the documents of title thereto, with power to sell such tangible personal property in his or its own name and, actually so selling, shall be deemed the seller of such tangible personal property and taxable under the retailing or wholesaling classification of the business license tax. The consignor, bailor, principal, or owner shall be deemed a seller of such property to the agent, consignee, bailee, factor or auctioneer and shall be taxable as a wholesaler with respect to such sales.

The mere fact that the agent, consignee, bailee, factor or auctioneer makes a sale creates a presumption that such agent, consignee, bailee, factor or auctioneer actually sold in his or its own name. This presumption is controlling unless rebutted by proof satisfactory to the Director.

The retailing or wholesaling business license tax is calculated by multiplying the applicable tax rate against the selling price of the item sold or auctioned. There is no deduction for any commission which the agent, consignee, bailee, factor or auctioneer receives as payment for services. (Refer to Seattle Rule 5-130 (1)(a) for definition of selling price.)

- (b) **Acting as agents and brokers.** Any person who claims to be acting merely as agent or broker in promoting sales for a principal or in making purchases for a buyer, will have such claim recognized only when the contract or agreement between such persons clearly establishes the relationship of principal and agent and when the following conditions are complied with:
  - (i) The books and records of the agent or broker show the transactions were made in the name and for the account of the principal, and show the name of the actual owner of the property for whom the sale was made, or the actual buyer for whom the purchase was made.
  - (ii) The books and records show the amount of the principal's gross sales, the amount of commissions and any other incidental income derived by the broker or agent from such sales. The principal's gross sales must not be reflected as income of the agent. Commissions must be computed according to a set percentage or amount, which is agreed upon in the agency agreement.
  - (iii) No ownership rights may be conferred to the agent or broker unless the principal refuses to pay, or refuses to abide by the agency agreement.

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-803**

- (iv) Bulk goods sold or purchased on behalf of a principal must not be co-mingled with goods belonging to another principal or lose their identity as belonging to the particular principal. Sales or purchases of any goods which have been co-mingled or lost their identity as belonging to the principal shall be taxed as retail or wholesale sales.
  
- (c) Service and other business activities. Every agent, consignee, bailee, factor or auctioneer who makes a sale in the name of the actual owner, as agent of the actual owner, or who purchases as agent of the actual buyer, and meets the above criteria is taxable under the service and other business activities classification upon the gross income derived from such business.

Effective: July 15, 2005

IT IS DUE TO THE QUALITY OF THE DOCUMENT.

**THE CITY OF SEATTLE  
DIRECTOR'S RULE  
IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE  
RULE 5-803**

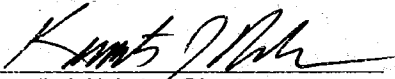
**DIRECTOR'S CERTIFICATION**

I Kenneth J. Nakatsu, Director of the Department of Executive Administration of the City of Seattle, do hereby certify under penalty of perjury of law, that the within and foregoing is a true and correct copy as adopted by the City of Seattle, Department of Executive Administration.

DATED this 15<sup>th</sup> day of July, 2005.

CITY OF SEATTLE,  
a Washington municipality

By:

  
Kenneth J. Nakatsu, Director  
Department of Executive Administration

STATE OF WASHINGTON -- KING COUNTY

--SS.

183390  
CITY OF SEATTLE:Revenue &

No.

**Affidavit of Publication**

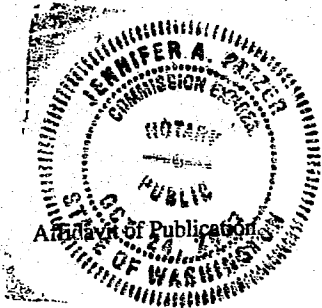
The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:RULE MAKING HEARING

was published on

3/21/2005



*M.D.P.*

Subscribed and sworn to before me on  
3/21/2005 *Jennifer Pitzer*  
Notary public for the State of Washington,  
residing in Seattle

IT IS DUE TO THE QUALITY OF THE DOCUMENT.

