

THE CITY OF SEATTLE
Director's Rule
Implementing Seattle Business Tax Ordinance

Seattle Rule 5-620 Hospitals, other medical care facilities, and adult family homes.

(1) Introduction. This rule provides tax reporting information to persons operating hospitals, medical care facilities, and adult family homes.

(2) Definitions.

(a) The term "hospital" means only institutions defined as hospitals in RCW 70.41.020. The term includes privately owned and operated hospitals, hospitals operated as nonprofit corporations, hospitals operated by political subdivisions of the state, and hospitals operated by the state but not owned by the state.

(b) The term "nursing home" means only institutions defined as nursing homes in RCW 18.51.010 as now existing and hereafter amended.

(c) The term "adult family home" means private homes licensed by the department of social and health services as adult family homes (see RCW 70.128.010) Adult family homes are differentiated from nursing homes, convalescent homes, or rest homes in that adult family homes do not provide licensed medical care and only allow four to six nonrelated individuals as residents.

(3) Business and occupation (B&O) tax. Hospitals, medical care facilities, and adult family homes are subject to the business and occupation tax as follows:

(a) Service. The gross income derived from personal and professional services of hospitals, nursing homes, convalescent homes, clinics, rest homes, health resorts, and similar health care institutions is subject to business and occupation tax under the service and other activities classification. The gross income derived from research and development at hospitals or other medical care facilities is also subject to tax under the service classification.

(i) Service income to be apportioned. Persons operating hospitals, medical care facilities, and adult family homes, and those providing other professional services shall apportion income subject to tax under the service classification used by multiplying apportionable income by a fraction, the numerator of which is the payroll factor plus the service and other business activity income factor and the denominator of which is two, as provided by SMC 5.45.081.F and prescribed by RCW 35.102.130.

(b) Retailing. The retailing business and occupation tax applies to sales by such persons of tangible personal property sold and billed separately from services rendered. Sales of drugs, medicines, prescription lenses, orthotic devices, medical oxygen, prosthetic devices, ostomic items or other substances prescribed by medical practitioners are subject to the retailing tax if sold and billed separately from services rendered. However, this does not include charges to patients for tangible personal property which is used in

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providing medical services to a patient, even if separately billed. Tangible personal property which is used in providing medical services is not considered to have been sold separately from the medical services simply because those items are separately invoiced. These charges, even if separately itemized, are for providing medical services and are taxable under the "service" classification. However, making copies of medical records is considered to be a separate activity from that of providing medical services and any income from this activity is subject to the retailing tax. (For tax liability of hospitals on sales of meals, see Seattle Rule 5-404.)

(4) Exemptions and deductions. The following exemptions and deductions apply:

(a) Adult family homes. Gross income derived from personal and professional services of adult family homes which are licensed as such, or which are specifically exempt from licensing under the rules of the department of social and health services is exempt from business license tax per SMC 5.45.090.A.

(b) The gross income received by the United States or any instrumentality thereof, by the state, or any municipal subdivision thereof, or by any religious society, religious association or religious corporation through the operation of any hospital, clinic, resort or other institution devoted exclusively to the care or healing of human beings may be excluded from the measure of tax; provided, that no exemption is granted where the income therefrom inures to the benefit of any physician, surgeon, stockholder or individual by virtue of ownership or control of such hospital, clinic, resort or other institution. SMC 5.45.090.J.

(c) Contributions, donations and endowment funds. Amounts received as contributions, donations and endowment funds may be deducted from gross income, provided that no specific service is performed as a condition for receiving the funds. Amounts received as grants are taxable if specific services are performed as a condition for receiving the grant. (See Seattle Rule 5-066.)

(d) Health and social welfare organizations. There may be deducted from the measure of tax amounts received from the United States or any instrumentality thereof or from the State of Washington or any municipal corporation or political subdivision thereof as compensation for, or to support, health or social welfare services rendered by a health or social welfare organization (as defined in RCW 82.04.431) or by a municipal corporation or political subdivision, except deductions are not allowed under this section for amounts that are received under an employee benefit plan. For purposes of this subsection, "employee benefit plan" includes the military benefits program authorized in 10 U.S.C. Sec. 1071 et seq., as amended, or amounts payable pursuant thereto. SMC 5.45.100.F.

