Ord. 110891 § 1, 1982: Ord. 110579 § 1, 1982: Ord. 110421 § 1, 1982: Ord. 109499 § 1, 1980: Ord. 106024 § 2.100, 1976.)

1.Editor's Note: Ord. 112039 is further clarified by Ord. 112052 which is on file in the City Clerk's Office.

5.32.180License expiration.

Amusement device licenses expire annually on November 30th.
(Ord. 106024 § 2.150, 1976.)

5.32.190Records—Location of devices.

Any person licensed pursuant to this subchapter shall maintain records showing the location of each amusement device license issued to such person. Upon request of the Director, a list specifying the locations shall be provided.
(Ord. 106024 § 2.300, 1976.)

5.32.200Unlawful acts.

A. It is unlawful for any owner, operator, manager or other person in charge of any place or location to permit or allow to be used or played in such place any amusement device not having attached thereto an amusement device license.

B. It is unlawful for the owner of any amusement device to fail to display his/her name and current address on each amusement device when in use or play or available for use or play.

C. It is unlawful for the owner, operator, manager, or other person in charge of any place or location to permit or allow to be used or played in such place any amusement device not having attached thereto the name and current address of the owner of the amusement device.
(Ord. 110579 § 2, 1982: Ord. 106024 § 2.700, 1976.)

Subtitle II Taxes

Chapter 5.40
ADMISSION TAX

Sections:

5.40.010Definitions.
5.40.020Tax levied.
5.40.025Tax exemption—Minimum charge—Schools—PTSAs—Bumbershoot.
5.40.026Tax exemption—Arts, culture, science organizations.
5.40.027Tax exemption—Bowling.
5.40.028Tax exemption—Human services agencies.
5.40.030Cabarets.
5.40.040Swimming pools—Skating rinks—Golf courses.
5.40.050Resort or picnic grounds.
5.40.053Complimentary admission.
5.40.056Discount admission.
5.40.060Ticket numbering and information.
5.40.070Remittance of tax.
5.40.075Computation of time.
5.40.080Certificate of registration—Required—Application.
5.40.085Certificate of exemption—Application, issuance—Cancellation.
5.40.090Certificate of registration—Required—Owner of building to be named.
5.40.100Rules and regulations.
5.40.110Effective date.
5.40.120Receipts to General Fund.
5.40.135Inspection of records and returns.
5.40.140Violation—Penalty.
5.40.150Aiding or abetting violation.

Severability: If any portion of this chapter shall be adjudged invalid, such invalidity shall not affect the portions which are not adjudged invalid.
(Ord. 72495 § 12, 1943.)

5.40.010Definitions.

For the purposes of this chapter, words and terms shall have following meanings:

A. “Admission charge,” in addition to its usual and ordinary meaning, includes but is not limited in meaning to:

1. A charge made for season tickets or subscriptions;

2. A cover charge or a charge made for use of seats or tables, reserved or otherwise, and similar accommodations;

3. A charge made for food or refreshments in any place where any free entertainment, recreation or amusement is provided;

4. A charge made for rental or use of equipment or facilities for purposes of recreation or amusement and, where the rental of the equipment or facilities is necessary to the enjoyment of the privilege for which a general admission is charged, the combined charge shall be considered as the admission charge;

5. A charge made for admission to any theater, dance hall, amphitheater, private club, auditorium, observation tower, stadium, athletic pavilion or field, baseball or athletic park, circus, side show, swimming pool, outdoor amusement park or any similar place; and includes equipment to which persons are admitted for purposes of recreation such as merry-go-rounds, ferris wheels, dodge-ems, roller coasters, go-carts and other rides whether such rides are restricted to tracks or not;

6. A charge made for automobile parking where the amount of the charge is determined according to the number of passengers in an automobile.

B. "College" or "university" means any accredited public or private college, junior college or university, or the recognized student body association thereof insofar as the admission charges received by the college, university, or student body association are budgeted, and applied solely for exhibition, performance, study and/or teaching of the performing arts, visual arts, history, or science. It specifically excludes any athletic department or division or activities of the college or university or of the recognized student body association thereof.

C. "Nonprofit tax-exempt organization" means an organization, corporation, or association organized and operated for the advancement, appreciation, public exhibition or performance, preservation, study and/or teaching of the performing arts (music, drama including puppetry, opera, film arts or dance), visual arts, historic vessels, history, or science, which is currently recognized by the United States of America as exempt from federal income taxation pursuant to Section 501 (c)(1) or (3) of the Internal Revenue Code of 1954, 26 U.S.C. § 501, as now existing or hereafter amended, and a division, department or instrumentality of state or local government devoted to the arts, history or science.

D. "Person" means any individual, receiver, assignee, firm, copartnership, joint venture, corporation, company, joint stock company, association, society, or any group or individuals, acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise.

(Seattle 3-93)

(Ord. 108608 § 1, 1979: Ord. 102719 § 1, 1973: Ord. 91775 § 1, 1963: Ord. 72495 § 1, 1943.)

Cases: The word "refreshment" as used in Seattle Ordinance No. 72495 includes alcoholic as well as nonalcoholic beverages. **Ropo, Inc. v. Seattle,** 67 Wn.2d 574, 409 P.2d 148 (1965.)

5.40.020Tax levied.

A. There is levied and imposed a tax upon everyone, without regard to age, who pays an admission charge as defined in Section 5.40.010 or is admitted, without payment, where an admission charge is collected from other persons as contemplated by Section 5.40.053.

B. The tax here imposed shall be in the amount of five percent (5%) on each admission charge or charge for season or series ticket. Any fraction of tax one-half (1/2) cent or more shall result in a tax at the next highest full cent.

C. Amounts paid for admission by season ticket or subscription shall be exempt if the amount which would be charged to the holder or subscriber for a single admission is fifteen cents ($0.15) or less.

D. Anyone having the use of a box or seat permanently or for a specified period, shall pay, in addition to the tax required for admission under subsections A and B of this section, a tax in the amount of five percent (5%) of the price of such box or seat, the same to be collected and remitted in the manner provided in Section 5.40.070 by the person selling such tickets.

E. If the ticket price is accompanied by a service charge, mailing fee or other ancillary payment, per ticket and/or per order, the admission tax shall be based upon the total sum of the admission price plus any such surcharge(s), whether or not they are printed on the ticket or order.

F. Anyone who is admitted free of charge or at reduced rates to any place for which other persons pay a charge or a regular higher charge for the same privileges or accommodations shall pay an admission tax as contemplated by Sections 5.40.053 and 5.40.056, respectively.

G. When entertainment or admission to an event or activity accompanies the sale of food, refreshments, merchandise, lodging or services, admission taxes are measured by the total price

of the combined transaction, unless the admission price for the entertainment, amusement, rental or use of equipment is printed separately on the ticket or invitation and reflects its true market value as an independent element.
(Ord. 115957 § 1, 1991: Ord. 111449 § 1, 1983: Ord. 110374 § 1, 1982: Ord. 110275 § 1, 1981: Ord. 102719 § 2, 1973: Ord. 98403 § 1, 1969: Ord. 91775 § 2, 1963: Ord. 88748 § 1, 1959: Ord. 87103 § 1, 1958: Ord. 72495 § 2, 1943.)

Cases: The Seattle admission tax is not a municipal excise upon liquor as proscribed by the Washington State Liquor Act, since the sale of liquor and other "refreshments" is only a measure of the tax rather than its incidence. **Ropo, Inc. v. Seattle,** 67 Wn.2d 574, 409 P.2d 148 (1965).

5.40.025Tax exemption—Minimum charge—Schools—PTSAs—Bumbershoot.

The admission tax as defined in Section 5.40.020 shall not apply to anyone paying an admission charge:

1. In the amount of Ten Cents ($0.10) or less; or

2. To any activity of any elementary or secondary school as contemplated by RCW 35.21.280; or

3. To any activity of any Parent-Teacher-Student Association (PTSA), Parent-Teacher Association (PTA), or similar organization, provided that the proceeds of the activity are used to benefit an elementary or secondary school; or

4. To the annual Bumbershoot Festival held on Labor Day and the preceding Thursday, Friday, Saturday and Sunday.

A discount admission shall be subject to tax as contemplated by Section 5.40.056 although the discounted price is Ten Cents ($0.10) or less, unless a criterion in Section 5.40.056 for applying the lower price is satisfied.
(Ord. 116577 § 1, 1993: Ord. 115957 § 2, 1991: Ord. 114708 § 1(part), 1989: Ord. 113498 § 1(part), 1987; Ord. 112813 § 1(part), 1986: Ord. 111449 § 2(part), 1983.)

5.40.026Tax exemption—Arts, culture, science organizations.

A. The admission tax as defined in Section 5.40.020 shall not apply to anyone paying an admission charge:

1. To an opera, concert, dance recital or like musical entertainment, a play, puppet show or dramatic reading, an exhibition of painting, sculpture, or artistic or historical objects or to a museum, historic vessel or science center when all of the following three (3) criteria are met:

a. A college or university or nonprofit tax-exempt organization, as defined in Section 5.40.010 and registered under Sections 5.40.080 and 5.40.085, that meets one (1) or more of the following criteria:

i. Publicly sponsors and through its members, representatives, or personnel promotes, publicizes and distributes most of the tickets for admission; or

ii. Publicly sponsors and presents the event at a facility it owns or leases as lessee for a term of not less than one (1) month; or

iii. Publicly sponsors and:

(A) Performs a major portion of the performance, or

(B) Supplies a major portion of the materials on exhibition, or

(C) When the event is part of a season or series of performances or exhibitions, performs the major portion of the performances or exhibitions in the season or series; and

b. The college, university or nonprofit tax-exempt organization receives the use and benefit of admission charges collected; and

c. In the case of a performance, the seating capacity of the location where the event occurs is three thousand one hundred (3,100) people or less, or, in the case of an exhibition, no more than three thousand one hundred (3,100) people are permitted on the premises at any one time; and

2. To the following activities of nonprofit tax-exempt organizations as defined in Section 5.40.010 and registered under Sections 5.40.080 and 5.40.085:

a. Dinners with entertainment, including but not limited to dinner dances and dinner theaters;

b. Auctions;

c. Fashion shows;

d. Wine or beer tasting parties;

e. Haunted houses;

f. Art lectures and art lecture series;

g. Tours of the following:

i. Homes;

ii. Historical sites;

iii. Historical vessels;

iv. Pubs and taverns;

v. Hotels; and

B. The exemption to the admission tax as provided in this section shall not apply to:

1. An athletic event;

2. An event in which a college, university or nonprofit tax-exempt organization lends its name to an endorsement for an ineligible person for the purpose of invoking the tax exemption.

(Ord. 114708 § 1(part), 1989: Ord. 113498 § 1(part), 1987; Ord. 112813 § 1(part), 1986: Ord. 111449 § 2(part), 1983.)

5.40.027 Tax exemption—Bowling.

A. The admission tax as defined in Section 5.40.020 shall not apply to anyone paying an admission charge to actively participate in bowling or to rent bowling shoes or equipment.

B. The tax shall apply where the person paying the admission charge at a bowling alley is primarily a spectator or passive participant or the admission charge is made for attending or participating in activities other than bowling.

(Ord. 114708 § 1(part), 1989: Ord. 113498 § 1(part), 1987; Ord. 112813 § 1(part), 1986: Ord. 111449 § 2(part), 1983.)

5.40.028 Tax exemption—Human services agencies.

A. When the criteria in subsection B are met, the admission tax as defined in Section 5.40.020 shall not apply to anyone paying an admission charge to the following activities of a nonprofit human services agency:

1. Dinners with entertainment, including but not limited to dinner dances and dinner theaters;
2. Auctions;
3. Fashion shows;
4. Wine or beer tasting parties;
5. Haunted houses;
6. Lectures or lecture series in the organization's area of activity;
7. Tours of the following:
   a. Homes;
   b. Historical sites;
   c. Historical vessels;
   d. Pubs and taverns;
   e. Hotels; and
   f. Facilities of the agency.

B. To qualify, a nonprofit human services agency must meet these criteria:

1. The agency must be organized and operated exclusively for religious or charitable purposes to provide food, clothing, shelter, acute/emergent medical care for those in need; to provide employment and training programs approved by the Washington State Department of Labor and Industries; to provide crisis counseling or intervention; to prevent child or spousal abuse; to furnish travelers aid; to provide disaster relief; or provide similar services;
2. The agency must be recognized by the United States as exempt from federal income taxation pursuant to Section 501 (c)(3) of the Internal Revenue Code of 1954, 26 U.S.C. Section 501 (c)(3), as now existing or hereafter amended; or a division, department or instrumentality of state or local government devoted to human services;
3. The agency must be registered with the Finance Director pursuant to Sections 5.40.080 and 5.40.085 at least thirty (30) days prior to the event.
4. The agency must be fiscally responsible for the event and receive the full benefit and use of the proceeds from the event. If the agency contracts with a non-exempt person to conduct the event on its behalf, the exemption applies only if the exempt agency receives payment of its expenses and charges a net sum equal to at least twenty percent (20%) of the anticipated gross of admission charges.

C. The tax will apply to an event held at a location where the seating capacity is three thousand one hundred (3,100) people or more, or in the case of a facility without reserved seating or outdoors, three thousand one hundred (3,100) people are permitted on the premises at any one (1) time.

(Ord. 117169 § 14, 1994; Ord. 114708 § 1(part), 1989: Ord. 113498 § 1(part), 1987; Ord. 112813 § 1(part), 1986: Ord. 111449 § 2(part), 1983.)

5.40.030 Cabarets.

The admission charge to any cabaret, any private club conducting cabaret activities, or any similar place of entertainment is deemed to be the total amount charged as an admission charge, a cover charge, and/or a charge made for the use of seats and tables reserved or otherwise, and other similar accommodations.

(Ord. 94366 § 1, 1965: Ord. 91775 § 3, 1963: Ord. 88748 § 2, 1959: Ord. 77700 § 1, 1949: Ord. 72495 § 3, 1943.)

5.40.040 Swimming pools—Skating rinks—Golf courses.

The admission charge shall be the amount paid by any person paying more than Fifteen Cents ($0.15) to gain entrance to any building, enclosure or area in which there is a swimming pool, skating rink, golf driving range, miniature golf course, short nine, or other golf course, or to gain entrance to such pool, rink or course itself, or for the use of the facilities thereof, or any rental paid by the person paying for such entry for the use of equipment and facilities supplied him and appropriate to the enjoyment of the privilege for which the admission is charged, or the aggregate thereof. The admission charge shall exclude dues, initiation fees, and maintenance assessments paid by a member of a nonprofit organization to defray administrative expenses or provide for the purposes of the organization and which entitle the member to participate in the organization's activities or use its facilities; provided, that the admission charge shall include any special fees or charges, including greens fees, of more than Fifteen Cents ($0.15) which are separately identified and charged for a particular event, rental or usage and paid by a member for entrance, rental of equipment, or the aggregate thereof as aforesaid and any such charges of more than Fifteen Cents ($0.15) paid by or for guests.
(Ord. 105836 § 1, 1976: Ord. 91775 § 4, 1963: Ord. 90685 § 1, 1961: Ord. 72495 § 4, 1943.)

