

**Seattle Rule 5-129 Tribes and Tribal Members/Citizens**

2016 JUL 19 PM 3:43

- (1) Introduction. This section explains the Seattle business license tax as it relates to sales to and on Tribal reservations.

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- (2) Definitions. As used herein:

- (a) The term "Indian," as used herein, means a person on the tribal rolls of an Indian Tribe. A person on the tribal rolls is also known as an "enrolled member" or a "member" or an "enrolled person" or an "enrollee" or a "tribal member." The term includes only those persons who are enrolled with the tribe upon whose territory a business activity takes place and does not include Indians who are members of other tribes.
- (b) The term "Indian country" has the same meaning as given in 18 U.S.C. 1151 and means:
- (i) All land within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and including rights of way running through the reservation;
  - (ii) All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state; and
  - (iii) All Indian allotments, the Indian titles to which have not been extinguished, including rights of way running through the same.
- (c) The term "Indian reservation" as used herein, means all lands, notwithstanding the issuance of any patent, within the exterior boundaries of areas set aside by the United States for the use and occupancy of Indian tribes by treaty, law, or executive order and that are areas currently recognized as "Indian reservations" by the United States Department of the Interior. The term includes all lands within the exterior boundaries of the reservation owned by non-Indians as well as land owned by Indians and Indian tribes and it includes any land that has been designated "reservation" by federal act.
- (d) The term "Indian tribe," as used herein, means an Indian nation, tribe, band or other entity recognized as an "Indian tribe" by the United States Department of the Interior. The phrase "federal recognized Indian tribe" and the term "tribe" have the same meaning as "Indian tribe."
- (e) The following Washington tribes are the only "Indian tribes" currently recognized as such by the United States Department of Interior as of November 2012: Chehalis, Colville Confederated Tribes, Cowlitz, Hoh, Jamestown S'Klallam, Kalispel, Lower Elwha Klallam, Lummi Nation, Makah, Muckleshoot, Nisqually, Nooksack, Port Gamble S'Klallam, Puyallup, Quileute, Quinault, Samish, Sauk-Suiattle, Shoalwater Bay, Skokomish, Snoqualmie, Spokane, Squaxin Island, Stillaguamish, Suquamish, Swinomish, Tulalip, Upper Skagit, and Yakama Nation.

- (f) The term "Nonmember," as used herein, means a person not on the tribal rolls of the Indian tribe.
  - (g) The term "Treaty fishery" means the fishing and shellfish rights preserved in a tribe's treaty, a federal executive order, or an act of Congress. It includes activities such as harvesting, processing, transporting, or selling, as well as activities such as management and enforcement.
- (3) Business License Tax Certificate.
- (a) Tribal members/citizens must obtain a business license tax certificate if they are engaging in business within the City of Seattle.
- (4) Business License Tax.
- (a) Sales of tangible personal property.
    - (i) With the exception of treaty fishery activity, Indians conducting business outside of Indian country and within the City of Seattle are subject to the business license tax.
    - (ii) If an Indian or tribe with a Business License Tax Certificate engages in a business activity within Indian country, then the activity is not subject to the business license tax.
    - (iii) Income derived from treaty fishing rights-related activity is not subject to the business license tax.
    - (iv) Income from non-member sales of tangible personal property to the tribe or to tribal members is not subject to B&O tax if the tangible personal property is delivered to the buyer in Indian country and if:
      - (A) The property is located in Indian country at the time of sale; or
      - (B) The seller has a branch office, outlet, or place of business in Indian country that is used to receive the order or distribute the property; or
      - (C) The sale of the property is solicited by the seller while the seller is in Indian country.

When these conditions are not met, the seller must pay B&O tax on its business activity.

Example: A tribal member purchases furniture from a store in the City of Seattle. The tribal member presents identification to the store owner and requests delivery to the reservation upon which he or she is a tribal member. In this case, business license tax is not due. However, if the tribal member takes possession of the furniture inside of Seattle, business license tax is due.

- (b) Retail services.
  - (1) The business license tax is not imposed if the retail service, such as construction or repair services, is performed for the member or tribe in Indian country.
  - (2) In the case of a retail service that is performed both on and off Indian country, only the portion of the contract that relates to work done in Indian country is

excluded from tax. The work done for a tribe or tribal member outside of Indian country is subject to the business license tax.

- (3) Construction in Indian Country performed for nonmembers is treated like construction that occurs outside of Indian Country.

Example: A company performing road work for a tribe or tribal member both inside and outside of Indian country reports revenue generated from work conducted outside of Indian country. Any work performed within the boundaries of Indian country is exempt from the business license tax.

Example: A contractor enters into a contract with a tribe to install a sewer line that extends off reservation. Only the income attributable to the installation of the portion of the sewer line off reservation is subject to the business license tax.

(c) Professional services.

- (1) Income from the performance of services (e.g. accounting, legal, or dental) in Indian country for the tribe or for tribal members is not subject to the business license tax. Services provided outside of Indian country for a tribe or tribal members are subject to the two-factor service apportionment method in accordance with SMC 5.45.081.