# State of Washington, King County

## City of Seattle

### NOTICE OF PROPOSED RULE MAKING HEARING AND OPPORTUNITY TO COMMENT

The Director of Finance, acting under the authority of Seattle Municipal Code Chapters 5.02 and 5.55, proposes to adopt new rules for implementing the Seattle Business and Occupation Tax Ordinance (Seattle Municipal Code, Chapter 5.45). Please note that although these rules are applicable to SMC 5.45, the individual rules may also apply to other chapters of the City's Tax Code, including, but not limited to, SMC 5.30 (Definitions), SMC 5.22 (Revenue Code), SMC 5.40 (Admissions Tax), SMC 5.48 (Business Tax - Utilities) and SMC 5.52 (Gambling Tax). The following rules are proposed for adoption and will become effective as of April 30, 2005:

- Seattle Rule 5-006 -- Tax Returns -- Filing and Payment
- Seattle Rule 5-007 -- Penalties
- Seattle Rule 5-031 -- Measure of Tax -- Retailers and Wholesalers
- Seattle Rule 5-032 -- Measure of Tax -- Service and other business activities
- Seattle Rule 5-035 -- Freight and Delivery Charges
- Seattle Rule 5-040 -- Corporations, Massachusetts trusts
- Seattle Rule 5-043 -- Engaging in Business
- Seattle Rule 5-063 -- Returned goods, allowances, cash discounts
- Seattle Rule 5-100 -- Extracting natural products
- Seattle Rule 5-112 -- Commercial or industrial use
- Seattle Rule 5-127 -- Sales to and by the State of Washington, counties, cities, school districts, and municipal subdivisions
- Seattle Rule 5-130 -- Selling price -- Advertised prices including sales tax
- Seattle Rule 5-131 -- Trade-ins, selling price, sellers' tax measures
- Seattle Rule 5-132 -- Leased departments

Seattle Rule 5-133 -- Warranties and maintenance agreements

Seattle Rule 5-702 -- Coin operated vending machines, amusement devices and service machines

Seattle Rule 5-404 -- Sales of meals

Seattle Rule 5-405 -- Restaurants, cocktail bars, taverns and similar businesses

Seattle Rule 5-481 -- Motor carriers -- Trucking

Seattle Rule 5-523 -- Sales of precious metal bullion and monetized bullion

Seattle Rule 5-530 -- Sale or rental of real estate, license to use real estate

Seattle Rule 5-531 -- Sales of real property, standing timber, minerals, natural resources

Seattle Rule 5-532 -- Real estate brokers and salesman

Seattle Rule 5-600 -- Educational institutions, school districts, student organizations, and private schools

Seattle Rule 5-700 -- Amusement, Recreation, and Physical Fitness Services

Seattle Rule 5-720 -- Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc.

Seattle Rule 5-803 -- Consignees, bailees, factors, agents, and auctioneers

Seattle Rule 5-805 -- Advertising agencies

Seattle Rule 5-807 -- Outdoor advertising and advertising display services

**PUBLIC HEARING AND COMMENT:**  
The Department of Executive Administration has scheduled a public hearing on the proposed rule changes for 1:00 p.m. to 3:00 p.m. on Monday, April 4, 2005. The hearing will be held in a conference room on the 40th floor of the Seattle Municipal Tower, Suite 4096, located at 700 5th Avenue. All interested persons are invited to present data, views, or arguments, with regard to the proposed rules, orally at the hearing, or in writing at or before the hearing.

Written comments should be mailed or delivered to:

Department of Executive Administration, Attn.: Mel McDonald, Director, Revenue and Consumer Affairs, 700 5th Avenue - Suite 4250, Seattle, Washington 98104-5023.

The public may inspect copies of the proposed rules at the Revenue and Consumer Affairs offices, 700 5th Avenue, Suite 4200. If you would like a copy of the proposed rules, please call (206) 684-8300, FAX (206) 684-5170, email [rca.hislist@seattle.wa.us](mailto:rca.hislist@seattle.wa.us), or submit a written request to the address above.

Dated: March 21, 2005.

DWIGHT D. DIVELY,

Director, Department of Finance.

Date of publication in the Seattle Daily Journal of Commerce, March 21, 2005.

