

Seattle Rule 5-133 Warranties and Maintenance Agreements

2016 JUL 19 PM 3:43

CITY CLERK

(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. retail sales and retail services or wholesaling).

(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 under the retail sales and retail services classification of the business license tax.

(ii) When a repair is made by the warrantor under a warranty that was separately 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 wholesale sale of the repair service to the warrantor. The person making the repair is liable for business license tax under the wholesaling tax classification provided the warrantor provides the person making the repair with a reseller permit.

(c) Maintenance agreements. Maintenance agreements (service contracts) require the periodic specific performance of inspecting, cleaning, physical servicing, altering, and/or 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, or items not included in the definition of a retail sale, should be reported under the service classification. Additional guidance on maintenance agreements for software is included in Rule 5-500 "Computer Software."

(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.

(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 retail sales and retail services 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 wholesale sale to the dealer, if the dealer provides the subcontractor with a copy of its reseller permit.

#### 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.

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STATE OF WASHINGTON -- KING COUNTY

--SS.

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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.

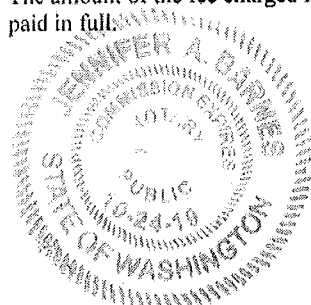
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

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 5.55, proposes to adopt new rules for implementing the Seattle Business License Tax Ordinances (Seattle Municipal Code Chapters 5.45 and 5.49). Please note that although these rules are applicable to SMC 5.45 and 5.49, 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) 684-5170, 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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