5.40.050 Resort or picnic grounds.

Anyone paying more than Fifteen Cents ($0.15) to gain admission to any resort or picnic grounds is subject to a tax of three percent (3%) on such admission charge even though such amount includes a charge for use of equipment and facilities such as tables, stoves and bathhouses. If a lesser amount is charged to persons who do not use such equipment and facilities than those who do use such equipment and facilities, the lesser charge is deemed the admission charge. Where a separate charge is made for the use of equipment and facilities, such charge is not subject to the tax levied in this chapter unless it constitutes or is part of an "admission charge." Whenever an organization or club acquires the sole right to use a resort or picnic grounds, solely for the enjoyment of its members or employees and their friends, the amount paid for such right is an amount paid for an admission charge and subject to the tax levied in this chapter; provided, that if the organization or club in turn charges its members or employees all or part of the amount so paid, such charge does not constitute an admission charge subject to the tax levied in this chapter. Amounts paid for the privilege of parking cars in a resort or picnic grounds do not constitute an admission charge unless the amount of such charge is determined by the number of passengers in the automobile or the same charge is made to all persons who enter the resort or grounds, whether on foot or by other means of transportation. If a charge is made for each passenger in an automobile, in addition to a charge for parking facilities, the amount paid for the passengers is an admission charge and subject to the tax levied in this chapter. The tax levied in this chapter shall be paid by the person paying the admission charge and shall be collected and remitted by the person to whom the same is paid in the manner provided in Section 5.40.070.
(Ord. 91775 § 5, 1963: Ord. 72495 § 5, 1943.)

5.40.053 Complimentary admission.

Anyone who is admitted free of charge to any place or for any event for which other persons pay an admission charge shall pay an admission tax measured by the full admission charge, unless:

1. Admission is free to the public generally on the date or for the event; or
2. Admission is free to a general classification of the public (e.g., children, senior citizens, or military personnel in uniform) and the entrant is a member of the classification; or
3. The complimentary admissions are distributed for bona fide charitable purposes or through any bona fide charity, or are distributed through any elementary or secondary school; or
4. The persons so admitted are performers, people assisting in the performance or activity, or bona fide members of the press; or
5. The holder of the certificate of registration has paid the amount of the admission tax on the admission.

(Ord. 115957 § 3(part), 1991.)

5.40.056 Discount admission.

Anyone who is admitted at a reduced price to any place or for any event for which other persons pay a regular, higher admission charge shall pay an admission tax measured by the regular, higher admission charge, unless:

1. The reduced charge is based on the quantity sold or a payment made before a calendar date in advance of the event; or

2. The reduced charge is available to a general classification of the public identified in rates posted or published for the event (e.g., children, senior citizens, or military personnel); or

3. The event is scheduled at a time less convenient for the public (e.g., a matinee or midnight performance); or

4. The reduced charge is based on the presentment of a coupon distributed broadly as a notice or advertisement; or

5. The reduced charge results from the donation of tangible personal property (e.g., food, clothing or toys) at the place of admission as an organized collection for delivery to a bona fide charity.

In cases that satisfy one (1) or more of these conditions, the admission tax shall be measured based on the reduced charge actually paid for admission.
(Ord. 115957 § 3(part), 1991.)

5.40.060Ticket numbering and information.

A. Whenever a charge is made for admission to any place, a serially numbered or reserve seat ticket shall be furnished the person paying such charge unless written approval has been obtained from the Finance Director to use a turnstile or other counting device which will accurately count the number of paid admissions. The established price, service charge, City tax and total price at which every such admission ticket or card is sold shall be separately, conspicuously and indelibly printed or written on the face or back of that part of the ticket which is to be taken up by the management of the place to which admission is gained. It shall be unlawful for anyone to sell an admission ticket or card on which the name of the person conducting the event and the price is not so printed, stamped or written, or to sell or offer to sell an admission ticket or card at a price in excess of the price printed, stamped or written thereon. The admission tax due shall be based on the total sum of the established price plus any service charge printed on the ticket. When a charge is made for admission, a sign must be posted in a conspicuous place on the entrance or ticket office which breaks down the admission charge as follows:

Established Price
Service Charge
(if any)
City Tax
Total Price

It is unlawful to charge a service charge on admission tickets unless the purchaser is fully informed of the purpose of such charge by published or posted notice in advance of the ticket sale.

B. It is unlawful for any person to represent an admission charge or fee for the privilege of entering, attending, or remaining in attendance at any theater, dance, amusement or other place of public performance as a donation or contribution where persons are not admitted or allowed to remain in attendance without payment of such charge or fee.
(Ord. 117169 § 15, 1994; Ord. 106751 § 1, 1977: Ord. 105445 § 1, 1976: Ord. 104652 § 1, 1975: Ord. 102622 § 1, 1973: Ord. 91775 § 6, 1963: Ord. 72495 § 6, 1943.)

5.40.070Remittance of tax.

Anyone, including any municipal or quasi-municipal corporation who receives any payment for any admission charge on which a tax is levied under this chapter shall collect the amount of the tax from the person making the admission payment and shall remit the same to the Finance Director as provided in this section. The tax required to be collected under this chapter shall be deemed held in trust by the person required to collect the same until remitted to the Director as provided in this section. Anyone required to collect the tax imposed under this chapter who fails to collect the same, or who collects the same but fails to remit the same to the Director in the manner prescribed by this chapter shall be liable to the City for the amount of such tax, and shall, unless the remittance be made as required in this section, be guilty of a violation of this chapter whether such failure be the result of his or its own act or the result of acts or conditions beyond his or its control. The tax imposed under this chapter shall be collected from the person paying the admission charge at the time the ad-

mission charge is paid and such taxes shall be remitted by the person collecting the tax to the Director in monthly remittances on or before the fifteenth day of the month next succeeding the end of the monthly period in which the tax is collected or received and accompanied by such reports as the Director shall require: Provided, that the Director for good cause shown, may extend the time for making and filing the return and remittance of the tax due. Payment or remittance of the tax collected may be made by check unless payment or remittance is otherwise required by the Director, but payment by check shall not relieve the one collecting the tax from liability for payment and remittance of the tax to the Director unless the check is in the full and correct amount and until the check is honored. Anyone receiving any payment for admissions shall make out a return upon such forms and setting forth such information as the Director may require, showing the amount of the tax upon admissions for which he is liable for the preceding monthly period, and shall sign and transmit the same to the Director with a remittance for said amount: Provided, that the Director may in his or her discretion require verified annual returns from anyone receiving admission payments setting forth such additional information as he or she may deem necessary to determine correctly the amount of tax collected and payable. If the return provided for in this section is not made and the tax is not collected and paid within twenty-five (25) days after the end of the month in which the tax was collected, the Director shall add a penalty of ten percent (10%) of the tax per month or fraction thereof for each month overdue which shall be added to the amount of the tax due, and remitted in the same manner. Whenever any theater, circus, show, exhibition, entertainment or amusement makes an admission charge which is subject to the tax levied in this chapter, and the same is of a temporary or transitory nature or there exists a reasonable question of financial responsibility, of which the Director shall be the judge, the Director may require the report and remittance of the admission tax immediately upon the collection of the same, at the conclusion of the performance or exhibition, or at the conclusion of the series of performances or exhibitions or at such other times as he or she shall determine; and failure to comply with any requirement of the Director as to report and remittance of the tax as required shall be a violation of this chapter. Everyone liable for the collection and payment of the tax imposed by this chapter shall keep and preserve for a period of five (5) years all unused tickets, ticket manifests, books and all other records from which can be determined the amount of admission tax which he or she was liable to remit under the provisions of this chapter, and all such tickets, books and records shall be open for examination and audit at all reasonable times by the Finance Director or his or her duly authorized agent. Written permission may be granted by the Director to destroy unused tickets prior to the expiration of the five (5) year period.

(Ord. 117169 § 16, 1994: Ord. 114517 § 1, 1989: Ord. 102622 § 2, 1973: Ord. 91775 § 7, 1963: Ord. 88479 § 1, 1959: Ord. 77700 § 2, 1949: Ord. 72495 § 7, 1943.)

5.40.075 Computation of time.

Except as otherwise specifically provided by the provisions of this chapter, in computing any period of days prescribed by this chapter the day of the act or event from which the designated period of time runs shall not be included. The last day of the period shall be included unless it is Saturday, Sunday, or a City legal holiday, in which event the last day of such period shall be the next succeeding day which is neither a Saturday, Sunday, or City legal holiday.

(Ord. 114517 § 2, 1989.)

5.40.080 Certificate of registration—Required—Application.

Any person conducting or operating any place for entrance to which an admission charge is made shall, on a form prescribed by the Finance Director, make application to the Director for issuance of a certificate of registration, the fee for which shall be One Dollar ($1.00), which certificate shall continue valid until December 31st of the year in which the same is issued. Such certificate of registration, or duplicate original copies thereof to be issued without additional charge, shall be posted in a conspicuous place in each ticket or box office where tickets of admission are sold.

(Ord. 117169 § 17, 1994: Ord. 111449 § 3, 1983: Ord. 102719 § 3(part), 1973: Ord. 102622 § 3(part), 1973: Ord 72495 § 8(part), 1943.)

5.40.085 Certificate of exemption—Application, issuance—Cancellation.

A. Any person seeking to secure an exemption from the admission tax pursuant to Section 5.40.025 A3 shall, for each activity or series of activities as prescribed by the Finance Director:

1. Identify the activity or set of activities at which persons paying an admission charge are not to be taxed;

2. Supply sufficient information as well as enable the Director both:

a. To determine the applicability of the tax to the activity or set of activities so identified, and

b. To distinguish the same from other occasions, if any, when taxes are to be collected; and

3. Provide evidence as necessary to show the status of the party performing the activity or set of activities as a college, university, or nonprofit tax-exempt organization as defined in Section 5.40.010. The applicant may be required to notify the Director of any subsequent change in condition from the facts stated or information supplied. If the Director determines that persons paying such admission charge are not subject to the admission tax, the applicant shall receive a certification of such determination for the activity or series of activities, as the case may be.

B. The Director may cancel the certificate of exemption of any college, university, or nonprofit tax-exempt organization which (1) secures an exemption from the tax pursuant to Section 5.40.025 A3 by making a false representation in its application, or fails to adhere to its criteria or (2) otherwise violates Section 5.40.025 A3 or a rule or regulation of the Director implementing it. The order of cancellation may bar such an organization from registering again for a period of two (2) years.

C. If the Director has ordered a certificate of exemption cancelled, an aggrieved person may contest the cancellation by filing a notice of appeal and request for hearing with the hearing examiner within ten (10) days after service or mailing of the order. If the Hearing Examiner is satisfied that a mailed notice was not delivered or was unreasonably delayed in delivery, he/she may allow an appeal made within ten (10) days after the appellant receives notice of the order of cancellation.

D. If a request for hearing is filed by the applicant within the prescribed period, a hearing shall be scheduled before the Hearing Examiner and shall be conducted by the Hearing Examiner according to the applicable rules for contested cases. If an appeal is not filed by the applicant within the prescribed period, the order of the Director cancelling the registration and certificate of exclusion shall be final.

(Ord. 117169 § 18, 1994: Ord. 112813 § 2, 1986; Ord. 111449 § 4, 1983: Ord. 102719 § 3(part),

1973: Ord. 102622 § 3(part), 1973: Ord. 72495 § 8(part), 1943.)

5.40.090Certificate of registration—Owner of building to be named.

Whenever the applicant for a certificate of registration, obtained for the purpose of operating or conducting a temporary or transitory amusement, entertainment or exhibition, is not the owner, lessee, or custodian of the buildings, lots or place where the amusement is to be conducted, the tax imposed by this chapter shall be reported and remitted as provided in Section 5.40.070 by the person who is the owner, lessee or custodian, if not paid by the person conducting the amusement, entertainment or exhibition. The applicant for a certificate of registration in any such case shall furnish the Finance Director with the application, with the name and address of the owner, lessee or custodian of the premises upon which the amusement is to be conducted, and such owner, lessee or custodian shall be notified by the Director of the issuance of such certificate and of his joint liability for collection and remittance of such tax.
(Ord. 117169 § 19, 1994: Ord. 102622 § 4, 1973: Ord. 91775 § 8, 1963: Ord. 72495 § 9, 1943.)

5.40.100Rules and regulations.

The Finance Director shall have the power to adopt rules and regulations not inconsistent with the terms of this chapter for carrying out and enforcing the payment, collection and remittance of the tax levied in this chapter; and for administering the exclusion from taxation upon persons paying an admission charge to activities enumerated in Sections 5.40.026 and 5.40.028, and a copy of the rules and regulations shall be on file and available for public examination in the City Clerk's office. Failure or refusal to comply with any such rules and regulations shall be deemed a violation of this chapter.
(Ord. 117169 § 20, 1994: Ord. 116368 § 155, 1992: Ord. 102719 § 4, 1973: Ord. 102622 § 5, 1973: Ord. 72495 § 10, 1943.)

5.40.110Effective date.

The tax levied and imposed in this chapter shall be collected and paid on and after May 1, 1943.
(Ord. 72495 § 11, 1943.)

5.40.120Receipts to General Fund.

All receipts from the admission tax levied in this chapter shall be placed in the General Fund.
(Ord. 106058 § 3, 1976: Ord. 79849 § 1, 1951: Ord. 72495 § 11-1, 1943.)

5.40.135Inspection of records and returns.

As required by the Public Disclosure Act in RCW 42.17.260 and RCW 42.17.310 admissions tax records and returns shall be subject to public inspection and copying, but only to the extent that

such disclosure does not violate the personal privacy of any taxpayer, or give unfair competitive disadvantage to the taxpayer in his or her business or occupation. Lists of taxpayers shall not be given, provided or sold for commercial purposes.
(Ord. 109957 § 2, 1981.)

5.40.140Violation—Penalty.

Each violation of or failure to comply with the provisions of this chapter shall constitute a separate offense and shall subject the offender to a fine of not to exceed Three Hundred Dollars ($300.00) or to imprisonment in the City Jail for not to exceed ninety (90) days, or to both such fine and imprisonment.
(Ord. 72495 § 13, 1943.)

5.40.150Aiding or abetting violation.