2/21(63890)

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-806**

FILED  
CITY OF SEATTLE  
05 JUL 15 PM 2:50  
CITY CLERK

**Seattle Rule 5-806**     **Advertising agencies**

- (1) **Introduction.** Advertising agencies are primarily engaged in the business of rendering professional services, but may also make sales of tangible personal property to their clients or others or make purchases of such articles as agents on behalf of their clients. (See SMC 5.45.040 (C) - Agency). Articles acquired or produced by advertising agencies may be for their own use in connection with the rendition of an advertising service or may be for resale as tangible personal property to their clients.
- (2) **Business License Tax.**
- (a) **Service and other business activities.** The gross income received for advertising services, including commissions or discounts received for articles purchased as agents on behalf of clients, is taxable under the service and other business activities classification. (See Seattle Rule 5-150 for commissions or discounts allowed by printers.) Included in this classification are amounts attributable to sales of tangible personal property, unless charges for such articles are separately stated in billings rendered to clients.
  - (b) **Retailing and wholesaling.** The retailing or wholesaling classification applies to articles of tangible personal property sold to persons for whom no advertising service is rendered. In the event that both advertising services and tangible personal property are provided to a client, the revenue from the sale of tangible personal property is taxable under this classification only if it is separately stated from the charges for advertising services in billing statements rendered to such clients.
  - (c) **Manufacturing.** The manufacturing classification applies to articles manufactured for sale or commercial or industrial use (see Seattle Rule 5-112), and also to interstate sales of manufactured articles if stated separately from charges for advertising services in billings rendered to clients.
- (3) **Examples.** The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax status of each situation must be determined after a review of the facts and circumstances.
- (a) ABC advertising provides advertising services to client B. As part of their services, ABC provides consultation, graphic design, and they procure advertising space in a publication on behalf of client B for which they earn a commission. ABC should report its gross income received for the consultation and graphic design services performed under the service and other classification. ABC should also report the commissions earned from purchasing advertising under the service and other business activities classification.
  - (b) Company ABC above, also provides advertising services to client C. In addition to providing consulting and design services, ABC purchases printed material and other articles of tangible personal property, and resells them to client C. Company ABC does not separate charges for consulting and design services from the sales of tangible goods in their billing statements to client C. Because ABC did not segregate the charges for the resale of tangible personal property in their billing statements to client C, the purchase of the tangible personal property will be considered purchases for consumption by ABC during the course of performing its advertising services, and the total amount billed to client C is subject to tax under the service and other business activities classification.



**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-806**

- (c) Company XYZ provides advertising services to their client A, located outside Washington State. As part of their advertising services, XYZ constructs billboards, utilizing their own materials, for client A. XYZ also performs graphic design and other consultation services on behalf of client A. XYZ segregates the billboard charge from the other advertising services they performed when billing client A. XYZ should report their gross income from graphic design and consulting under the service and other classification. The company should report their gross income for the construction and sale of billboards under the manufacturing and retailing classifications, and claim an interstate deduction against the retailing classification. Alternatively, if the client was located in Washington State, XYZ would report the gross receipts for the construction and sale of the billboards under the manufacturing and retailing classifications, and claim the MATC credit against the selling activity under the retailing classification.
- (d) Company X provides advertising services to their client Z. X purchases as a principal and not as an agent for client Z, advertising space from a publisher and resells it to client Z. X is primarily responsible for payment to the publisher for the costs of the advertising space. X does not earn a commission for procuring the advertising space as client Z's agent, but rather realizes a profit from this business activity by marking up the cost of the advertising space to client Z. The gross receipts from the resale of this advertising space to client Z are reportable under the service and other business activities classification. In this example, X is not acting as an agent when procuring advertising space for client Z. X is purchasing and reselling the advertising space. Therefore, X does not meet the requirements of an agent pursuant to SMC 5.45.040 (C).

Effective: July 15, 2005

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-806**

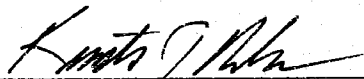
**DIRECTOR'S CERTIFICATION**

I Kenneth J. Nakatsu, Director of the Department of Executive Administration of the City of Seattle, do hereby certify under penalty of perjury of law, that the within and foregoing is a true and correct copy as adopted by the City of Seattle, Department of Executive Administration.

