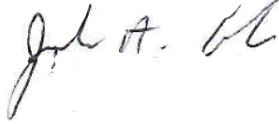






## Director's Rule Template

Department:  <b>City of Seattle</b> <b>Department of Finance and Administrative Services</b>	Rule No: <b>5-960</b>	Supersedes: <b>N/A</b>
	Publication: <b>February 18, 2020</b>	Effective:
Subject: <b>Heating Oil Tax</b>	Code and Section Reference(s): <b>SMC 5.47; SMC 5.30.050(B)</b>	
Approved:  <hr/> Division Director   <hr/> Business Unit Officer   <hr/> Calvin W. Goings, Department Director	<hr/> Date   <hr/> Date   07/16/2020 <hr/> Date	

### 1. Purpose

This rule aids heating oil service providers on reporting requirements of the new heating oil tax. The new rule is the result of Seattle Ordinance 125934. The rule helps to clarify certain language in the ordinance and provide examples for taxpayers on report and paying the tax.

### 2. Rule

A \$0.236 per gallon tax is imposed upon every person within the City engaging in the business of making retail sales of heating oil and delivered to the buyer or the buyer's representative within the City.

### 3. Definitions

**“Biodiesel”** means monoalkyl esters of long-chain fatty acids derived from plant or animal matter that meet the registration requirements for fuels and fuel additives established by the United States Environmental Protection Agency and standards established by ASTM International. Biodiesel feedstocks include non-palm-based vegetable oils, yellow grease, used cooking oil, or animal fats. For the purposes of this section, biodiesel does not include fuel made with palm oil.

**“Heating oil”** means any petroleum product used for space and water heating in oil-fired furnaces, heaters, and boilers, including stove oil, diesel fuel, or kerosene. “Heating oil” does not include petroleum products used as fuels in motor vehicles, marine vessels, trains, buses, aircraft, or any off-highway equipment not used for space heating, or for industrial processing or the generation of electrical energy.

**“Heating oil service provider”** means any person engaging in the business of making retail sales of heating oil.

**“Petroleum-based product”** means any product derived from the refining of crude oil.

## Seattle Rule 5-960

### Heating Oil Tax

- (1) **Introduction.** The use of heating oil emits carbon pollution that would be lessened substantially if heating oil users converted to electric systems. Heating oil is also the most expensive heating fuel burdening low-income households. Electric and natural gas utilities provide energy conservation programs that include financial incentives to their own residential customers and not to households that use heating oil instead of gas or electricity.

Utilizing its taxing authority granted by the Washington State Constitution and the Washington State Legislature, the City of Seattle will impose a tax on retail sales of heating oil in the City. Revenue generated from a heating oil tax will be used to transition households, especially those with lower-incomes, to cleaner and more energy-efficient heating.

- (2) **Definitions.** For purposes of this rule, the following definitions will apply.
- (a) **"Biodiesel"** means monoalkyl esters of long-chain fatty acids derived from plant or animal matter that meet the registration requirements for fuels and fuel additives established by the United States Environmental Protection Agency and standards established by ASTM International. Biodiesel feedstocks include non-palm-based vegetable oils, yellow grease, used cooking oil, or animal fats. For the purposes of this section, biodiesel does not include fuel made with palm oil.
  - (b) **"Heating oil"** means any petroleum product used for space and water heating in oil-fired furnaces, heaters, and boilers, including stove oil, diesel fuel, or kerosene. "Heating oil" does not include petroleum products used as fuels in motor vehicles, marine vessels, trains, buses, aircraft, or any off-highway equipment not used for space heating, or for industrial processing or the generation of electrical energy.
  - (c) **"Heating oil service provider"** means any person engaging in the business of making retail sales of heating oil.
  - (d) **"Petroleum-based product"** means any product derived from the refining of crude oil.
  - (e) **"Sale at retail"** or **"retail sale"** has the same meaning as defined in SMC 5.30.050(B) and includes every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons.

## Seattle Rule 5-960 Heating Oil Tax

- (3) **Tax rate and measure.** The tax is imposed upon every person within the City engaging in the business of making retail sales of heating oil and delivered to the buyer or the buyer's representative within the City.
- (a) The amount of the tax due shall be \$0.236 per gallon of heating oil sold at retail.
- (b) If the heating oil service provider chooses to pass along the tax to its customer, then the tax must be identified and stated as a separate line item on a customer invoice or an attachment to the invoice. The separate line item must specifically state that the tax amount is for the "City of Seattle Heating Oil Tax."
- (c) The heating oil taxes collected from customers are included in gross receipts for the Seattle Business License tax. The heating oil taxes collected are not a deductible expense.
- (4) **Exemptions.** The following are expressly exempt from the tax:
- (a) **Biodiesel.** The sale of biodiesel for purposes of space and/or water heating is exempt from the tax and the heating oil service provider shall separately report to the City the heating oil and any biodiesel sales, if applicable. The tax shall apply only to the portion of petroleum-based product when the heating oil contains a blend of biodiesel. The biodiesel sales shall be included on the return in the total number of gallons sold and then deducted to report total taxable gallons.
- (5) **Examples.** The following examples identify a number of facts and then state a conclusion. The tax status of each circumstance must be determined after a review of all the facts and circumstances.
- (a) **Example 1:** ABC makes retail sales of heating oil to customers in Seattle. In the 4th quarter of 2020, ABC delivers 5,000 gallons of heating oil a month to customers located in Seattle. As a result, 15,000 gallons of ABC heating oil sales would be subject to the Seattle Heating Oil Tax and the tax due in January would be:

# of Gallons Sold	Biodiesel Deduction # of Gallons Sold	Taxable Gallons	Tax Rate	Tax Due Amount
15,000	-	15,000	x 0.236	3,540.00

- (b) **Example 2:** DEF is located in Bellevue and makes retail sales of heating oil to customers throughout Washington. In the 4th quarter of 2020, DEF delivers 10,000 gallons of heating oil a month to customers located in Seattle. As a result,

### Seattle Rule 5-960 Heating Oil Tax

30,000 gallons of DEF heating oil sales would be subject to the Seattle Heating Oil Tax and the tax would be:

# of Gallons Sold	Biodiesel Deduction # of Gallons Sold	Taxable Gallons	Tax Rate	Tax Due Amount
30,000	-	30,000	x 0.236	7,080.00

- (c) **Example 3:** GHI is located in Seattle and makes retail sales of heating oil to customers throughout Washington. In the 4th quarter of 2020, GHI delivers 20,000 gallons of heating oil a month to customers located in Seattle and 80,000 gallons of heating oil a month to customers in the rest of Washington. Only the 60,000 gallons of heating oil delivered to the buyers within Seattle would be subject to the Seattle Heating Oil Tax and the tax would be:

# of Gallons Sold	Biodiesel Deduction # of Gallons Sold	Taxable Gallons	Tax Rate	Tax Due Amount
60,000	-	60,000	x 0.236	14,160.00

- (d) **Example 4:** JKL makes retail sales of heating oil to customers in Seattle. JKL's heating oil is blended 85% petroleum-based and 15% biodiesel. In the 4th quarter of 2020, JKL delivers 10,000 gallons of heating oil a month to customers located in Seattle. The Seattle Heating Oil Tax would be:

# of Gallons Sold	Biodiesel Deduction # of Gallons Sold	Taxable Gallons	Tax Rate	Tax Due Amount
30,000	(4,500)	25,500	x 0.236	6,018.00

- (e) **Example 5:** MNO makes retail sales of propane gas to customers in Seattle. Propane is one of a group of liquefied petroleum gases (LP gases) and propane is a by-product of natural gas processing and petroleum refining. While propane is petroleum-based product, its sales are not subject to the heating oil tax.

- (f) **Example 6:** QRS is located in Seattle and makes retail sales of mixed-use diesel (aka "red dyed oil"). Most dyed diesel, sold in the U.S., comes with a red coloring and is not usually available for purchase by the public. By law, this dyed oil is only for use in off-road vehicles, such as farm tractors, heavy construction equipment, and generators. On occasion, this red dyed oil is used for space and water

### Seattle Rule 5-960 Heating Oil Tax

heating in oil-fired furnaces. What documentation does QRS need to obtain from a customer if it wishes to exclude mixed-use diesel from the Heating Oil Tax?

QRS will need to obtain documentation from the customer that the mixed-use diesel purchased is not used for heating in oil-fired furnaces but is intended for other purposes. For example, the distributor may secure from the customer a written statement that clearly provides the specific mixed-use diesel is not used for heating in oil-fired furnaces but instead is used for other purposes (e.g. off-road vehicles or other machinery) and the amount of gallons not used for heating oil purposes or the percentage thereof. The document should be signed by an individual authorized to sign off on tax matters for the customer. QRS will need to retain this signed statement as documentation for the mixed-use diesel it excluded from the Heating Oil Tax in this instance. If QRS does not obtain documentation from the customer, then they should remit the Heating Oil tax on the mixed-use diesel delivery to the customer.

- (g) **Example 7:** Same as Example 6, except QRS only has one customer, Amalgamated Operators. Amalgamated is located in Seattle and in the 4<sup>th</sup> quarter purchased 100,000 gallons of mixed-use diesel from QRS. Amalgamated's CFO signed a letter to QRS stating that 50% of the mixed-use diesel purchased will not be used for heating in oil-fired furnaces but instead is used in their construction vehicles. When filing its 4<sup>th</sup> quarter Heating Oil Tax return, QRS would exclude 50,000 gallons of the heating oil purchased by Amalgamated. QRS's tax would be:

# of Gallons Sold	Biodiesel Deduction # of Gallons Sold	Taxable Gallons	Tax Rate	Tax Due Amount
50,000	-	50,000	x 0.236	11,800.00