Anyone who directly or indirectly performs or omits to perform any act in violation of this chapter, or aids or abets the same, whether present or absent, and every person who directly or indirectly counsels, encourages, hires, commands, induces or otherwise procures another to commit such violation is, and shall be, a principal under the terms of this chapter and may be proceeded against as such.
(Ord. 91775 § 9, 1963: Ord. 72495 § 14, 1943.)

Chapter 5.44
BUSINESS AND OCCUPATION TAX

Sections:

5.44.010Exercise of revenue license power.
5.44.020Definitions generally.
5.44.022Definitions, A—I.
5.44.024Definitions, J—R.
5.44.026Definitions of "sale."
5.44.028Definitions, S—Z.
5.44.030Tax levied.
5.44.040Tax on business with the City.
5.44.050Persons taxable as to each activity—Principles to reduce multiple taxation.
5.44.052Deduction for multiple activity sales at wholesale or retail for interstate manufacturing/ extracting.
5.44.054Multiple activity exclusion from manufacturing for Seattle-taxed selling and deduction for other taxed activity.
5.44.056Multiple activity exclusion from extracting for Seattle-taxed selling and manufacturing—Deduction for other taxed activity.
5.44.058Multiple activity exclusion—Determination; documentation.
5.44.060Determination of value of products.
5.44.068Persons engaged in telephone business—Resale of network telephone services.

5.44.070Persons in extracting/ manufacturing both within and without the City.
5.44.072Persons in wholesaling/ retailing both within and without the City.
5.44.074Allocation principles—Motor carriers of freight for hire.
5.44.075Allocation principles—Property maintenance services.
5.44.076Persons rendering services both within and without the City.
5.44.078Ancillary allocation authority of Director.
5.44.080Sales by consignee, bailee, factor or auctioneer.
5.44.090Exemptions—Designated.
5.44.100Exemptions—Sales for resale.
5.44.110Deductions allowed in computing license fees.
5.44.130Business license required.
5.44.140When tax due—Returns.
5.44.150Payment of license fee.
5.44.160Books and records to be kept five years.
5.44.170Payment on City contract—License fees to be paid first.
5.44.180Payments—Extension—Late penalty.
5.44.190Sale or transfer of business.
5.44.200Returns confidential—Exceptions.
5.44.205Fees for copies and research.
5.44.210Over or under payment of tax.
5.44.220Failure to make return.
5.44.230Appeals.
5.44.240Director to make rules.
5.44.250Mailing of notices.
5.44.260False returns or statements.
5.44.270License fee additional to others.
5.44.280Collection of delinquent fee or tax.
5.44.290Application to City's business activities.
5.44.300Revocation of license.
5.44.310Violation—Penalty.
5.44.320Refund if ordered under National Can decision.

Severability: If any provision or section of this chapter shall be held void or unconstitutional, all other parts, provisions and sections of this chapter not expressly so held to be void or unconstitutional shall continue in full force and effect.
(Ord. 72630 § 31, 1943.)

Cases: A city ordinance imposing a license tax of Six Hundred Dollars ($600.00) per year on any person selling trading stamps to merchants in addition to One Hundred Dollars ($100.00) per year on each merchant using trading stamps in his business was prohibitive and therefore void as an abridgement of the privilege of citizens to engage in legitimate businesses. **Ex Parte Hutchinson,** 137 F. 949 (1904).

5.44.010Exercise of revenue license power.

The provisions of this chapter shall be deemed an exercise of the power of the City to license for revenue.
(Ord. 72630 § 1, 1943.)

5.44.020Definitions generally.

In construing the provisions of this chapter except when otherwise declared or clearly apparent from the context, the definitions in Sections 5.44.022 through 5.44.028 apply. Words in the singular number shall include the plural, and the plural shall include the singular. Words in one (1) gender shall include all other genders. The definition of a word or phrase in RCW 82.04.020 through 82.04.212 shall apply to the same word or phrase in this chapter unless its context or definition in this chapter indicates otherwise.
(Ord. 113690 § 1(part), 1987: Ord. 112114 § 1(part), 1985: Ord. 112029 § 1(part), 1984: Ord. 112022 § 1(part), 1984: Ord. 110878 § 1(part), 1982: Ord. 110261 § 1(part), 1981: Ord. 109523 § 1(part), 1980: Ord. 102623 § 1(part), 1973: Ord. 98817 § 6(part), 1970; Ord. 88270 § 1(part), 1959; Ord. 85388 § 1(part), 1956; Ord. 73335 § 1(part), 1944: Ord. 72630 §§ 2(part), 2.1(part), 2.2(part), 1943.)

5.44.022Definitions, A — I.

1. “Bimonthly period” means a two (2) month period beginning with the first day of the odd-numbered month and including the last day of the next succeeding month.

2. “Business” includes all activities engaged in with the object of gain, benefit or advantage to the taxpayer or to another person or class, directly or indirectly.

3. “Cash discount” means a deduction from the invoice price of goods or charge for services which is allowed if the bill is paid on or before a specified date.

4. a. “City” means The City of Seattle.

b. “City Auditor” means the City Auditor of The City of Seattle.

c. "City Finance Director" means the Finance Director of The City of Seattle.

5. "Commercial use" means the following uses of products by the extractor or manufacturer thereof:

a. Manufacturing of articles, substances or commodities from extracted products;

b. Leasing or renting of extracted or manufactured products;

c. Consigning, shipping or transferring extracted or manufactured products to another either without consideration or in the performance of contracts;

d. Any other use of products extracted or manufactured on a commercial scale under such rules and regulations as the Finance Director shall prescribe.

7. "Engaging in business" means commencing, conducting or continuing in business and also the exercise of corporate or franchise powers as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business.

8. "Extractor" has the meaning contained in RCW 82.04.100, as now existing or hereafter amended.

9. "Gross income of the business" has the meaning contained in RCW 82.04.080, as now existing or hereafter amended.

10. "Gross proceeds of sales" has the meaning contained in RCW 82.04.070, as now existing or hereafter amended.

(Ord. 117169 § 21, 1994; Ord. 116368 §§ 156, 315(part), 1992; Ord. 113690 § 1(part), 1987: Ord. 112114 § 1(part), 1985: Ord. 112029 § 1(part), 1984: Ord. 112022 § 1(part), 1984: Ord. 110878 § 1(part), 1982: Ord. 110261 § 1(part), 1981: Ord. 109523 § 1(part), 1980: Ord. 102623 § 1(part), 1973: Ord. 98817 § 6(part), 1970; Ord. 88270 § 1(part), 1959; Ord. 85388 § 1(part), 1956; Ord. 73335 § 1(part), 1944: Ord. 72630 §§ 2(part), 2.1(part), 2.2(part), 1943.)

Cases: The definition of gross income does not allow contractor to deduct amounts held as retainers as "pass through" payments. **Seattle v. Paschen Contractors**, 111 Wn.2d 54, 758 P.2d 975 (1988).

5.44.024Definitions, J — R.

1. "Manufacturer" means every person who, either directly or by contracting with others for the necessary labor or mechanical services, manufactures for sale or commercial use from his own materials or ingredients any articles, substance or commodities. When the owner of equipment or facilities furnishes, or sells to the customer prior to manufacture, all or a portion of the materials that become a part of whole of the manufactured article, the Finance Director shall prescribe equitable rules for determining tax liability.

2. The word "person" means any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club company, joint-stock company, business trust, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise, and includes the United States or any instrumentality thereof, provided a valid tax may be levied upon or collected therefrom under the provisions of this chapter.

3. "Quarterly period" shall mean only the following periods: January - February - March, April - May - June, July - August - September, October - November - December, and shall begin the first day of the first month and include the last day of the third month within said period.

(Ord. 117169 § 22, 1994; Ord. 113690 § 1(part), 1987: Ord. 112114 § 1(part), 1985: Ord. 112029 § 1(part), 1984: Ord. 112022 § 1(part), 1984: Ord. 110878 § 1(part), 1982: Ord. 110261 § 1(part), 1981: Ord. 109523 § 1(part), 1980: Ord. 102623 § 1(part), 1973: Ord. 98817 § 6(part), 1970; Ord. 88270 § 1(part), 1959; Ord. 85388 § 1(part), 1956; Ord. 73335 § 1(part), 1944: Ord. 72630 §§ 2(part), 2.1(part), 2.2(part), 1943.)

5.44.026Definitions of "sale."

1. "Sale" includes the exchange of property as well as the sale thereof for money, and also includes conditional sale contracts, leases with option to purchase and any other contract under which possession of the property is given to the purchaser but title is retained by the vendor as security for the payment of the purchase price. It shall also be construed to include the furnishing of food, drink, or meals for compensation, whether consumed upon the premises or not.

2. "Sale at retail" or "retail sale" means every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons irrespective of the nature of their business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or

personal property of or for consumers other than a sale to a person who presents a resale certificate under RCW 82.04.470 and who:

a. Purchases for the purpose of resale as tangible personal property in the regular course of business without intervening use by such person; or

b. Installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of or for consumers, if such tangible personal property becomes an ingredient or component of such real or personal property without intervening use by such person; or

c. Purchases for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale; or

d. Purchases for the purpose of consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon; or

e. Purchases for the purpose of providing the property to consumers as part of competitive telephone service, as defined in RCW 82.04.065. The term shall include every sale of tangible personal property which is used or consumed or to be used or consumed in the performance of any activity classified as a "sale at retail" or "retail sale" even though such property is resold or utilized as provided in a, b, c, d, or e of this subsection following such use. The term also means every sale of tangible personal property to persons engaged in any business which is taxable under RCW 82.04.280, (2) and (7) and RCW 82.04.290.

3. The term "sale at retail" or "retail sale" shall include the sale of or charge made for tangible personal property consumed and/or for labor and services rendered in respect to the following:

a. The installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers, including charges made for the mere use of facilities in respect thereto, but excluding sales of laundry service to members by nonprofit associations composed exclusively of nonprofit hospitals, and excluding services rendered in respect to live animals, birds and insects;

b. The constructing, repairing, decorating, or improving of new or existing buildings or structures under, upon, or above real property of or for consumers, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, and shall also include the sale of services or charges made for the clearing of land and the moving of earth excepting the mere leveling of land used in commercial farming or agriculture;

c. The charge for labor and services rendered in respect to constructing, repairing, or improving any structure upon, above, or under any real property owned by an owner who conveys the property by title, possession, or any other means to the person performing such construction, repair, or improvement for the purpose of performing such construction, repair, or improvement and the property is then reconveyed by title, possession, or any other means to the original owner;

d. The sale of or charge made for labor and services rendered in respect to the cleaning, fumigating, razing or moving of existing buildings or structures, but shall not include the charge made for janitorial services; and for purposes of this section the term "janitorial services" shall mean those cleaning and caretaking services ordinarily performed by commercial janitor service businesses including, but not limited to, wall and window washing, floor cleaning and waxing, and the cleaning in place of rugs, drapes and upholstery. The term "janitorial services" does not include painting, papering, repairing, furnace or septic tank cleaning, snow removal or sandblasting;

e. The sale of or charge made for labor and services rendered in respect to automobile towing and similar automotive transportation services, but not in respect to those required to report and pay taxes under Chapter 82.16 RCW;

f. The sale of and charge made for the furnishing of lodging and all other services by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, and it shall be

presumed that the occupancy of real property for a continuous period of one (1) month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same;

g. The sale of or charge made for tangible real property, labor and services taxable under a, b, c, d, e, and f of this subsection when such sales or charges are for property, labor and services which are used or consumed in whole or in part by such persons in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property, labor and services may be resold after such use or consumption. Nothing contained in this subsection shall be construed to modify the first subsection of this section and nothing contained in subsection 1 of this section shall be construed to modify this subsection.

4. The term "sale at retail" or "retail sale" shall include the sale of or charge made for personal business or professional services, including amounts designated as interest, rents, fees, admission, and other service emoluments however designated, received by persons engaging in the following business activities:

a. Amusement and recreation services including but not limited to golf, pool, billiards, skating, bowling, ski lifts, tows and others;

b. Abstract, title insurance and escrow services;

c. Credit bureau services;

d. Automobile parking and storage garage services;

e. Landscape maintenance and horticultural services but excluding horticultural services provided to farmers;

f. Service charges associated with tickets to professional sporting events;

g. Guided tours and guided charters; and

h. The following personal services: physical fitness services, tanning salon services, tattoo parlor services, massage services, steam bath services, Turkish bath services, escort services, and dating services.

5. The term shall also include the renting or leasing of tangible personal property to consumers and the rental of equipment with an operator.

6. The term shall also include the providing of competitive telephone service, as defined in RCW 82.04.065, to consumers.

7. The term shall not include the sale of or charge made for labor and services rendered in respect to the building, repairing, or improving of any street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state or by the United States and which is used or to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind.

8. The term shall also not include sales of feed, seed, seedlings, fertilizer, agents for enhanced pollination, including insects such as bees, and spray materials to persons who participate in the federal conservation reserve program or its successor administered by the United States department of agriculture, or to farmers for the purpose of producing for sale any agricultural product, nor shall it include sales of chemical sprays or washes to persons for the purpose of post-harvest treatment of fruit for the prevention of scald, fungus, mold, or decay.

9. The term shall not include the sale of or charge made for labor and services rendered in respect to the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to Chapter 35.82 RCW, including the installing, or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation. Nor shall the term include the sale of services or charges made for the clearing of land and the moving of earth of or for the United States, any instrumentality thereof, or a county or city housing authority.

10. "Sale at wholesale" has the meaning contained in RCW 82.04.060, as now existing or hereafter amended.

11. In construing the provisions of this chapter, "wholesale sale," "sale at wholesale," "retail sale," and "sale at retail" do not include the sale of precious metal bullion or monetized bullion.

a. In computing tax under this chapter on the business of making sales of precious metal bullion or monetized bullion, the tax shall be

imposed on the amounts received as commissions upon transactions for the accounts of customers over and above the amount paid to other dealers associated in such transactions, but no deduction or offset is allowed on account of salaries or commissions paid to salesmen or other employees.

b. For purposes of this subsection, "precious metal bullion" means any precious metal which has been put through a process of smelting or refining, including, but not limited to, gold, silver, platinum, rhodium, and palladium, and which is in such state or condition that its value depends upon its contents and not upon its form. For purposes of this section, "monetized bullion" means coins or other forms of money manufactured from gold, silver or other metals and theretofore, now, or hereafter used as a medium of exchange under the laws of this state, the United States, or any foreign nation, but does not include coins or money sold to be manufactured into jewelry or works of art.