DATED this 15<sup>th</sup> day of July, 2005.

CITY OF SEATTLE,  
a Washington municipality

By:

  
Kenneth J. Nakatsu, Director  
Department of Executive Administration

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE  
IT IS DUE TO THE QUALITY OF THE DOCUMENT.

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

**STATE OF WASHINGTON - KING COUNTY**

--SS.

183390  
CITY OF SEATTLE:Revenue &

No.

**Affidavit of Publication**

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

**CT:RULE MAKING HEARING**

was published on

3/21/2005

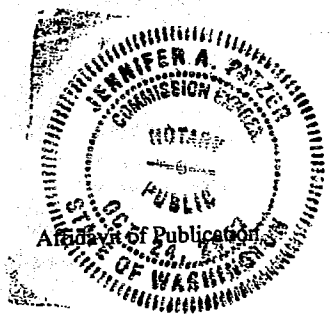
*Mad*

Subscribed and sworn to before me on

3/21/2005

*Jennifer A. Preter*

Notary public for the State of Washington,  
residing in Seattle



State of Washington, King County  
City of Seattle

NOTICE OF PROPOSED RULE  
MAKING HEARING AND  
OPPORTUNITY TO COMMENT

The Director of Finance, acting under the authority of Seattle Municipal Code Chapters 3.02 and 5.55, proposes to adopt new rules for implementing the Seattle Business and Occupation Tax Ordinance (Seattle Municipal Code, Chapter 5.45). Please note that although these rules are applicable to SMC 5.45, the individual rules may also apply to other chapters of the City's Tax Code, including, but not limited to, SMC 5.30 (Definitions), SMC 5.32 (Revenue Code), SMC 5.40 (Admissions Tax), SMC 5.48 (Business Tax - Utilities) and SMC 5.52 (Gambling Tax). The following rules are proposed for adoption and will become effective as of April 30, 2005:

- Seattle Rule 5-006 -- Tax Returns -- Filing and Payment
- Seattle Rule 5-007 -- Penalties
- Seattle Rule 5-031 -- Measure of Tax -- Retailers and Wholesalers
- Seattle Rule 5-032 -- Measure of Tax -- Service and other business activities
- Seattle Rule 5-035 -- Freight, and Delivery Charges
- Seattle Rule 5-040 -- Corporations, Massachusetts trusts
- Seattle Rule 5-043 -- Engaging in Business
- Seattle Rule 5-063 -- Returned goods, allowances, cash discounts
- Seattle Rule 5-100 -- Extracting natural products
- Seattle Rule 5-112 -- Commercial or Industrial use
- Seattle Rule 5-127 -- Sales to and by the State of Washington, counties, cities, school districts, and municipal subdivisions
- Seattle Rule 5-130 -- Selling price -- Advertised prices including sales tax
- Seattle Rule 5-131 -- Trade-ins, selling price, sellers' tax measures
- Seattle Rule 5-132 -- Leased departments

Seattle Rule 5-133 -- Warranties and maintenance agreements

Seattle Rule 5-702 -- Coin operated vending machines; amusement devices and service machines

Seattle Rule 5-404 -- Sales of meals

Seattle Rule 5-405 -- Restaurants, cocktail bars, taverns and similar businesses

Seattle Rule 5-481 -- Motor carriers -- Trucking

Seattle Rule 5-523 -- Sales of precious metal bullion and monetized bullion

Seattle Rule 5-530 -- Sale or rental of real estate, license to use real estate

Seattle Rule 5-531 -- Sales of real property, standing timber, minerals, natural resources

Seattle Rule 5-532 -- Real estate brokers and salesman

Seattle Rule 5-600 -- Educational institutions, school districts, student organizations, and private schools

Seattle Rule 5-700 -- Amusement, Recreation, and Physical Fitness Services

Seattle Rule 5-720 -- Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc.