For purposes of the deduction provided by SMC 5.45.100.F, "employee benefit plan" includes any plan, trust, commingled employee benefit trust, or custodial arrangement that is subject to the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. Sec. 1001 et seq., or that is described in sections 125, 401, 403, 408, 457, and 501

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(c)(9) and (17) through (23) of the Internal Revenue Code of 1986, as amended, or a similar plan maintained by a state or local government, or a plan, trust, or custodial arrangement established to self-insure benefits required by federal, state, or local law.

(e) Amounts received under a health service program subsidized by federal or state government. A nonprofit community health center, or a network of nonprofit community health centers that qualifies as a health and social welfare organization as defined in RCW 82.04.431, may deduct from the measure of B&O tax amounts received as compensation for health care services covered under the federal Medicare program authorized under Title XVIII of the federal Social Security Act; or for the state of Washington basic health plan under chapter 70.47 RCW. This deduction applies to amounts received directly or through a third party from the qualified programs or plans. However, this deduction does not apply to amounts received from patient copayments or patient deductibles. The deductible amounts should be included in the gross income reported on the excise tax return and then deducted on the return to determine the amount of taxable income. Deductions taken must be identified on the appropriate deduction detail page of the excise tax return.

For purposes of the deduction, "community health center" means a federally qualified health center as defined in 42 U.S.C. Sec. 1396d as it existed on August 1, 2005.

(f) Beginning January 1, 2000 any health maintenance organization, health care service contractor, or certified health plan may exclude from the B & O tax those amounts in respect to premiums or prepayments that are taxable under RCW 48.14.0201. Such exemption, however, does not apply to health care services directly delivered by the employees of a health maintenance organization under RCW Chapter 48.46. SMC 5.45.090.Y.

(g) Life Sciences Research and Development. Hospitals may deduct from the measure of tax, funding provided by the United States, the State of Washington, local or municipal governments or any instrumentality thereof, as compensation for research and development in the life sciences. Such funding as compensation may be provided directly to the hospital or to the hospital as a sub-recipient. The amounts received must be included in gross income; and, the deduction is limited to amounts expended for the life science research and development and support for research and development. Any hospital claiming the life science research and development deduction must also file a complete annual survey with the department. (See Seattle Rule 5-069). SMC 5.45.100.W.

(5) Adjustments to revenues. Many hospitals will perform charity care where medical care is given without charge or some portion of a charge canceled. In other cases, medical care is billed to patients at "standard" rates, but later adjusted to reduce the charges to the rates established by contract with Medicare, Medicaid, or with private insurers. In these situations the hospital must initially include the total charges billed to the patient as gross income unless the hospital's records clearly indicate the amount of income to which it will be entitled under its contracts with insurance carriers. Where tax returns are initially filed based on gross charges, an adjustment may be taken at the time

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of filing future tax returns after the hospital has adjusted its records to reflect the actual amounts collected. In no event may the hospital reduce its current revenue by amounts which were not previously included in the taxable base. If the tax rate changes from the time the B&O tax was first paid on the gross charges and the time of the adjustment, the hospital must file amended tax returns to report the B&O tax on the transaction as finally completed at the rate in effect at the time the service was performed.