(Ord. 116951 § 1, 1993: Ord. 113690 § 1(part), 1987: Ord. 112114 § 1(part), 1985: Ord. 112029 § 1(part), 1984: Ord. 112022 § 1(part), 1984: Ord. 110878 § 1(part), 1982: Ord. 110261 § 1(part), 1981: Ord. 109523 § 1(part), 1980: Ord. 102623 § 1(part), 1973: Ord. 98817 § 6(part), 1970; Ord. 88270 § 1(part), 1959; Ord. 85388 § 1(part), 1956; Ord. 73335 § 1(part), 1944: Ord. 72630 §§ 2(part), 2.1(part), 2.2(part), 1943.)

5.44.028 Definitions, S — Z.

1. "Successor" means any person who through direct or mesne conveyance, purchases or succeeds to the business, or portion thereof, or the whole or any part of the stock of goods, wares or merchandise or fixtures or any interest therein of a taxpayer quitting, selling out, exchanging or otherwise disposing of his business. Any person obligated to fulfill the terms of a contract shall be deemed a successor to any contractor defaulting in the performance of any contract as to which such person is a surety or guarantor.

2. "Taxpayer" includes any individual, group of individuals, corporation or association required to have a business license hereunder, or liable for any license hereunder, or liable for any license fee or tax, or for the collection of any license fee or tax hereunder, or who engages in any business, or who performs any act, for which a license fee or tax is imposed by this chapter.

3. "Tax year" or "taxable year" shall mean either the calendar year or the taxpayer's fiscal year when permission is obtained from the Finance Director to use a fiscal year in lieu of the calendar year.

4. "To manufacture" embraces all activities of a commercial nature wherein labor or skill is applied, by hand or machinery, to materials so that as a result thereof a new, different or useful article of tangible personal property or substance of trade or commerce is produced and shall include the production or fabrication of special made or custom made articles.

In addition to the activities set forth in the preceding paragraph the term "to manufacture" includes the producing of articles for sale, or for commercial or industrial use from raw materials or prepared materials by giving such materials new forms, qualities, properties or combinations including, but not limited to, such activities as making, fabricating, processing, refining, mixing, slaughtering, packing, aging, curing, mild curing, preserving, canning, and the preparing and freezing of fresh fruits and vegetables.

6. "Tuition fee" shall be construed to include library, laboratory, health service and other special fees, and amounts charged for room and board by an educational institution when the property or service for which such charges are made is furnished exclusively to the students or faculty of such institution; provided, that the term "educational institution," as used herein, shall be construed to mean only those institutions created or generally accredited as such by the state and offering to students an educational program of a general academic nature, or those institutions which are not operated for profit and which are privately endowed under a deed of trust to offer instruction in trade, industry and agriculture, but not including specialty schools, business colleges, trade schools or similar institutions.

7. "Value proceeding or accruing" means the consideration, whether money, credits, rights or other property expressed in terms of money, actually received or accrued. The term shall be applied, in each case, on a cash receipts or accrual basis according to which method of accounting is regularly employed in keeping the books of the taxpayer. The Finance Director may provide by regulation that the value proceeding or accruing from sales on the installment plan under condi-

tional contracts of sale may be reported as of the dates when the payments become due.
(Ord. 117169 § 23, 1994; Ord. 116368 § 315(part), 1992; Ord. 113690 § 1(part), 1987: Ord. 112114 § 1(part), 1985: Ord. 112029 § 1(part), 1984: Ord. 112022 § 1(part), 1984: Ord. 110878 § 1(part), 1982: Ord. 110261 § 1(part), 1981: Ord. 109523 § 1(part), 1980: Ord. 102623 § 1(part), 1973: Ord. 98817 § 6(part), 1970; Ord. 88270 § 1(part), 1959; Ord. 85388 § 1(part), 1956; Ord. 73335 § 1(part), 1944: Ord. 72630 §§ 2(part), 2.1(part), 2.2(part), 1943.)

5.44.030Tax levied.

There is levied upon and shall be collected from and paid as hereinafter provided by every person on account and for the privilege of engaging in business activities, a license fee or occupation tax, sometimes herein referred to as the "tax." The tax, except as hereinafter provided, shall be in amounts to be determined by application of rates given against value of products, gross proceeds of sale, or gross income of business as the case may be, for the three calendar months next preceding the beginning of each quarterly period as follows:

A. Upon every person engaging within this City in business as an extractor; as to such persons the amount of the tax with respect to such business shall be equal to the value of the products extracted for sale or commercial use, multiplied by the rate of two hundred fifteen (215) one-thousandths of one percent (1%). The measure of the tax is the value of the products so extracted, regardless of the place of sale or the fact that deliveries may be made to points outside the City.

B. Upon every person engaging within this City in business as a manufacturer; as to such persons the amount of the tax with respect to such business shall be equal to the value of the products manufactured, multiplied by the rate of two hundred fifteen (215) one-thousandths of one percent (1%). The measure of the tax is the value of the products so manufactured, regardless of the place of sale or the fact that deliveries may be made to points outside the City.

C. Upon every person engaging within this City in the business of making sales at wholesale or retail, except persons taxable under subsection D of this section; as to such persons, the amount of tax with respect to such business of making sales at wholesale or retail shall be equal to the gross proceeds of such sales of the business without regard to the place of delivery of articles, commodities or merchandise sold, multiplied by the rate of two hundred fifteen (215) one thousandths of one percent (1%).

D. Upon every person engaging within this City in the business of buying wheat, oats, corn, barley and rye, but not including any manufactured or processed products thereof, and selling the same at wholesale, the tax imposed shall be equal to the gross proceeds derived from such sales multiplied by the rate of two hundred fifteen (215) ten-thousandths of one percent (1%).

Upon every person engaging within this City in the business of manufacturing wheat into flour; the tax imposed shall be equal to the value of the flour manufactured, multiplied by the rate of two hundred fifteen (215) ten-thousandths of one percent (1%).

E. Upon every person engaging within this City in the business of: (1) printing and publication of newspapers; (2) building, repairing or improving any publicly owned street, place, road, highway, bridge or trestle which is used, or to be used, primarily for foot or vehicular traffic; as to such persons the amount of tax on such business shall be equal to the gross income of the business multiplied by the rate of two hundred fifteen (215) one-thousandths of one percent (1%).

F. Upon every other person engaging within this City in any business activity other than or in addition to those enumerated in subsections A, B, C, D, and E above; as to such persons the amount of tax on account of such activities shall be equal to the gross income of the business multiplied by the rate of four hundred fifteen (415) one-thousandths of one percent (1%). This subsection includes, among others, and without limiting the scope hereof (whether or not title to material used in the performance of such business passes to another by accession, confusion or other than by outright sale), persons engaged in the business of rendering any type of service which does not constitute a sale at retail or a sale at wholesale. This subsection also includes, as authorized by RCW Chapter 82.14A, subject to and in accordance with the definitions, deductions and exemptions set forth in RCW Chapter 82.04 insofar as the same may be applicable, national banks, state banks, trust companies, mutual savings

banks, building and loan associations, savings and loan associations, loan companies, and other banking, loan, security or financial institutions. (Ord. 116951 § 2, 1993: Ord. 116461 § 1, 1992: Ord. 115434 § 1, 1990: Ord. 115118 § 1, 1990; Ord. 114702 § 1, 1989: Ord. 114468 §§ 1, 2, 1989; Ord. 114236 § 1, 1988: Ord. 110878 § 2, 1982: Ord. 110261 § 2, 1981: Ord. 109523 § 2, 1980: Ord. 106013 § 1, 1976: Ord. 105139 § 1, 1975: Ord. 104235 § 1, 1975: Ord. 104059 § 1, 1974: Ord. 101033 § 1, 1972: Ord. 100946 § 1, 1972: Ord. 98817 § 1, 1970: Ord. 93360 § 1, 1964: Ord. 88270 § 2, 1959: Ord. 73335 § 2, 1944: Ord. 72630 § 3, 1943.)

Cases: RCW 82.02.020 and RCW Ch. 82.24 do not prevent a municipality from imposing an excise tax on the privilege of wholesaling even when the product being sold at wholesale is cigarettes. **P. Lorillard Co. v. Seattle,** 83 Wn.2d 586, 521 P.2d 208 (1974) reversing 8 Wn. App. 510, 507 P.2d 1212 (1973).

A city may lawfully impose a business and occupation tax on attorneys; accordingly, failure of attorney to pay the tax justified revocation of his business license and imposition of a fine. **City of Seattle v. Campbell,** 27 Wn. App. 37, 611 P.2d 1347 (1980).

5.44.040Tax on business with the City.

There is levied upon and there shall be collected from every person, a tax upon the act or privilege of engaging in the business activity of accepting or executing a contract with the City involving the sale to the City of materials, supplies, equipment, improvements and contractual services. The tax shall be collected whenever either the City or the contracting party executes the contract within the City, whether or not the contracting party has his or her office or place of business within or without the City, and regardless of the place of delivery of the materials, supplies or equipment, the place of the performance of the services or the location of the improvements. The tax shall be collected in the same manner and form, under the same exemptions and rules and regulations and at the same rates of tax as the tax imposed under Section 5.44.030 but without any apportionment under Sections 5.44.070 through 5.44.076 inclusive, or except for an interstate carrier, without a deduction under Section 5.44.110 E for an interstate shipment. Such tax shall not be levied when:

A. The business activity subject to tax by this section is also taxed under Section 5.44.030 or 5.48.050 and gross receipts or gross income from transactions within the City are included in the measure of the tax due thereunder;

B. The aggregate value of all contracts of the City with the person during the calendar year is Five Thousand Dollars ($5,000.00) or less; or

C. The person is not engaging in business activities either within or without the City. (Ord. 111429 § 1, 1983: Ord. 107137 § 1, 1978: Ord. 106527 § 1, 1977: Ord. 105140 § 1, 1975: Ord. 72630 § 3.2, 1943.)

A prototype for this section in the City of Tacoma was applied to the contract for the construction of Mossyrock Dam, accepted in Tacoma and performed in Lewis County, and upheld as constitutional. **Oravo Corp. v. Tacoma**, 80 Wn.2d 590, 496 P.2d 504 (1972).

5.44.050 Persons taxable as to each activity—Principles to reduce multiple taxation.

A. Persons, who engage in activities that are within the purview of two or more subsections of Section 5.44.030, shall be taxable under each applicable subsection.

B. Sections 5.44.052 through 5.44.056 allow a series of exclusions and deductions in order to reduce overlapping gross receipts taxation upon taxpayers engaging in activities within two (2) or more subsections of Section 5.44.030 and to follow the precedent of Chapter 3, Laws of 1987, 2nd Ex. Sess. (RCW 82.04.440, as amended). The exclusions and deductions reflect these basic principles:

1. A taxpayer should pay a gross receipts tax no more than once to a state or national government and once to local government on manufacturing and selling the same product;

2. The tax should be assessed and collected at the latest stage in the taxpayer's manufacturing/selling process; gross receipts taxes imposed on retailing/wholesaling activity take priority over taxes on manufacturing/extracting activity; and taxes on manufacturing activity take precedence over taxes in extracting activity. Thus, the gross receipts taxes of a jurisdiction with retailing activity (the "market city") apply to displace the gross receipts taxes of the place of manufacturing or wholesaling;

3. Where wholesaling/retailing activity within subsection C of Section 5.44.030 occurs in two (2) or more jurisdictions with gross receipts taxation, Section 5.44.072 applies to allocate transactions; Section 5.44.070 applies to apportion the taxpayer's gross value of products when extracting/manufacturing activity within subsections A, B or D occurs on a contiguous location within two (2) or more jurisdictions;

4. No deduction is allowed on account of payment of Washington State taxes; payment of dissimilar taxes or fees; liability for taxes on engaging in service activity; or taxes paid by another taxpayer; and

5. If imposition of the City's tax would place an undue burden upon interstate commerce or violate constitutional requirements, a taxpayer shall be allowed a deduction to the extent necessary to preserve the validity of the City's tax and still apply the City tax to as much of the taxpayer's activities as may be subject to the City's taxing authority (SMC Section 5.44.110 E).

C. The term "eligible gross receipts tax" is used in Sections 5.44.052 through 5.44.058 as follows:

1. The term excludes all taxes imposed by the State of Washington and The City of Seattle;

2. With respect to political subdivisions of the State of Washington, the term means a business and occupation tax of another Washington city that measures the amount of the payment due by gross receipts and that, in accord with subsection B2, applies to a later stage in the taxpayer's manufacturing/selling process than the taxpayer's business activity in Seattle;

3. With respect to the United States of America, its territories and possessions, or a federally recognized Indian tribe with taxing authority; a state other than Washington and political subdivisions of another state; the District of Columbia; or any foreign country or political subdivision thereof, the term means a tax which meets these criteria:

a. The tax is imposed on the act or privilege of engaging in business activities of making sales at wholesale or retail, manufacturing, or extracting;

b. The amount of the tax is measured by the gross volume of business, in terms of gross receipts or in other terms, and in the determination of which the deductions allowed would not constitute the tax on income tax or value added tax;

c. The tax is also not, pursuant to law or custom, separately stated from the sales price; and

d. The tax is not a sales or use tax, franchise fee, royalty or severance tax measured

by volume or weight, or concession charge, or payment for the use and enjoyment of property, property right or a privilege. (Ord. 113611 § 1(part), 1987: Ord. 112029 § 2(part), 1984: Ord. 81150 § 1(part), 1952: Ord. 73335 § 2(part), 1944: Ord. 72630 § 4(part), 1943.)

Cases: The multiple activities exemption does not unconstitutionally discriminate against taxpayers who manufacture outside the city but sell inside. **Seattle v. Paschen Contractors**, 111 Wn.2d 54, 758 P.2d 975 (1988).

5.44.052Deduction for multiple activity sales at wholesale or retail for interstate manufacturing/ extracting.

A person may deduct from the measure of the tax under subsection C of Section 5.44.030 (making sales at wholesale or retail), the value of products extracted or manufactured outside Washington if and to the extent the products were subject to an eligible gross receipts tax elsewhere on manufacturing or extracting activity. The deduction for any transaction shall not exceed the amount of the transaction reported as part of the gross proceeds of sales under said subsection C. (Ord. 113611 § 1(part), 1987: Ord. 112029 § 2(part), 1984: Ord. 81150 § 1(part), 1952: Ord. 73335 § 2(part), 1944: Ord. 72630 § 4(part), 1943.)

5.44.054Multiple activity exclusion from manufacturing for Seattle-taxed selling and deduction for other taxed activity.

A. Exclusion of Seattle-taxed Selling. A person taxable under subsection C of Section 5.44.030 (making sales at wholesale or retail) on products sold within Seattle for delivery within the state may exclude from the measure of the tax under subsections A, B and/or D (extracting, manufacturing and/or milling wheat, respectively) those amounts the taxpayer used in measuring the tax payable under subsection C (retailing).