Seattle Rule 5-808 -- Consignees, bailees, factors, agents, and auctioneers

Seattle Rule 5-806 -- Advertising agencies

Seattle Rule 5-807 -- Outdoor advertising and advertising display services

**PUBLIC HEARING AND COMMENT:**  
The Department of Executive Administration has scheduled a public hearing on the proposed rule changes for 1:00 p.m. to 3:00 p.m. on Monday, April 4, 2005. The hearing will be held in a conference room on the 40th floor of the Seattle Municipal Tower, Suite 4086, located at 700 5th Avenue. All interested persons are invited to present data, views, or arguments, with regard to the proposed rules, orally at the hearing, or in writing at or before the hearing.

Written comments should be mailed or delivered to:

Department of Executive Administration, Attn.: Mel McDonald, Director, Revenue and Consumer Affairs, 700 5th Avenue - Suite 4250, Seattle, Washington 98104-5020.

The public may inspect copies of the proposed rules at the Revenue and Consumer Affairs offices, 700 5th Avenue, Suite 4200. If you would like a copy of the proposed rules, please call (206) 684-8300, FAX (206) 684-8170, email [rca.bislictr@ci.seattle.wa.us](mailto:rca.bislictr@ci.seattle.wa.us), or submit a written request to the address above.

Dated: March 21, 2005.

DWIGHT D. DIVELY,

Director, Department of Finance.

Date of publication in the Seattle Daily Journal of Commerce, March 21, 2005.  
3/21(183890)

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-807**

FILED  
CITY OF SEATTLE  
05 JUL 15 PM 2:58  
CITY CLERK

**Seattle Rule 5-807**     **Outdoor advertising and advertising display services.**

**(1) Definitions**

- (a) The term "outdoor advertising" means the business of rendering an advertising service to others by posting or painting advertising copy upon billboards owned or controlled by the outdoor advertiser. It also includes any electronic messaging signs used to advertise products or services.
- (b) The term "advertising display service" means the business of installing and maintaining advertising displays upon property of others, when title to the property used in the display is retained by the person engaged in such business.

**(2) Business License Tax.** Persons engaged in the business of outdoor advertising or advertising display services are taxable under the service and other business license tax classification (SMC 5.45.050(G)) upon the gross income from such services.

**(3) Rental of billboard and advertising space on real property.** The rental of billboards, billboard space, or advertising space on the side of buildings is a "license to use" real property and subject to tax. It is not a rental of real property even when the period of the rental is longer than 30 days.

Effective: July 15, 2005

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

**THE CITY OF SEATTLE**  
**DIRECTOR'S RULE**  
**IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE**  
**RULE 5-807**

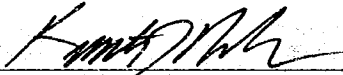
**DIRECTOR'S CERTIFICATION**

I Kenneth J. Nakatsu, Director of the Department of Executive Administration of the City of Seattle, do hereby certify under penalty of perjury of law, that the within and foregoing is a true and correct copy as adopted by the City of Seattle, Department of Executive Administration.

DATED this 15<sup>th</sup> day of July, 2005.

CITY OF SEATTLE,  
a Washington municipality

By:

  
Kenneth J. Nakatsu, Director  
Department of Executive Administration

IT IS DUE TO THE QUALITY OF THE DOCUMENT.

STATE OF WASHINGTON - KING COUNTY

--SS.

183390  
CITY OF SEATTLE:Revenue &

No.

**Affidavit of Publication**

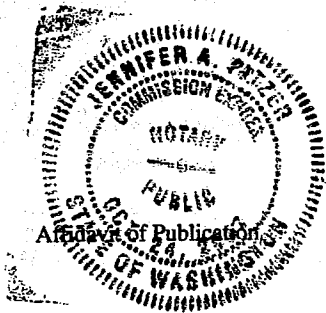
The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:RULE MAKING HEARING

was published on

3/21/2005



*MdJ*

Subscribed and sworn to before me on

3/21/2005

*Jennifer Pfeiffer*

Notary public for the State of Washington,  
residing in Seattle

IT IS DUE TO THE QUALITY OF THE DOCUMENT.

