

Clerk File No. 309762

The City of Seattle – Legislative Department

Clerk File sponsored by: _____

Clerk File No. 309762
Department of Executive Administration Rule No. 5-030, implementing the Business Tax Ordinance relating to persons making sales through a direct seller's representative.

Related Legislation File: _____

Date Introduced and Referred:	To: (committee):
Date Re-referred:	To: (committee):
Date Re-referred:	To: (committee):
Date of Final Action:	Disposition: Filed

1/23/09

Date Filed with City Clerk

Emilia M. Sanchez

By

Committee Action:

Date	Recommendation	Vote

This file is complete and ready for presentation to Full Council. _____

Full Council Action:

Date	Decision	Vote

THE CITY OF SEATTLE
DIRECTOR'S RULE
IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE
RULE 5-030

Seattle Rule 5-030

Persons making sales through a direct seller's representative.

(1) Definitions.

- (a) "Direct seller" is any person in respect to gross income derived from the business of making sales at wholesale or retail if such person:
 - (i) Does not own or lease real property within the city; and
 - (ii) Does not regularly maintain a stock of tangible personal property in the city for sale in the ordinary course of business; and
 - (iii) Is not a corporation incorporated under the laws of this state; and
 - (iv) Makes sales in the city exclusively to or through a direct seller's representative.
- (b) "Direct seller's representative" means a person who buys consumer products on a buy-sell basis or a deposit-commission basis for resale, by the buyer or any other person, in the home or otherwise than in a permanent retail establishment, or who sells, or solicits the sale of, consumer products in the home or otherwise than in a permanent retail establishment; and
 - (i) Substantially all of the remuneration paid to such person, whether or not paid in cash, for the performance of services described in this subsection is directly related to sales or other output, including the performance of services, rather than the number of hours worked; and
 - (ii) The services performed by the person are performed pursuant to a written contract between such person and the person for whom the services are performed and such contract provides that the person will not be treated as an employee with respect to such purposes for federal tax purposes.

(2) Tax Treatment.

- (a) The RCW provides an exemption under the State's Business & Occupation tax for sales made by a direct seller to or through a direct seller's representative. However, the City of Seattle does not allow a similar exemption under the City's business license tax. Therefore, a person making sales to or through a direct seller's representative is subject to the business license tax in the same manner as other manufacturers, retailers, distributors, or wholesalers.
- (b) If the sale between the direct seller and the direct seller's representative is on a buy-sell basis then the business license tax is due by both the direct seller and the representative (wholesale sale and then a retail sale, respectively).
- (c) If the sale by the direct seller's representative is made on a commission basis then the representative shall report such commissions under the service and other business license tax classification, and the direct seller shall report the total amount of the sale under the retailing classification.

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- (3) **Special Agreement.** A direct seller may enter into an agreement with the Director whereby the direct seller reports the business license tax for their own sales and also those of their representatives. In such case, the representatives will not be required to obtain business licenses

Effective: January, 2009

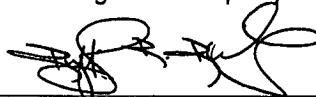
DIRECTOR'S CERTIFICATION

I, Dwight Dively, Finance Director 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 20TH day of January 2009.

CITY OF SEATTLE,
a Washington municipality

By:



Dwight Dively, Director
Finance Department