B. Deduction for Activity Taxed Elsewhere. A person taxable under subsection B (engaging in manufacturing) or D (milling wheat) of Section 5.44.030 may deduct from the measure of the tax:

1. The value of ingredients extracted outside Seattle, if and to the extent that the taxpayer used them in manufacturing in Seattle and used their value in measuring an eligible gross receipts tax elsewhere on extracting;

2. The value of products, which were manufactured in part in Seattle, if manufacturing was completed outside Seattle and the value of the Seattle production was used in measuring an eligible gross receipts tax elsewhere on manufacturing; and/or

3. The value of products, which were manufactured in Seattle and sold outside Seattle, if the value of such products was used in measuring an eligible gross receipts tax elsewhere on making sales at wholesale or retail.

C. The amount of any deduction of any transaction shall not exceed the value of the product manufactured in Seattle and reported as subject to tax under subsection B or D. (Ord. 113611 § 1(part), 1987: Ord. 112029 § 2(part), 1984: Ord. 81150 § 1(part), 1952: Ord. 73335 § 2(part), 1944: Ord. 72630 § 4(part), 1943.)

5.44.056Multiple activity exclusion from extracting for Seattle-taxed selling and manufacturing—Deduction for other taxed activity.

A. Exclusion for Seattle-taxed Activity. A person taxable under subsections A (extracting), B (engaging in manufacturing) or D (milling wheat) may exclude from the measure of the tax under subsection A (extracting) those amounts the taxpayer used in measuring the tax payable under subsections A, B, or D, respectively, with respect to extracting the ingredients of the products manufactured or sold in Seattle.

B. Deduction for Activity Taxed Elsewhere. A person taxable under subsection A (engaging in extracting) of Section 5.44.030 may deduct from the measure of the tax:

1. The value of products extracted in Seattle and sold outside Seattle and subject to an eligible gross receipts tax elsewhere on making sales at wholesale or retail; and

3. The value of products extracted in Seattle and manufacturing outside Seattle and subjected to an eligible gross receipts tax elsewhere on manufacturing.

C. The amount of any deduction on any transaction shall not exceed the value of the product so extracted in Seattle and reported as subject to tax under subsection A. (Ord. 113611 § 1(part), 1987: Ord. 112029 § 2(part), 1984: Ord. 81150 § 1(part), 1952: Ord. 73335 § 2(part), 1944: Ord. 72630 § 4(part), 1943.)

5.44.058Multiple activity exclusion—Determination; documentation.

A. A determination by a court, the State of Washington Department of Revenue, or the Washington Attorney General that an out-of-state or foreign tax qualifies for a credit upon the Washington business and occupation tax under RCW 82.04.440(5) shall establish that the tax is an "eligible gross receipts tax" for purposes of Sections 5.44.052 through 5.44.058. Unless the taxpayer proves otherwise, a determination by a court of the State of Washington that such a tax does not qualify for a credit under RCW 82.04.440(5) shall render the amounts of the transactions ineligible for a deduction under such sections.

B. To make a deduction authorized by Sections 5.44.052 through 5.44.058, inclusive, a taxpayer must be able to document that the amount dedicated was used in computing the amount of an eligible gross receipts tax and that the taxpayer paid the tax due thereon.

(Ord. 113611 § 2, 1987.)

5.44.060Determination of value of products.

The value of products, including byproducts, extracted or manufactured shall be determined by the gross proceeds derived from the sale thereof, whether such sale is at wholesale or at retail, to which shall be added all subsidies and bonuses received from the purchaser or from any other person with respect to the extraction, manufacture, or sale of such products or byproducts by the seller, except:

A. Where such products, including byproducts, are extracted or manufactured for commercial or industrial use;

B. Where such products, including byproducts, are shipped, transported or transferred out of the City, or to another person, without prior sale or are sold under circumstances such that the gross proceeds from the sales are not indicative of the true value of the subject matter of the sale.

In the above cases, the value shall correspond as nearly as possible to the gross proceeds from sales in this City of similar products of like quality and character, and in similar quantities by the taxpayer or others, plus the amount of subsidies or bonuses ordinarily payable by the purchaser or by any third person with respect to the extraction, manufacture, or sale of such products. The Finance Director shall prescribe uniform and equitable rules for the purpose of ascertaining such values.

(Ord. 117169 § 24, 1994; Ord. 102623 § 2, 1973: Ord. 93360 § 2, 1964: Ord. 72630 § 5, 1943.)

Cases: A Seattle administrative ruling that bakers could measure the value of their product for business tax purposes by the cost of manufacture was authorized by Ordinance 72630 § 5b.[1] **Hansen Baking Co. v. Seattle,** 48 Wn.2d 737, 296 P.2d 670 (1956).

1.Editor's Note: Ord. 72630 § 5b appears in this Code as Section 5.44.060B.

5.44.068Persons engaged in telephone business—Resale of network telephone services.

A person engaging in or carrying on a telephone business, as defined in subsection E of Section 5.48.020, shall be subject to tax under subsection C of Section 5.44.030 with respect to income from charges to a telecommunications company as defined in RCW 80.04.010 for network telephone service that the purchaser buys for the purpose of resale, as contemplated by RCW 35.21.715.

(Ord. 114850 § 2, 1989.)

5.44.070Persons in extracting/ manufacturing both within and without the City.

A person who is subject to tax under subsections 5.44.030 A or B and maintains an office, plant, warehouse or other business establishment which is partly within and partly outside of the City, shall be taxable on the value of products, gross proceeds of sales, or gross income of the business attributable to business activity within the City, ascertained either: (1) by a fair and equitable formula agreed upon by the Finance Director and the taxpayer after a consideration of the facts; (2) by a segregation of business within and business outside the City, shown and supported by accounting records satisfactory to the Director; or, (3) in the absence thereof, by an apportionment to the City of that part of the total value of products, gross proceeds of sales, or gross income of the business derived from business both within and outside the City in the proportion that the cost of doing business within the City bears to the cost of doing business both within and outside of the City.

(Ord. 117169 § 25, 1994: Ord. 110476 §§ 1(part) and 4(part), 1982: Ord. 102623 § 3(part), 1973: Ord. 73023 § 1(part), 1943: Ord. 72630 § 6, 1943.)

Cases: The distinction between a taxpayer with a single plant bisected by the City's boundaries and a taxpayer with two (2) plants, one (1) of which is not located within the City, does not constitute a sufficient difference to justify separate classification of those taxpayers with regard to apportionment of the City's business and occupation tax. **Lone Star Cement Co. v. Seattle,** 71 Wn.2d 564,429 P.2d 909 (1967).

City's business and occupation tax could not be passed on to water customers outside the city by way of water rates imposed on those nonresident customers. **King County Water Dist. No. 75 v. City of Seattle,** 89 Wn.2d 890, 577 P.2d 567 (1978).

5.44.072Persons in wholesaling/ retailing both within and without the City.

A. A Person who is subject to tax under subsections C, D, and E of Section 5.44.030 and has no office, store or other place of business within this City, shall allocate to Seattle the gross proceeds of all sales in which the taxpayer's business activity within Seattle is either a determining element in the transaction or, under the facts and circumstances, a significant factor in making or holding the market here. Conversely, a taxpayer, who engages in the business of making sales at wholesale or retail using an office, store, or other outlet within the City and maintains no equivalent facility elsewhere in Washington, may deduct the gross proceeds of sales, which (1) are used by another Washington city in levying a license fee or tax measured by gross receipts and (2) reflect business activity conducted in the taxing city that is either a determining element in a transaction or a significant factor in making or holding the taxpayer's market there. A person, who engages in the business of making sales at wholesale or retail using an office, store or other outlet within this City and maintains another equivalent facility elsewhere in Washington, may allocate the gross proceeds of sales to the office, store or outlet in Washington where the predominant selling activity occurs.

B. When comparable selling activity and a complete transaction occurs there, a warehouse, distribution center, or other place for storage of goods may be considered the equivalent of an office, store, or other outlet. Delivery of goods, without accompanying selling activity such as solicitation, shall not constitute a determining element in affecting a transaction.

(Ord. 113690 § 2, 1987: Ord. 110476 § 2, 1982.)

5.44.074Allocation principles—Motor carriers of freight for hire.

These allocation principles apply to a motor carrier of freight for hire when two (2) or more Washington cities impose a license fee or tax for the act or privilege of engaging in business activities; each city has a basis in local activity for imposing its tax; and the gross receipts of the motor carrier measured by all taxing cities, added together, would exceed the taxpayer's gross receipts:

A. Such a taxpayer, who maintains an office or terminal within this City and also elsewhere, may allocate the taxpayer's gross receipts by individual transactions, to the office or terminal at which the transportation services commence;

B. Such a taxpayer, who maintains an office or terminal within Seattle and solicits orders and engages in business activity in another city that is a significant factor in holding the market there, may allocate the gross receipts of such transactions equally between this City and the city providing the local market;

C. Such a taxpayer, who maintains no office or terminal within Seattle but solicits orders and engages in business activity here that is a significant factor in holding its market in Seattle, may allocate the gross receipts of such business activity equally between this City and the city where the office or terminal is located;

D. Gross receipts of such a taxpayer that are not attributable to transportation services, such as investment income, truck repair, and rental of equipment, shall be allocated to the office or terminal conducting such activities; and

E. No allocation of the gross receipts of such a taxpayer shall be made on the account of the use of City streets or highways when no pickup or delivery occurs there.

(Ord. 110476 § 3, 1982.)

5.44.075Allocation principles—Property maintenance services.

The following principles apply in measuring the amount of tax due from persons who are engaged in the business of providing building maintenance, grounds maintenance, security guarding, and other like continuous maintenance services, which consist almost entirely in labor or services performed on the premises served, itself:

A. If the taxpayer maintains no office or place of business within Seattle, the tax shall be measured by the gross income of the business derived from services performed on property located within Seattle;

B. If the taxpayer maintains an office or place of business within Seattle, and none elsewhere, the tax shall be measured by the gross income of the business from services, both within Seattle and elsewhere, less a deduction for the taxpayer's gross income derived from services performed on property within another city, which levies a tax on gross receipts and considers that income in calculating the amount of business and occupation taxes due there; and

C. If the taxpayer maintains an office or place of business within Seattle and another office or place of business elsewhere in the State of Washington, the tax shall be measured by that portion of the taxpayer's gross income which reflects services rendered from or through the taxpayer's business location(s) within Seattle (including business activity performed on premises within Seattle) less the deduction authorized in subsection B for services performed from the taxpayer's office or place of business in Seattle on property outside the City. Where such an allocation cannot be made by accounting methods satisfactory to the Finance Director, the taxpayer shall apportion to Seattle that portion of his or her total income which the cost of doing business within Seattle bears to the total cost of doing business both within and without Seattle.

(Ord. 117169 § 26, 1994; Ord. 111427 § 1, 1983.)

5.44.076Persons rendering services both within and without the City.

Unless Section 5.44.074 or Section 5.44.075 applies, a person who is subject to tax under subsection 5.44.030 F and engages in the business of rendering services both within and without the City, and maintains an office or place of business within the City and not elsewhere, shall be taxable on the gross income from the business without regard to the place where the services are rendered; and such a person who has an office or place of business within the City and also elsewhere shall, for the purpose of computing tax liability under this chapter, allocate to the City that portion of the taxpayer's gross income which is derived from services rendered and/or business activity within the City. Where such allocation cannot be made by accounting methods satisfactory to the Finance Director, the taxpayer shall apportion to the City that portion of his total income which the cost of doing business within the City bears to the total cost of doing business both within and without the City.

(Ord. 117169 § 27, 1994: Ord. 112029 § 3, 1984: Ord. 111427 § 2, 1983: Ord. 110476 §§ 1(part) and 4(part), 1982: Ord. 102623 § 3(part), 1973: Ord. 73023 § 1(part), 1943: Ord. 726230 § 6, 1943.)

5.44.078Ancillary allocation authority of Director.

To prevent or reduce overlapping municipal taxation, the Finance Director in his or her discretion is authorized to:

A. Agree with one (1) or more Washington cities for a joint audit of a taxpayer, and for the reciprocal application of common principles or policies, consistent with Sections 5.44.070 through 5.44.076 for the allocation or apportionment of the gross proceeds of sales, gross receipts, or gross income with respect to any taxpayer or any line of commerce; and

B. As part of an intercity agreement, or in concert with other Washington cities, include or implement reciprocal policies and procedures, consistent with this chapter, to ensure that this City, and the other cities, receive the tax payments each city is due when a taxpayer, who owes tax to this City, has in good faith overpaid municipal taxes measured by the taxpayer's gross proceeds of sales, gross receipts, or gross income, to either city when such overpayments are due to The City of Seattle or the other cities.

(Ord. 117169 § 28, 1994: Ord. 110476 § 5, 1982.)

5.44.080Sales by consignee, bailee, factor or auctioneer.

A. Every consignee, bailee, factor or auctioneer having either actual or constructive possession

of tangible personal property or having possession of the documents of title thereto, with power to sell such tangible personal property in his or its own name and actually so selling shall be deemed the seller of such tangible personal property within the meaning of this chapter; and further, the consignor, bailor, principal or other shall be deemed a seller of such property to the consignee, bailee, factor or auctioneer.

B. The burden shall be upon the taxpayer in every case to establish the fact that such taxpayer is not engaged in the business of selling tangible personal property but is acting merely as broker or agent in promoting sales for a principal; such claim will be allowed only when the taxpayer's account records are kept in such manner as the Finance Director shall by general regulation provide.

(Ord. 117169 § 29, 1994; Ord. 102623 § 4, 1973: Ord. 72630 § 8, 1943.)

5.44.090Exemptions—Designated.

The provisions of this chapter shall not apply to:

A. Any person in respect to a business activity with respect to which tax liability is specifically imposed under the provisions of SMC Chapter 5.48 (Business Utilities Tax) or SMC Section 5.52.010 B (Nonprofit organization gambling tax), as amended;

B. Any person in respect to insurance business upon which a tax based on gross premiums is paid to the state; provided that the provisions of this subsection shall not exempt any person engaging in the business of insurance as a broker as defined in RCW 48.17.020 or as a solicitor as defined in RCW 48.17.030; and provided further, that the provisions of this subsection shall not exempt any bonding company from tax with respect to gross income derived from the completion of any contract as to which it is a surety, or as to any liability as successor to the liability of the defaulting contractor;

C. Any person in respect to the agricultural business according to the provisions of RCW 82.04.330;

D. Any person in respect to the business of conducting boxing contests and sparring and/or wrestling matches and exhibitions for the conduct of which a license must be secured from the State Athletic Commission;

E. Any person in respect to the business of conducting race meets for the conduct of which a license must be secured from the State Horse Racing Commission;

F. Any person in respect to his employment in the capacity of an employee or servant as distinguished from that of an independent contractor;

G. Any person in respect to certain fraternal and beneficiary organizations according to the provisions of RCW 82.04.370;

H. 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; 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;

I. The gross proceeds derived from the sale of real estate; provided, that this exemption shall not be construed to allow a deduction of amounts received as commissions from the sale of real estate, nor as fees, handling charges, discounts, interest or similar financial charges resulting from, or relating to, real estate transactions;

J. The business of manufacturing, selling, or distributing motor vehicle fuel, as the term "motor vehicle fuel" is defined in RCW 82.36.010;

K. Liquor as that term is defined in RCW 66.04.010(16);

L. Any nonprofit organization in respect to the operation of "sheltered workshops," as such term is defined in RCW 82.04.385.