# State of Washington, King County

## City of Seattle

### NOTICE OF PROPOSED RULE MAKING HEARING AND OPPORTUNITY TO COMMENT

The Director of Finance, acting under the authority of Seattle Municipal Code Chapters 8.02 and 5.55, proposes to adopt new rules for implementing the Seattle Business and Occupation Tax Ordinance (Seattle Municipal Code, Chapter 5.46). Please note that although these rules are applicable to EMC 5.45, the individual rules may also apply to other chapters of the City's Tax Code, including, but not limited to, SMC 5.30 (Definitions), SMC 5.32 (Revenue Code), SMC 5.40 (Admissions Tax), SMC 5.48 (Business Tax - Utilities) and EMC 5.52 (Gambling Tax). The following rules are proposed for adoption and will become effective as of April 30, 2005:

- Seattle Rule 5-006 -- Tax Returns -- Filing and Payment
- Seattle Rule 5-007 -- Penalties
- Seattle Rule 5-031 -- Measure of Tax -- Retailers and Wholesalers
- Seattle Rule 5-032 -- Measure of Tax -- Service and other business activities
- Seattle Rule 5-035 -- Freight and Delivery Charges
- Seattle Rule 5-040 -- Corporations, Massachusetts trusts
- Seattle Rule 5-043 -- Engaging in Business
- Seattle Rule 5-063 -- Returned goods, allowances, cash discounts
- Seattle Rule 5-100 -- Extracting natural products
- Seattle Rule 5-112 -- Commercial or industrial use
- Seattle Rule 5-127 -- Sales to and by the State of Washington, counties, cities, school districts, and municipal subdivisions
- Seattle Rule 5-130 -- Selling price -- Advertised prices including sales tax
- Seattle Rule 5-131 -- Trade-ins, selling price, sellers' tax measures
- Seattle Rule 5-132 -- Leased departments

Seattle Rule 5-133 -- Warranties and maintenance agreements

Seattle Rule 5-702 -- Coin operated vending machines, amusement devices and service machines

Seattle Rule 5-404 -- Sales of meals

Seattle Rule 5-405 -- Restaurants, cocktail bars, taverns and similar businesses

Seattle Rule 5-481 -- Motor carriers -- Trucking

Seattle Rule 5-523 -- Sales of precious metal bullion and monetized bullion

Seattle Rule 5-530 -- Sale or rental of real estate, license to use real estate

Seattle Rule 5-531 -- Sales of real property, standing timber, minerals, natural resources

Seattle Rule 5-532 -- Real estate brokers and salesman

Seattle Rule 5-590 -- Educational institutions, school districts, student organizations, and private schools

Seattle Rule 5-700 -- Amusement, Recreation, and Physical Fitness Services

Seattle Rule 5-720 -- Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc.

Seattle Rule 5-803 -- Consignees, bailees, factors, agents, and auctioneers

Seattle Rule 5-808 -- Advertising agencies

Seattle Rule 5-807 -- Outdoor advertising and advertising display services

**PUBLIC HEARING AND COMMENT:**  
The Department of Executive Administration has scheduled a public hearing on the proposed rule changes for 1:00 p.m. to 3:00 p.m., on Monday, April 4, 2005. The hearing will be held in a conference room on the 40th floor of the Seattle Municipal Tower, Suite 4086, located at 700 5th Avenue. All interested persons are invited to present data, views, or arguments, with regard to the proposed rules, orally at the hearing, or in writing at or before the hearing.

Written comments should be mailed or delivered to:

Department of Executive Administration, Attn.: Mel McDonald, Director, Revenue and Consumer Affairs, 700 5th Avenue - Suite 4250, Seattle, Washington 98104-5076.

The public may inspect copies of the proposed rules at the Revenue and Consumer Affairs offices, 700 5th Avenue, Suite 4200. If you would like a copy of the proposed rules, please call (206) 684-8300, FAX (206) 684-5170, email [rca.bislects@ci.seattle.wa.us](mailto:rca.bislects@ci.seattle.wa.us), or submit a written request to the address above.

Dated: March 21, 2005.

DWIGHT D. DIVELY,

Director, Department of Finance.  
Date of publication in the Seattle Daily Journal of Commerce, March 21, 2005.  
3/21(153890)