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Seattle Rule 5-193 "Interstate Activities of Waterborne Transportation."

CITY CLERK

(1) Introduction. This section explains the Seattle business and occupation tax on activities involving waterborne transportation of persons or property.

(2) Business and Occupation Tax.

(a) Service Tax. In computing tax there may be deducted from gross income the amount thereof derived as compensation for performance of services which in themselves constitute interstate or foreign commerce to the extent that a tax measured thereby constitutes an impermissible burden upon interstate or foreign commerce. A tax does not constitute an impermissible burden upon interstate or foreign commerce unless the tax discriminates against that commerce by placing a burden thereon that is not borne by intrastate commerce, or unless the tax subjects the activity to the risk of repeated exactions of the same nature from other states. Transporting across the state's boundaries is deductible, whereas supplying such transporters with facilities, arranging accommodations, providing funds and the like, by which they engage in such commerce is taxable.

(1) Deductible income. Deductible income includes the income from those activities which consist of the actual transportation of persons or property across the state's boundaries.

(2) Taxable income. Taxable income includes, but is not limited to:

(i) Compensation received by persons engaged in business within this City for the performance of business activities which are only ancillary to waterborne transportation across the state's boundaries is taxable.

(ii) Compensation received by merchandise brokers or commission merchants for services rendered to principals engaged in interstate or foreign commerce is taxable.

(iii) Compensation received by contracting, stevedoring or loading companies for services performed within this City is taxable.

(iv) Compensation received for hauling goods to the dock or railhead by a person who is not responsible for transporting the goods across state boundaries is taxable.

(b) Persons engaged in stevedoring and associated activities involving the movement of goods and commodities in waterborne interstate or foreign commerce are subject to service business tax upon the gross proceeds from such activities. Stevedoring and associated activities means all activities of a labor, service or transportation nature whereby cargo is loaded or unloaded to or from vessels or barges, passing over, onto, or under a wharf, pier, or similar structure, including also the moving of cargo to a warehouse or similar holding or

storage yard or area to await further movement in import or export; also the movement to a consolidation freight station to be stuffed, unstuffed, containerized, separated or otherwise segregated or aggregated for delivery or loading on any mode of transportation for delivery to its consignee. Specific activities included in this definition are: wharfage, handling, loading, unloading, moving of cargo to a convenient place of delivery to the consignee or a convenient place for further movement to export mode; documentation services in connection with the receipt, delivery, checking, care, custody and control of cargo required in the transfer of cargo; imported automobile handling prior to delivery to consignee; terminal stevedoring and incidental vessel services, including but not limited to plugging and unplugging refrigerator services to containers, trailers, and other refrigerated cargo receptacles, and securing ship hatch covers.

(c) Persons engaging in business as an international steamship agent, international customs house broker, international freight forwarder, vessel and/or cargo charter broker in foreign commerce, or international air cargo agent are subject to the service business tax upon gross income with respect to such international activities.

(3) Persons, including dock companies or wharfage companies, are permitted no deduction from gross income of amounts received for services performed in this City consisting of the handling of cargo or freight even though such cargo or freight has moved or will move across the state's boundaries.

(4) No deduction is permitted with respect to gross income derived from activities which are ancillary to transportation across the state's boundaries, which as income received by a wharf company or warehouse company for the storage of goods. The mere ownership or operation of facilities by means of which others engage in foreign or interstate commerce is an activity ancillary to such commerce and any income received therefrom is taxable.

Insofar as the transportation of goods is concerned, the interstate movement of cargo or freight ceases when the goods have arrived at the destination to which it was billed and carried by the out-of-state shipper, and no deduction is permitted of the gross income derived from transporting the same goods by another shipper under a new contract of carriage from such point of destination in this city to another point within this state. Thus, freight is billed from San Francisco, or foreign point, to Seattle. After arrival in Seattle it is transported to Spokane under another contract. No deduction is permitted of the gross income received for the transportation from Seattle to Spokane. Again, freight is billed from San Francisco, or a foreign point, to a line carrier's terminal, or a public warehouse in Seattle. After arrival in Seattle it is transported under another contract from the line carrier's terminal or public warehouse to the buyer's place of business in Seattle. However, if the movement of freight is under a continuous contract and bill of lading from an interstate or foreign location to a location in Seattle, the freight carrier operating under the continuous contract and bill of lading is entitled to a deduction from tax.

The interstate movement of cargo or freight begins when the goods are committed to a carrier for transportation out of the state, and the carrier starts the transportation to a point outside the state.

For transportation of goods by way of motor carrier and other trucking activities, refer to Rule 5-481.

(5) Service income to be apportioned.

(a) Income taxable under the service and other business activities tax classification, other than sales of intangibles, must be apportioned using the two-factor apportionment method in SMC 5.45.081(F) and RCW 35.102.130(3).

(b) Deductions allowed for actual transportation of persons or property across state boundaries may be deducted from worldwide service and other business activity income to arrive at total apportionable income. SMC 5.45.081(G)(1).

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

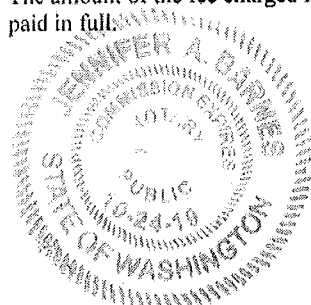
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:PROPOSED RULE MAKING

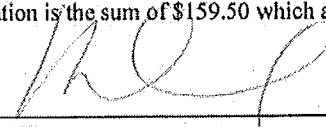
was published on


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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