(Ord. 117331 § 1, 1994; Ord. 116099 § 1, 1992; Ord. 114515 § 1, 1989; Ord. 105308 § 1, 1976: Ord. 103449 § 1, 1974: Ord. 100946 § 2, 1972: Ord. 94555 § 1, 1966: Ord. 81150 § 2, 1952: Ord. 72630 § 9, 1943.)

5.44.100Exemptions—Sales for resale.

This chapter shall not apply to sales for resale by persons regularly engaged in the business of making sales of the type of property so sold to other persons similarly engaged in the business of selling such property where: (A) the amount paid by the buyer does not exceed the amount paid by the seller to his vendor in the acquisition of the

article, and (B) the sale is made as an accommodation to the buyer to enable him to fill a bona fide existing order of a customer or is made within fourteen (14) days to reimburse in kind a previous accommodation sale by the buyer to the seller; provided, that where the seller holds himself out as being regularly engaged in the business of making sales at wholesale of such property, such sales shall be incidental to his principal business activity.
(Ord. 85026 § 1, 1956: Ord. 72630 § 9.1, 1943.)

5.44.110Deductions allowed in computing license fees.

In computing the license fee or tax, there may be deducted from the measure of tax the following items:

A. Amounts derived by persons, other than those engaged in banking, loan, security or other financial businesses, from investments or the use of money as such;

B. Amounts derived from bona fide initiation fees, dues, contributions, donations, tuition fees, charges made for operation of privately operated kindergartens, charges made for operation of childcare service providers for provision of childcare services for school-age children either before or after regular school hours, and endowment funds. The provisions of this subsection shall not be construed to exempt any person, association or society from tax liability upon selling tangible personal property or upon providing facilities or services for which a special charge is made to members or others; provided, that dues which are for, or graduated upon, the amount of service rendered by the recipient thereof are not permitted as a deduction under this chapter;

C. The amount of cash discount actually taken by the purchaser. This deduction is not allowed in arriving at the taxable amount under the extractive and/or manufacturing classifications with respect to articles produced or manufactured, the reported values of which, for the purposes of this tax, have been computed according to the provisions of Section 5.44.060;

D. The amount of credit losses actually sustained by taxpayers whose regular books of account are kept upon an accrual basis;

E. Amounts derived from business which the City is prohibited from taxing under the Constitution or laws of the state or the Constitution or laws of the United States, and any amounts collected by the taxpayer as an excise tax, including but not limited to the leasehold excise tax, retail sales and use tax, admissions tax and gambling tax;

F. 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 or by a municipal corporation or political subdivision. The terms "health or social welfare services" and "health or social welfare organization," have the meanings contained in RCW 82.04.431, enacted as Chapter 196, Laws of 1979, 1st Ex. Sess. Section 6, as now existing or hereafter amended;

G. Amounts excluded by allocation or apportionment pursuant to Sections 5.44.070 through 5.44.078 inclusive; provided, no allocation or apportionment by Sections 5.44.072 through 5.44.076 inclusive shall reduce taxes payable with respect to extracting or manufacturing under subsections A and B of Section 5.44.030;

H. With respect to any nonprofit, tax-exempt organization, as defined in SMC Section 5.40.010 C and registered as provided in SMC Sections 5.40.080 through 5.40.085, revenues from admission charges, as defined in SMC Section 5.40.010, to an opera, concert, dance recital, or like musical entertainment, a play, puppet show or dramatic reading, an exhibition of painting, sculpture, or artistic or historical objects or a museum, historic vessel or science center, when admission taxes do not apply under SMC Section 5.40.020;

I. Amounts received by artistic or cultural organizations which represent income derived from business activities conducted by the organizations, if the artistic or cultural organization is registered as provided in SMC Sections 5.40.080 through 5.40.085. The term "artistic or cultural organization" has the meanings contained in

RCW 82.04.4328, as now existing or hereafter amended;

J. Amounts received by nonprofit organizations in respect to (1) presenting individual and community credit education programs including credit and debt counseling; (2) obtaining creditor cooperation allowing a debtor to repay debt in an orderly manner; (3) establishing and administering negotiated repayment programs for debtors; or (4) providing advice or assistance to a debtor with regard to subsection (1), (2), or (3) of this subsection.

(Ord. 117380 § 1, 1994; Ord. 116951 § 3, 1993: Ord. 116099 § 2, 1992: Ord. 113690 § 3, 1987: Ord. 112029 § 4, 1984: Ord. 111448 § 1, 1983; Ord. 110476 § 6, 1982: Ord. 108707 § 1, 1979: Ord. 73335 § 4, 1944: Ord. 72630 § 10, 1943.)

Cases: Delivery by a seller to a carrier for shipment abroad does not render the seller immune from local taxation unless some action on the part of the seller irrecoverably places the goods in their final movement out of the country and there is a certainty at the time the tax accrues that the goods will be exported. **Eardley Fisheries Co. v. Seattle,** 50 Wn. 2d 566, 314 P.2d 393 (1957).

5.44.130Business license required.

A. No person, whether subject to the payment of tax or not, shall engage in any business or activity in the City for which a license fee or tax is imposed by this chapter without having first obtained and being the holder of a valid and subsisting license to do so, to be known as a "business license," issued under the provisions of this chapter, as provided in this chapter, and without paying the license fee or tax imposed by this chapter. The fee or tax for the business license shall be the license fee or tax imposed by this chapter, and in addition the sum of Sixty-five Dollars ($65.00) as a license fee which shall accompany the application for the license. Such license shall expire at the end of the year in which it is issued, and a new license shall be required for each calendar year; provided, that any such business license may be renewed from year to year upon application with the payment of such Sixty-five-Dollar ($65.00) license fee.

Applications for the business license shall be made to the Finance Director on forms provided by the Director. Any person whose gross proceeds of sale, value of products, or gross income of business, as the case may be after all allowable deductions, does not exceed Fifty Thousand Dollars ($50,000.00) in the tax year shall be exempt from the tax imposed by Section 5.44.030 subject to the requirements of Section 5.44.140.

B. The license shall be personal and nontransferable. In case business is transacted at two (2) or more separate places by one (1) taxpayer, a separate license for each place at which business is transacted with the public shall be required. A Ten-Dollar ($10.00) license fee shall be imposed and accompany each application for the license required for each additional business location. Each license shall be numbered, shall show the name, place and character of the business of the taxpayer, and such other information as the Finance Director deems necessary, and shall at all times be conspicuously posted in the place of business for which it is issued.

Where a place of business of the taxpayer is changed, the taxpayer shall return the license to the Finance Director and a new license shall be issued for the new place of business free of charge.

C. No person to whom a license has been issued pursuant to this chapter shall suffer or allow any other person for whom a separate license is required to operate under or display his or her license; nor shall such other person operate under or display such license.

D. As provided in Section 6.20.040, a participant at an event, identified in the list supplied by the promotor or organizer, shall be exempt from the minimum fee established by subsection A or the fee for a separate business location established by subsection B on account of business activities at the licensed event for the duration of the license.

(Ord. 117438 § 1, 1994; Ord. 117169 § 30, 1994; Ord. 117002 § 3, 1993; Ord. 116945 § 2, 1993: Ord. 116459 § 1, 1992: Ord. 115435 § 1, 1990; Ord. 114823 § 1, 1989; Ord. 114468 § 3, 1989; Ord. 114245 § 1, 1988; Ord. 113181 § 1, 1986; Ord. 110878 § 5, 1982: Ord. 109523 § 3, 1980: Ord. 107158 § 2, 1978: Ord. 106561 § 1, 1977: Ord. 106013 § 3, 1976: Ord. 102623 § 5, 1973: Ord. 81150 § 4, 1952: Ord. 73335 § 5, 1944: Ord. 72630 § 12, 1943.)

Cases: A City may not exact an additional license fee merely because a licensed corporation merges with another corporation continuing in the same business. **Diamond Parking v. Seattle**, 78 Wn.2d 778, 479 P.2d 47 (1971).

5.44.140When tax due—Returns.

A. The tax imposed by this chapter except the Sixty-five Dollars ($65.00) required to accompany the application for the license, and except the Ten Dollars ($10.00) required to accompany the application for an additional business location, shall be due and payable in quarterly installments. Payment shall be made on or before the last day of the month after the end of the quarterly period in which the tax accrued. The payment shall be made as provided in Section 5.44.150 and shall be accompanied by a return, which consists of a form provided by the Finance Director and completed by the taxpayer.

B. The return shall be signed by the taxpayer personally or by a responsible officer of the taxpayer. The individual signing the return shall swear or affirm that the information in the return is full and true.

C. Any person who reasonably estimates that the value of products, gross proceeds of sales, or gross income of the business, as the case may be, subject to tax after all allowable deductions, will not exceed Fifty Thousand Dollars ($50,000.00) (the "threshold amount") in the current tax year may file a declaration on a form supplied by the Director at the same time he or she files his or her application for a business license or a renewal, and as long as the threshold amount is not exceeded, need not file a return. The declaration shall state that the taxpayer estimates that his or her gross receipts will be less than the threshold amount; promises to file a return after the threshold amount is exceeded; and authorizes the Washington State Department of Revenue to release state tax records to the City in order for the Director to verify his or her gross revenue.

D. A taxpayer, who commences to engage in business during any quarterly period, shall file a return and pay the tax for the portion of the quarterly period during which he or she is engaged in business, subject to the conditions as set forth in subsection C above.

(Ord. 117438 § 2, 1994; Ord. 117169 § 31, 1994; Ord. 116945 § 1, 1993: Ord. 116471 § 1, 1992: Ord. 115435 § 2, 1990; Ord. 113181 § 2, 1986; Ord. 111430 § 1, 1983: Ord. 110878 § 6, 1982: Ord. 109523 § 4, 1980: Ord. 106013 § 4, 1976: Ord. 102623 § 6, 1973: Ord. 98817 § 3, 1970: Ord. 88270 § 4, 1959: Ord. 73335 § 6, 1944: Ord. 72630 § 13, 1943.)

5.44.150Payment of license fee.

The license fee or tax payable under this chapter shall at the time the return is required to be filed under this chapter be paid to the City Finance Director by bank draft, certified check, cashier's check, personal check or money order, or in cash. If payment is made by draft or check, the tax or fee shall not be deemed paid unless the check or draft is honored in the usual course of business; nor shall the acceptance of any sum by the Finance Director be an acquittance or discharge of the tax or fee due unless the amount of the payment is in the full and actual amount due.

The Finance Director is authorized, but not required to mail to taxpayers forms for applications for license and forms for returns, but failure of the taxpayer to receive any such forms shall not excuse the taxpayer from making application for and securing the license required, making returns, and payment of the license fee or tax, when and as due under this chapter.

(Ord. 117169 § 32, 1994: Ord. 116368 § 157, 1992; Ord. 102623 § 7, 1973: Ord. 72630 § 14, 1943.)

5.44.160Books and records to be kept five years.

A. It shall be the duty of every person liable for the payment of any fee or tax imposed by this chapter to keep and preserve for the period of five (5) years such books and records as will accurately reflect the amount of his gross income, gross proceeds of sale or value of products, as the case may be, and from which can be determined the amount of any fee or tax or which he may be liable under the provisions of this chapter; and all such books and records, and also invoices, inventories and stocks of goods, wares and merchandise shall be open for examination at all reasonable times by the Finance Director or his or her duly authorized agent.

B. In the case of any such person who does not keep the necessary books and records within the City for examination it shall be sufficient if such person produces within the City such books and records as may be required by the Director or bears the cost of examination by the Director's agent at the place where such books and records are kept; provided that the person electing to bear such cost shall pay to the Director the estimated amount thereof including round-trip fare, lodging, meals and incidental expenses, subject to adjustment upon completion of the examination.
(Ord. 117169 § 33, 1994: Ord. 102623 § 8, 1973: Ord. 72630 § 15, 1943.)

5.44.170 Payment on City contract—License fees to be paid first.

The City Finance Director shall, before issuing any warrant making any payment to any person performing any contract for the City, require such person to pay in full all license fees or taxes due under this chapter from such person on account of such contract, or otherwise.
(Ord. 116368 § 158, 1992: Ord. 113220 § 1, 1986: Ord. 72630 § 16, 1943.)

5.44.180 Payments—Extension—Late penalty.

The Finance Director for good cause shown may extend the time for filing any return as required under this chapter and may grant such reasonable additional time within which to file such returns as he or she may deem proper. If any tax return, or payment of any tax, is not received by the City Finance Director on the first day of the month following the month in which such return and/or tax becomes due, there shall be assessed a penalty of five percent (5%) of the amount due with a minimum penalty of Five Dollars ($5.00); and if the return and/or tax is not received by the fifteenth day of the month following the month in which the due date falls, there shall be assessed a total penalty of ten percent (10%) of the amount due with a minimum penalty of Fifteen Dollars ($15.00); and if the return and/or tax is not received by the first day of the second month next succeeding the month in which the due date falls, there shall be assessed a total penalty of twenty percent (20%) of the amount due, with a minimum penalty of Twenty-five Dollars ($25.00).
(Ord. 117169 § 34, 1994: Ord. 116471 § 2, 1992: Ord. 116368 § 159, 1992: Ord. 113690 § 4, 1987: Ord. 112019 § 1, 1984: Ord. 111430 § 2, 1983: Ord. 110878 § 7, 1982: Ord. 106931 § 1, 1977: Ord. 106013 § 5, 1976: Ord. 102623 § 9, 1973: Ord. 98817 § 4, 1970: Ord. 88270 § 5, 1959: Ord. 84040 § 1, 1955: Ord. 81150 § 5, 1952: Ord. 72630 § 17, 1943.)

5.44.190 Sale or transfer of business.

Upon the sale or transfer during any quarterly period of a business on account of which a license fee or tax is required, the purchaser or transferee shall, if the fee or tax has not been paid in full for the quarterly period, be responsible for the payment of the fee or tax for that portion of the quarterly period during which he carries on such business.
(Ord. 98817 § 5, 1970: Ord. 88270 § 6, 1959: Ord. 72630 § 18, 1943.)