#### DIRECTOR'S CERTIFICATION

I, Glen M. 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 14 day of July 2016.

CITY OF SEATTLE,

a Washington municipality

By: \_\_\_\_\_

Glen M. Lee, Finance Director

Department of Finance and Administrative Services

Effective date: July 14, 2016

## MEMORANDUM

TO: Monica Martinez Simmons, City Clerk

FROM: Glen Lee, Finance Director  
Joseph Cunha, City Tax Administrator, and  
Mark Watterson, Tax Audit Manager  
License & Tax Administration

DATE: July 19, 2016

RE: The Official Published Notice:  
**Director's Business Tax Rules amendments and adoption for SMC  
Chapter 5.45 effective July 14, 2016**

FILED  
CITY OF SEATTLE  
2016 JUL 19 PM 3:41  
CITY CLERK

Please file the attached paperwork concerning the following amended City of Seattle "Tax Rules":

- 5-002 Business License Requirements
- 5-003 Business license suspension and revocation
- 5-004 Transfer of business license
- 5-005 Time payments
- 5-007 Penalties
- 5-008 Recordkeeping requirements
- 5-009 Limitations on tax assessments
- 5-012 Refunds
- 5-030 Persons making sales through a direct seller's representative
- 5-034 Finance charges, carrying charges, interest and penalties
- 5-039 Employees distinguished from persons engaging in business
- 5-043 Engaging in business
- 5-064 Credit losses, bad debts, recoveries
- 5-127 Sales to, and by, the State of Washington, counties, cities, school districts and other municipal subdivisions
- 5-129 Tribes and Tribal members/Citizens
- 5-132 Leased departments
- 5-133 Warranties and maintenance agreements
- 5-404 Sales of meals
- 5-481 Motor carriers - Trucking
- 5-531 Sales of real property, standing timber, minerals, natural resources
- 5-901 Admission tax exemption

Please file the attached paperwork concerning the following adopted City of Seattle "Tax Rule":

5-193 Waterborne Transportation

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 May 27, 2016 is also included in this packet. The required public hearing was held on June 16, 2016 at 10:00 A.M. in Seattle Municipal Tower.

If we can provide any additional information, please let us know. You may contact Mark Watterson, Tax Audit Manager (206) 233-7095 for any questions.

STATE OF WASHINGTON -- KING COUNTY

--SS.

337883

No.

CITY OF SEATTLE:FINANCE&ADMIN

**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.

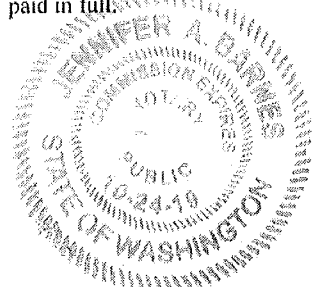
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:PROPOSED RULE MAKING

was published on

05/27/16

The amount of the fee charged for the foregoing publication is the sum of \$159.50 which amount has been paid in full.



Affidavit of Publication

05/27/2016

Subscribed and sworn to before me on

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 5.56, proposes to adopt new rules for implementing the Seattle Business License Tax Ordinance (Seattle Municipal Code Chapters 5.45 and 5.40). Please note that although these rules are applicable to SMC 5.45 and 5.40, 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 July 15, 2016:

Seattle Rule 5-002 Business license requirements

Seattle Rule 5-003 Business license suspension and revocation

Seattle Rule 5-004 Transfer of business license

Seattle Rule 5-005 Time payments

Seattle Rule 5-007 Penalties

Seattle Rule 5-008 Recordkeeping requirements

Seattle Rule 5-009 Limitations on tax assessments

Seattle Rule 5-012 Refunds

Seattle Rule 5-030 Persons making sales through a direct seller's representative

Seattle Rule 5-034 Finance charges, carrying charges, interest and penalties

Seattle Rule 5-039 Employees distinguished from persons engaging in business

Seattle Rule 5-043 Engaging in business

Seattle Rule 5-064 Credit losses, bad debts, recoveries

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

Seattle Rule 5-129 Tribes and tribal members/citizens

Seattle Rule 5-132 Leased departments

Seattle Rule 5-133 Warranties and maintenance agreements

Seattle Rule 5-193 Waterborne transportation

Seattle Rule 5-404 Sales of meals

Seattle Rule 5-481 Motor carriers - Trucking

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

Seattle Rule 5-901 Admission tax exemption

**PUBLIC HEARING AND COMMENT:**  
The Department of Finance and Administrative Services has scheduled a public hearing on the proposed rule changes for 10 a.m. to noon, on June 16, 2016. The hearing will be held in a conference room on the 40th floor of the Seattle Municipal Tower, Suite 4090, located at 700 Fifth Ave. 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: Mark Watterson, Tax Manager

License and Tax Administration

700 Fifth Ave. - Suite 4250

P.O. Box 34214

Seattle, WA 98124-4214

The public may inspect copies of the proposed rules at the License and Tax Administration offices, 700 Fifth Ave., Suite 4250. If you would like a copy of the proposed rules, please call (206) 235-3769, FAX (206) 884-5170, email: tax@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, May 27, 2016.

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