(6) Congregate care facilities or nursing homes which provide significant nursing or medical services are fully taxable on their gross income. Contracts between nursing homes and their patients cannot be bifurcated in order to exclude charges for room rentals. This is in contrast to retirement homes where very few medical services are provided. Retirement homes are generally rentals of real estate, and rents, meals, and other services provided are exempt from the business and occupation tax. In congregate care facilities and boarding homes where there is a rental of real estate and also significant medical and or food services provided, the charges for the medical and food services would be taxable, and the rental of the real estate would be exempt. If any of these facilities, as part of their regular business practices, account separately in their books and records for the value of these services included in a bundled price, they should only include in the measure of the B&O tax the amounts that are allocated to meals, housekeeping, utilities, and other services provided. The amount representing rent shall be excluded. Taxpayers that do not separately account for bundled products in their books and records must use a cost method, or some other reasonable method to establish the value of services provided. A rental of real estate can be indicated by the following characteristics:

- (a) The rooms have a door capable of being locked and to which the residents are furnished a key.
- (b) Agreements exist whereby residents receive rights to occupy the space for at least 30 consecutive days.
- (c) Room sharing arrangements are completely consensual between the residents and the residents are given a wide latitude in selecting a roommate.
- (d) The residents are able to furnish their rooms with personal furniture if they wish.

Refer to Seattle Rule 5-530 for additional information concerning rental of real estate.

(7) Miscellaneous services provided by Hospitals, nursing homes, retirement homes, assisted living facilities and other residential facilities will be taxable under the following circumstances:

- (a) Guest Room Rentals. When a retirement home or nursing home regularly rents out rooms to nonresidents on a temporary basis (not more than 30 contiguous days), it is carrying out a commercial activity similar in nature to a hotel and therefore subject to the City's retailing B&O tax.

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- (b) Janitorial/Maid Service. When these services are provided in conjunction with the rental charge as evidenced by the rental/lease agreement, then the services will be deemed part of the rent and not subject to the City's B&O tax. However, in those instances where the services are optional for the residents, as provided for in the rental/lease agreement, and there is a charge stated separate and apart from the rent, then these charges will be subject to the City's service B&O tax.
- (c) Catering Activities. Caterers and concessionaires are subject to the City of Seattle's retailing B&O when they prepare meals and sell the meals to the home. Where the facility is acting as the caterer, the facility will be subject to the B&O tax.
- (d) Other Services. Services rendered by employees or subcontractors of the facility for which a charge, separate from the monthly rental charge, is collected are subject to the B&O tax. These services are generally commercial in nature and are fully taxable. Examples of other services include beautician services, barber services, manicures, pedicures, and short-term parking. These services are taxable under the applicable B&O tax classification.

(8) Meals and Sales of meals. Although the sale of meals is generally considered to be a retail sale, hospitals, nursing homes, and similar health care facilities that furnish meals to patients or residents as a part of the services provided to those patients or residents are not considered to be making retail sales of meals. Thus amounts received by hospitals, nursing homes, boarding homes, and similar health care facilities for furnishing meals to patients or residents as part of the services provided to those patients or residents are subject to B&O tax under the service and other activities except for organizations operated by governmental or religious entities pursuant to SMC 5.44.450H. Hospitals, nursing homes, boarding homes, and similar health care facilities may have restaurants, cafeterias, or other dining facilities where meals are sold for cash or credit to doctors, nurses, other employees, and visitors. Some of these facilities may provide meals to their employees at no charge. Under these circumstances, all sales of meals to such persons are subject to retailing B&O tax. For additional information regarding the sale of meals, including meals furnished to employees, refer to Seattle Rule 5-404 (Sales of meals). Hospitals, nursing homes, boarding homes, and similar health care facilities that provide free meals to persons other than employees, such as visitors, should refer to Seattle Rule 5-405 (Restaurants, cocktail bars, taverns and similar businesses) for information about the taxability of meals given away free of charge.

(9) Parking. The City imposes a parking tax for the act or privilege of parking a motor vehicle in a commercial parking lot within the city of Seattle. Hospitals, nursing homes, boarding homes, and other health care facilities that charge fees for the act or privilege of parking a motor vehicle in a covered or uncovered area that the health care facility manages, owns, or operates, is deemed a commercial parking business and is required to collect and remit the commercial parking tax imposed under SMC 5.35.030. (See Seattle Rule 5-925, Parking Tax Computations.)

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(10) Telephone charges. If the hospital, nursing home, boarding home, or other health care facility 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. (See Seattle Rule 5-300, Telecommunications service, telephone business, and telephone service.)