5.44.200 Returns confidential—Exceptions.

A. As required by the Public Disclosure Act, in RCW 42.17.260 and RCW 42.17.310, the returns made to the Finance Director pursuant to this chapter and any facts or information disclosed in any examination of books and records made pursuant to Section 5.44.160, shall be subject to the inspection of any person but only to the extent that such disclosure does not violate the personal privacy of any taxpayer or give unfair competitive disadvantage to the taxpayer in his or her business or occupation or is not used for commercial purposes.

B. Authority provided in this chapter to disclose information shall not be construed as authority to give, sell or provide access to lists of individuals for commercial purposes, provided that lists of applicants for professional licenses and of professional licensees shall be made available to professional organizations recognized by their professional examining board upon payment of a reasonable fee therefor. Provided, such returns and information may be subject to inspection, for official purposes only, by the Mayor, City Attorney, Finance Director or his or her authorized agent, the City Auditor or his/her authorized agent, Chief of Police or his or her authorized agent, members of the City Council, or their authorized agents, the Director of the Office of Management and Planning or his or her authorized agent; and the Executive Director of the Seattle Ethics and Elections Commission or his or her authorized agent, and when in the course of City duties presented to the Commis-

sion, to its members; provided that nothing in this section shall prohibit the Executive Director of the Seattle Ethics and Elections Commission from giving such facts or information in evidence in any hearing conducted by the Commission; and provided further that nothing in this section shall prohibit the Finance Director or any member or employee of the Finance Department from:

1. Giving such facts or information in evidence in any court action involving the tax or license fee imposed by this chapter or a violation of the provisions hereof or involving another City or state department and the taxpayer;

2. Giving such facts and information to the taxpayer or his or her duly authorized agent;

3. Publishing statistics so classified as to prevent the identification of individual returns or reports of items thereof;

4. Giving such facts or information, for official purposes only, to the Governor of the state, State Attorney General, or to any state department or any committee or subcommittee of the Washington State Legislature dealing with matters of taxation, revenue, trade, commerce, the control of industry or the professions, or to the Prosecuting Attorney of any county in the state, proper officer of the Federal Trade Commission, proper officer of the Internal Revenue Service of the United States, or to the proper officer of the tax department of any state or city or town or county, or to any other authorized representatives of any state or federal law enforcement agencies, but only if the statutes of the United States, or of the state, or of such other state or city or county, as the case may be, grant substantially similar privileges to the tax or law enforcement agencies of The City of Seattle.

(Ord. 117408 § 22, 1994: Ord. 117169 § 35, 1994: Ord. 116368 § 160, 1992: Ord. 112114 § 2, 1985: Ord. 112029 § 5, 1984: Ord. 107945 § 1, 1979: Ord. 106168 § 3, 1977: Ord. 103566 § 1, 1974: Ord. 103026 § 1, 1974: Ord. 102623 § 10, 1973: Ord. 72630 § 19, 1943.)

5.44.205Fees for copies and research.

The Finance Director may charge a fee:

A. For making copies of books and records as authorized by Ordinance 100501,[1] as now existing or hereafter amended or supplemented;

B. For compiling statistics and conducting special research as authorized in a fee schedule approved by the City Council by resolution from time-to-time to reimburse the City's cost therefor; and

C. For the bulk sale of City forms and printed brochures and other publications in an amount equal to the cost of preparing, reproducing and distributing them as determined by the Director by rule adopted pursuant to the Administrative Code, Sections 3.02.030 through 3.02.070.

(Ord. 117169 § 36, 1994: Ord. 111430 § 3, 1983.)

1.Editor's Note: Ord. 100501 was repealed by Ord. 108657; Ord. 108657 is codified at Chapters 5.24 and 5.76 of this Code.

5.44.210Over or under payment of tax.

A. In the event of overpayment of any tax due under this chapter, the Finance Director or his or her authorized agent upon written application by the taxpayer for a refund or credit within two (2) years after the date of such overpayment, may offset the amount of such overpayment against the taxpayer's existing tax liability under this chapter and refund any balance to such taxpayer or credit such balance to taxes which may accrue under this chapter. Refund of overpayments as authorized in this section shall be paid from the Refund Account of the General Fund. No refund or credit may be allowed with respect to any payments made to the City more than two (2) years before the date of such application; provided, that where a taxpayer makes application for a refund or credit of an overpayment made more than two (2) years before the date of such application, the amount of the refund or credit otherwise allowable for the portion of the assessment period preceding the two (2) year period may be offset against any existing tax deficiency which accrued under this chapter within such assessment period.

B. Notwithstanding the foregoing limitations there shall be refunded or credited to taxpayers engaged in the performance of United States government contracts or subcontracts the amount of any tax paid, measured by that portion of the amounts received from the United States, which taxpayer is required by contract or applicable federal statute to refund or credit to the United States, if claim for such refund is filed by the taxpayer with the Finance Director within one (1) year of the date that the amount of the refund or credit due to the United States is finally determined and filed within four (4) years of the date on which tax was paid.

C. If the Finance Director finds that the fee or tax or penalty paid is less than the amount due, the Director shall mail the taxpayer a statement showing the balance due and shall add thereto interest on such balance at the rate of ten percent (10%) per year from the date of underpayment until paid and the taxpayer shall within ten (10) days from the date of mailing statement pay the amount shown thereon as the balance due plus such interest. No demand for an additional fee or tax or penalty shall be made by the Director more than four (4) years after the close of the year in which the same accrued except:

1. Against a taxpayer who is not registered as required by this chapter;

2. As against a taxpayer who has been guilty of fraud or misrepresentation of a material fact; or

3. Where a taxpayer has executed a written waiver of such limitations.

(Ord. 117169 § 37, 1994: Ord. 116368 § 161, 1992; Ord. 112114 § 3, 1985: Ord. 112029 § 6, 1984: Ord. 109523 § 5, 1980: Ord. 106058 § 2, 1976: Ord. 102623 § 11, 1973: Ord. 94209 § 1, 1965: Ord. 81150 § 6, 1952: Ord. 72630 § 20, 1943.)

5.44.220Failure to make return.

If any taxpayer fails, neglects or refuses to make his return as and when required in this chapter, the Finance Director is authorized to determine the amount of the tax payable, and by mail to notify such taxpayer of the amount so determined. The amount so fixed shall thereupon become the tax and be immediately due and payable.

(Ord. 117169 § 38, 1994: Ord. 102623 § 12, 1973: Ord. 72630 § 12, 1943.)

5.44.230Appeals.

Any taxpayer aggrieved by the amount of the fee or tax found by the Finance Director to be required under the provisions of this chapter, may file a written appeal with the Office of the Hearing Examiner within twenty (20) days from the time such taxpayer was given notice of such amount and providing a copy of the notice of appeal to the Director and the City Attorney. The hearing shall be conducted in accordance with the procedures for hearing contested cases in the Seattle Administrative Code (Ordinance 102228).[1] The determination appealed from shall be regarded as prima facie correct. The Hearing Examiner may reverse or modify an action of the Director and ascertain the correct amount of the fee or tax due if the Director's determination violates the terms of this chapter or is contrary to law. The decision of the Hearing Examiner shall be final.

(Ord. 117169 § 39, 1994: Ord. 108355 § 1, 1979: Ord. 102623 § 13, 1973: Ord. 85918 § 1, 1957: Ord. 72630 § 22, 1943.)

1.Editor's Note: The Administrative Code is codified in Chapter 3.02 of this Code.

5.44.240Director to make rules.

The Finance Director shall have the power and it shall be his duty, from time to time, to adopt, publish and enforce rules and regulations not inconsistent with this chapter or with law for the purpose of carrying out the provisions of this chapter and it shall be unlawful to violate or fail to comply with, any such rule or regulation.
(Ord. 117169 § 40, 1994: Ord. 102623 § 14, 1973: Ord. 72630 § 23, 1943.)

5.44.250Mailing of notices.

Any notice required by this chapter to be mailed to any taxpayer shall be sent by ordinary mail, addressed to the address of the taxpayer as shown by the records of the Finance Director, or if no such address is shown, to such address as the Director is able to ascertain by reasonable effort. Failure of the taxpayer to receive any such mailed notice shall not release the taxpayer from any tax or any penalties thereon, nor shall such failure operate to extend any time limit set by the provisions of this chapter.
(Ord. 117169 § 41, 1994: Ord. 102623 § 15, 1973: Ord. 72630 § 24, 1943.)

5.44.260False returns or statements.

It shall be unlawful for any person liable to tax under this chapter to fail or refuse to secure the license, to make the returns as and when required, or to pay the fee or tax when due, or for any person to make any false or fraudulent application or return or any false statement or representation in, or in connection with, any such application or return, or to aid or abet another in any attempt to evade payment of the fee or tax, or any part thereof, or for any person to fail to appear and/or testify in response to subpoena issued pursuant hereto, or to testify falsely upon any investigation of the correctness of a return, or upon the hearing of any appeal, or in any manner to hinder or delay the City or any of its officers in carrying out the provisions of this chapter.
(Ord. 72630 § 25, 1943.)

5.44.270License fee additional to others.

The license fee and tax levied in this chapter shall be additional to any license fee or tax imposed or levied under any law or any other ordinance of the City except as herein otherwise expressly provided.
(Ord. 72630 § 26, 1943.)

5.44.280Collection of delinquent fee or tax.

Any license fee or tax due and unpaid and delinquent under this chapter, and all penalties thereon, may be collected by civil action, which remedy shall be in addition to any and all other existing remedies.
(Ord. 81150 § 7, 1952: Ord. 72630 § 27, 1943.)

5.44.290Application to City's business activities.

Whenever the City through any department or division shall engage in any business activity which if engaged in by any person would under this chapter require a business license and the payment of a license fee or tax by such person, the City department or division engaging in such business activity at the same time and in the same manner as persons are required under this chapter make returns and from the funds of such department or division pay the license fees or taxes imposed by this chapter; provided, that this section shall not apply to the public transportation system of such City.
(Ord. 86164 § 1, 1957: Ord. 72630 § 28, 1943.)

5.44.300Revocation of license.

The Finance Director may revoke the license issued to any taxpayer who is in default in any payment of any license fee or tax under this chapter, or who fails to comply with any of the provisions of this chapter. Notice of such revocation shall be mailed to the taxpayer by the Director, and on and after the date thereof any such taxpayer who continues to engage in business shall be deemed to be operating without a license and shall be subject to any or all penalties provided in this chapter.
(Ord. 117169 § 42, 1994: Ord. 102623 § 16, 1973: Ord. 72630 § 29, 1943.)

Cases: A city may lawfully impose a business and occupation tax on attorneys; accordingly, failure of attorney to pay the tax justified revocation of his business license and imposition of a fine. **City of Seattle v. Campbell,** 27 Wn. App. 37, 611 P.2d 1347 (1980).

5.44.310Violation—Penalty.

A. Any person violating or failing to comply with any of the provisions of this chapter or any lawful rule or regulation adopted by the Finance Director pursuant thereto, upon conviction thereof, shall be punished by a fine in any sum not to exceed Three Hundred Dollars ($300.00) or by imprisonment in the City Jail for a term not exceeding ninety (90) days, or by both such fine and imprisonment.

B. Any taxpayer who engages in, or carries on, any business subject to a tax under this chapter without having his business license so to do shall be guilty of a violation of this chapter for each day during which the business is so engaged in, or carried on; and any taxpayer who fails or refuses to pay the license fee or tax, or any part thereof, on or before the due date, shall be deemed to be operating without having his license so to do.
(Ord. 117169 § 43, 1994; Ord. 102623 § 17, 1973: Ord. 72630 § 30, 1943.)

Cases: A city may lawfully impose a business and occupation tax on attorneys; accordingly, failure of attorney to pay the tax justified revocation of his business license and imposition of a fine. **City of Seattle v. Campbell,** 27 Wn. App. 37, 611 P.2d 1347 (1980).

5.44.320Refund if ordered under National Can decision.

If a Washington appellate court or the Superior Court in a case not appealed, should determine that the decision of the United States Supreme Court in **Tyler Pipe Industries, Inc. v. Washington State Department of Revenue,** 483 U.S. 232 (1987), applies retroactively and that a refund is required of City business and occupation taxes paid for the period before June 23, 1987, then as to those taxpayers with pending lawsuits, the deductions allowed by Sections 5.44.050 through 5.44.058 shall apply in measuring the amount of refund due within the applicable limitations period. This section shall apply only to the extent that such a court judgment orders a refund to be paid to the taxpayer for the back period as necessary to remedy taxes unconstitutionally collected.
(Ord. 115259 § 1, 1990.)

Chapter 5.48
BUSINESS TAX—UTILITIES

Sections:

5.48.010Exercise of revenue license power.
5.48.020Definitions.
5.48.030Occupation license required.
5.48.040License tax year.
5.48.050Occupations subject to tax—Amount.
5.48.055Solid waste activities subject to tax—Amount.

5.48.060City of Seattle subject to tax.
5.48.070Exceptions and deductions.
5.48.072Anti-pyramiding credit for haulers of CDL Waste.
5.48.080Application for license.
5.48.090Monthly and quarterly payment of tax—Returns.
5.48.100Commencement of business during tax year.
5.48.110Sale or transfer of business.
5.48.120Taxpayer to keep books and records—Returns confidential.
5.48.130Director to investigate returns.
5.48.140Extension of time for filing returns—Late payment of tax—Penalties.
5.48.150Over or under payment of tax.
5.48.160Remedy for nonpayment of tax.
5.48.170Appeals.
5.48.180Director to make rules.
5.48.190Display of license.
5.48.200False statements.
5.48.210Violation—Penalty.
5.48.250Bad debt deduction—Cellular telephone service companies.
5.48.260Allocation of revenues—Cellular telephone service.
5.48.270Rate change—Cellular telephone service.

Severability: If any provision or section of this chapter shall be held void or unconstitutional, all other parts, provisions and sections of this chapter not expressly so held to be void or unconstitutional shall continue in full force and effect.
(Ord. 62662 § 23, 1932.)

Cases: A city excise tax which makes a distinction between national banks and the chattel loan business is not unreasonable. **Austin v. Seattle,** 176 Wn. 654, 30 P.2d 646 (1934).

5.48.010Exercise of revenue license power.

The provisions of this chapter shall be deemed an exercise of the power of The City of Seattle to license for revenue.
(Ord. 62662 § 1, 1932.)

5.48.020Definitions.