DIRECTOR'S CERTIFICATION

I, Glen Lee, 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 Finance and Administrative Services.

DATED this 16th day of September 2014.

CITY OF SEATTLE,

a Washington municipality

By: _____

Glen Lee, Finance Director

Department of Finance and Administrative Services

Effective date: September 16, 2014

FILED
CITY OF SEATTLE

2014 SEP 16 PM 4:26

CITY CLERK

MEMORANDUM

TO: Monica Martinez Simmons, City Clerk

FROM: Glen Lee, Finance Director
Joseph Cunha, City Tax Administrator
License & Tax Administration

DATE: September 16, 2014

RE: The Official Published Notice:
**Director's Business Tax Rules adoption for SMC Chapter 5.45
Effective September 16, 2014**

Please file the attached paperwork concerning the following City of Seattle "Tax Rules" 5-620 Hospitals, other medical care facilities, and adult family homes; 5-522 International Investment Management Services Rule; 5-012 Refunds; 5-129 Tribes and Tribal Members/Citizens; and, 5-521 Stock Brokers and Security Houses.

An Affidavit of Publication for the "Notice of Proposed Rule Hearing and Opportunity to Comment" that went to the *Daily Journal of Commerce* for publication on August 6, 2014 is also included in this packet. The required public hearing was held on August 19, 2014 at 10:00 A.M. in Seattle Municipal Tower.

If we can provide any additional information, please let us know. You may contact Joseph Cunha, at 233-7820 for any questions.

STATE OF WASHINGTON -- KING COUNTY

--SS.

314156
CITY OF SEATTLE:FINANCE&ADMIN

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 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

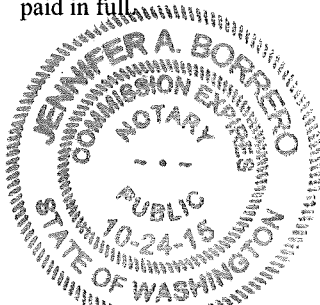
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:TAX RULE HEARING

was published on

08/06/14

The amount of the fee charged for the foregoing publication is the sum of \$104.65 which amount has been paid in full.



Affidavit of Publication

[Handwritten Signature]

Subscribed and sworn to before me on
08/06/2014

[Handwritten 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 5.55, proposes to adopt new rules for implementing the Seattle Business License 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 5.35 (Commercial Parking Tax), SMC 5.40 (Admissions Tax), SMC 5.48 (Business Tax - Utilities), SMC 5.52 (Gambling Tax), and SMC 5.55 (General Administrative Provisions). The following rules are proposed for adoption or amendment and will become effective as of September 9, 2014:

Seattle Rule 5-015 Refunds

Seattle Rule 5-129 Tribes and Tribal members/Citizens

Seattle Rule 5-521 Stockbrokers and Security Houses

Seattle Rule 5-522 International Investment Management

Seattle Rule 5-620 Hospitals, other medical care facilities, adult family homes

PUBLIC HEARING AND COMMENT:
The Department of Executive Administration has scheduled a public hearing on the proposed rule changes for 10:00 p.m. to 12:00 p.m., on Tuesday, August 19, 2014. The hearing will be held in a conference room on the 40th floor of the Seattle Municipal Tower, Suite 4070, located at 700 Fifth 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 Finance and Administrative Services

Attn: Joseph A. Cunha, Tax Manager
License and Tax Administration

700 Fifth Avenue - Suite 4250

P.O. Box 34214

Seattle, Washington 98124-4214

The public may inspect copies of the proposed rules at the License and Tax Administration offices, 700 Fifth Avenue, Suite 4250. If you would like a copy of the proposed rules, please call (206) 233-3789, FAX (206) 684-5170, email: rca.bizlictx@seattle.gov, or submit a written request to the address above.

Glen Lee, Finance Director,
Department of Finance and
Administrative Services

Date of publication in the Seattle Daily
Journal of Commerce, August 6, 2014.

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