In construing the provisions of this chapter unless otherwise declared or clearly apparent from the context, the following definitions shall be applied:

A. "Gross income" means the value proceeding or accruing from the sale of tangible property or service, and receipts (including all sums earned or charged, whether received or not), by reason of the investment of capital in the business engaged in, including rentals, royalties, fees, or other emoluments, however designated (excluding receipts or proceeds from the use or sale of real property or any interest therein, and proceeds from the sale of notes, bonds, mortgages, or other evidences of indebtedness, or stocks and the like) and without any deduction on account of the cost of the property sold, the cost of materials used, labor costs, interest or discount paid, or any expense whatsoever, and without any deduction on account of losses, including the amount of credit losses actually sustained by the taxpayer whose regular books or accounts are kept upon an accrual basis.

B. "Person or persons" means persons of either sex, firms, copartnerships, corporations, and other associations of natural persons, whether acting by themselves or by servants, agents, or employees.

C. "Taxpayer" means any person liable to the license fee or tax imposed by this chapter.

D. "Tax year" or "taxable year" means the year commencing March 1st and ending on the last day of February of the following year, or, in lieu thereof, the taxpayer's fiscal year when permission is obtained from the Finance Director to use the same as the tax period.

E. "Telephone business" means the business of providing access to a local telephone network, local telephone network switching service, toll service, coin telephone services, telephonic, video, data, or similar communication, or transmission for hire, via a local telephone network, toll line or channel, cable, microwave, or similar communication or transmission system. The term includes cooperative or farmer line telephone companies or associations operating exchanges. "Telephone business" does not include the providing of competitive telephone service, or providing of cable television service, or other providing of broadcast services by radio or television stations.

F. "Competitive telephone service" means the providing by any person of telecommunications equipment or apparatus, directory advertising and lease of telephone street directories, or service related to that equipment or apparatus such as repair or maintenance service, if the equipment or apparatus is of a type which may be provided by persons not subject to regulation as telephone companies under Title 80 RCW, and for which a separate charge is made. Transmission of communication through cellular telephones is classified as "telephone business" rather than "competitive telephone service."

G. "Recyclable" means material:

1. That is collected for recycling or reuse, such as papers, glass, plastics, used wood, sand, building debris, metals, yardwaste, used oil and tires; and

2. That if not collected for recycling would otherwise be destined for disposal at a landfill or incineration.

H. "Recycled material" means material that is in fact recycled, re-used, or reprocessed after collection; and if not recycled, re-used or reprocessed, would have been destined for disposal at a landfill or incineration.

I. "Recovered material" means a usable or marketable product or commodity that results from recycling or material owned or acquired from another, but excludes use for landfill or incineration.

J. "Construction, Demolition and Landclearing Waste" or "CDL Waste" has the meaning given in SMC Section 21.36.012.

K. "Garbage" has the meaning given in SMC Section 21.36.014.

L. "Rubbish" has the meaning given in SMC Section 21.36.016.

M. "Recycling" has the meaning given in SMC Section 21.36.016.

N. "Solid waste" has the meaning given in SMC Section 21.36.016.

O. "Yardwaste" has the meaning given in SMC Section 21.36.016.

P. "Cellular telephone service" is a two (2) way voice and data telephone/telecommunications system based in whole or substantial part on wireless radio communications and which is not subject to regulation by the Washington Utilities and Transportation Commission (WUTC). This includes cellular mobile service. Cellular mobile service includes other wireless radio communications services such as specialized mobile radio (SMR), personal communications services (PCS), and any other evolving wireless radio communications technology which accomplishes the same purpose as cellular mobile service. Cellular telephone service is included within the definition of "telephone business" for purposes of this chapter and Chapter 5.44.

(Ord. 117401 § 1, 1994; Ord. 117169 § 44, 1994; Ord. 116955 § 1, 1993: Ord. 115908 § 2, 1991; Ord. 115756 § 1, 1991: Ord. 113690 § 5, 1987: Ord. 112111 § 1, 1985: Ord. 112022 § 1, 1984: Ord. 110274 § 1, 1981: Ord. 102620 § 1, 1973: Ord. 62662 § 2, 1932.)

5.48.030Occupation license required.

A. After July 1 , 1932, no person shall engage in or carry on any business, occupation, pursuit or privilege for which a license fee or tax is imposed by this chapter without having first obtained, and being the holder of, a valid and subsisting license so to do, to be known as an "occupation license."

B. Any person engaging in, or carrying on, more than one (1) such business, occupation, pursuit or privilege shall pay the license tax so imposed upon each of the same.

C. Any taxpayer who engages in, or carries on, any business subject to tax under this chapter without having his occupation license so to do, shall be guilty of a violation of this chapter for each day during which the business is so engaged in or carried on, and any taxpayer who fails or refuses to pay the license fee or tax or any part thereof on or before the due date shall be deemed to be operating without having his license so to do.

(Ord. 62662 § 3, 1932.)

5.48.040License tax year.

All occupation licenses and the fee or tax therefor shall be for the tax year for which issued and shall expire at the end of the tax year.

(Ord. 98423 § 1, 1969: Ord. 62662 § 4, 1932.)

5.48.050Occupations subject to tax—Amount.

There are levied upon, and shall be collected from everyone, including The City of Seattle, on account of certain business activities engaged in or carried on, annual license fees or occupation taxes in the amount to be determined by the application of rates given against gross income as follows:

A. Upon everyone engaged in or carrying on a telephone business, a fee or tax equal to six percent (6%) of the total gross income from such business in the City; provided, that the minimum fee or tax shall not be less than Fifty Dollars ($50.00) per year; and provided further, that effective January 1, 1987, the tax liability imposed under this section shall not apply for that portion of gross income derived from charges to another telecommunications company, as defined in RCW 80.04.010, for connecting fees, switching charges, or carrier access charges relating to intrastate toll telephone services, or for access to, or charges for, interstate services, which shall be taxed under SMC Chapter 5.44.

B. Upon everyone engaged in or carrying on the business of selling, brokering, or furnishing gas for hire, a fee or tax equal to six percent (6%) of the total gross income from such business in the City; provided, that the minimum fee or tax shall not be less than One Thousand Dollars ($1,000.00) per tax year.

C. Upon everyone, including The City of Seattle, engaged in or carrying on the business of selling or furnishing water for hire, a fee or tax equal to ten percent (10%) of the total gross income from such retail business in the City; provided that the minimum fee or tax shall not be less than One Thousand Dollars ($1,000.00) per tax year; and provided further that as to The City of Seattle in the conduct of its municipal water utility, such tax shall be applicable to the business of such utility done without, as well as within, the City.

D. Upon everyone, including The City of Seattle, engaged in or carrying on the business of selling or furnishing electric light and power, a fee or tax equal to six percent (6%) of the total gross income from such business in the City; provided, that the minimum fee or tax shall not be less than Two Hundred Fifty Dollars ($250.00) per tax year; provided, that the tax liability imposed under this section shall not apply to The City of Seattle for that portion of the gross income derived by the imposition of the purchased power surcharge imposed upon the rates for the use of electric light and power pursuant to Section 1 of Ordinance 106481.[1]

E. Upon everyone conducting or engaged in the business of supplying steam heat or power to the public for hire, a fee or tax equal to six percent (6%) of the total gross income from such business in the City.

F. Upon The City of Seattle in respect to the conduct, maintenance, and operation of its municipal drainage and wastewater system as a public utility a fee or tax equal to ten percent (10%) of the total gross income from the drainage and wastewater charges provided for under City ordinances.

G. As to solid waste, see Section 5.48.055.

H. Upon everyone engaged in the business of operating or conducting a cable television system (CATV), a fee or tax equal to ten percent (10%) of the total gross income from gross subscriber revenues. For purposes of this chapter, "gross subscriber revenues" means and includes those revenues derived from the supplying of subscription service, that is, installation fees, disconnect and reconnect fees, fees for regular cable benefits including the transmission of broadcast signals and access and origination channels and per-program or per-channel charges; it does not include leased channel revenue, advertising revenues, or any other income derived from the system.

(Ord. 117183 § 1(part), 1994: Ord. 116955 § 2, 1993: Ord. 116460 § 1, 1992: Ord. 116429 § 1, 1992: Ord. 116186 § 1, 1992; Ord. 115954 §§ 1 — 4, 1991; Ord. 115908 § 1, 1991: Ord. 115756 § 2, 1991; Ord. 115549 § 1, 1991; Ord. 115422 § 1, 1990; Ord. 115386 § 1, 1990: Ord. 115055 § 1, 1990; Ord. 114779 § 1, 1989: Ord. 114371 § 1, 1989: Ord. 114212 § 1, 1988: Ord. 114155 § 9, 1988: Ord. 113714 § 1, 1987: Ord. 113690 § 6, 1987: Ord. 113375 § 1, 1987; Ord. 113172 § 1, 1986: Ord. 112943 § 1, 1986: Ord. 112552 § 1, 1985: Ord. 112021 § 1, 1984: Ord. 111432 § 1, 1983: Ord. 110843 § 1, 1982: Ord. 110590 § 1, 1982; Ord. 110274 § 2, 1981: Ord. 108886 § 1, 1980: Ord. 108639 § 1, 1979: Ord. 106526 § 1, 1977: Ord. 106088 § 1, 1976: Ord. 106041 § 1, 1976: Ord. 104434 § 1, 1975: Ord. 104357 § 1, 1975: Ord. 104033 § 1, 1974: Ord. 98423 § 2, 1969: Ord. 97288 § 1, 1968: Ord. 94116 § 1, 1965: Ord. 90511 § 1, 1961; Ord. 87623 § 1, 1958; Ord. 85885 § 1, 1957: Ord. 84414 § 1, 1955: Ord. 62662 § 5, 1932.)

1.Editor's Note: Ord. 106481 is not included in this Code. Copies are on file in the City Clerk's office.

Cases: A City ordinance which subjects a private public utility company to a license or excise tax based on gross income, while leaving untaxed a competing business operated by the City, is not unconstitutional as a denial of equal protection or as a taking of property without due process of law. **Puget Sound Power and Light Co. v. Seattle,** 219 U.S. 620, 54 S.Ct. 542, 78 L.Ed. 1028 (1934), aff'g 172 Wn. 668, 21 P.2d 727 (1933).

Ordinance 62662, an excise tax measured by the gross income derived from business within the City, is not so vague and indefinite as to violate the due process clause of the Fourteenth Amendment, as applied to a foreign telephone company doing business within and without the City. **Pacific Teleph. & Teleg. Co. v. Seattle**, 291 U.S. 300 (1934) aff'g 172 Wn. 649, 21 P.2d 721 (1933).

Ordinance 62662, which requires burglar alarm system businesses to pay a higher tax rate than other types of burglar prevention services, held not to violate the equal protection clause of Article 1, Section 12 of the State Constitution. **Sonitrol Northwest v. Seattle**, 84 Wn.2d 588, 528 P.2d 474 (1974).

5.48.055Solid waste activities subject to tax—Amount.

There are levied upon, and shall be collected from everyone including The City of Seattle, on account of the following business activities en-

gaged in or carried on with respect to solid waste, an annual license fee or occupation tax in the amount to be determined by the application of the rates given below:

A. Upon everyone engaged in or carrying on the business of operating a garbage transfer station or upon the business of transferring solid waste generated in Seattle from one (1) mode of transportation to another a fee or tax equal to Eight Dollars and Eighty Cents ($8.80) per ton of the waste handled for transportation or transported for garbage disposal, landfill, or incineration purposes. To prevent pyramiding of the tax under this subsection when two (2) or more transfers occur in Seattle, the fee or tax is imposed only upon the last transferor and shall not apply to earlier transfers. Waste is transferred from one (1) mode of transportation to another whenever it is moved from a motor vehicle (including, for example, landgrading or earthmoving equipment), barge, train or other carrier to another motor vehicle (including landgrading or earthmoving equipment), barge, train or other carrier, irrespective of whether or not temporary storage occurs in the process. Solid waste transported for recycling or reuse as recovered material, yard waste destined for composting, items to be scrapped for salvage, and sand and gravel for construction of a public improvement shall not be included in the tonnage by which the fee or tax is measured.

B. Upon everyone engaged in or carrying on the business of operating a garbage transfer station or upon the business of transferring solid waste generated outside of Seattle from one (1) mode of transportation to another a fee or tax equal to Four Dollars and Forty Cents ($4.40) per ton of the waste handled for transportation or transported for garbage disposal, landfill, or incineration purposes. To prevent pyramiding of the tax under this subsection when two (2) or more transfers occur in Seattle, the fee or tax is imposed only upon the last transferor and shall not apply to earlier transfers. Waste is transferred from one (1) mode of transportation to another whenever it is moved from a motor vehicle (including, for example, landgrading or earthmoving equipment), barge, train or other carrier to another motor vehicle (including landgrading or earthmoving equipment), barge, train or other carrier, irrespective of whether or not temporary storage occurs in the process, provided that waste shall not be considered transferred if it has been placed in a sealed shipping container prior to being moved from one mode of transportation to another in the City. Solid waste transported for recycling or reuse as recovered material, yardwaste destined

for composting, items to be scrapped for salvage, and sand and gravel for construction of a public improvement shall not be included in the tonnage by which the fee or tax is measured.

C. Upon everyone, including The City of Seattle, engaged in or carrying on the business of the collection of garbage, rubbish, trash, CDL Waste, and other solid waste, a fee or tax measured by the total of these two components:

1. Ten percent (10%) of the total gross income from the collection of solid waste in Seattle, less income derived from the activities identified in subsection C; and

2. Eleven Dollars and Seventy Cents ($11.70) per ton of the materials collected in Seattle, excluding the tonnage identified in subsection D.

D. The gross receipts factor identified in subsection C1 shall exclude income derived from:

1. Collection and/or sale of recycled materials and/or recovered materials, including charges for the lease or rental of containers used in the collection of recycled/recovered materials;

2. Collection and/or sale after processing of yardwaste products, including charges for the lease or rental of containers used in the collection of yardwaste products;

3. Sale of containers used for collection of residential solid waste;

4. Collection and disposal of bulky items and white goods;

5. Grants and contracts from governmental agencies;

6. The City of Seattle for collecting or disposing of residential garbage and other solid waste;

7. The portion of the City's solid waste collection receipts expended for collection of recyclable materials and yardwaste; and

8. Transportation or deposit of sand and gravel for construction or a public improvement.

E. The tonnage factor identified in subsection C2 shall exclude income derived from recycled materials and/or recovered materials; yardwaste destined for composting; items to be recycled, reused, or scrapped for salvage, and/or sand and gravel for construction of a public improvement.

F. The tax imposed under subsection A applies to transferring in Seattle of all solid waste generated in Seattle; the tax imposed under subsection B applies to transferring in Seattle of all solid waste generated outside of Seattle; and the tax imposed under subsection C applies only to collecting solid waste in Seattle. The taxes imposed under subsections A and C are cumulative as to solid waste collected and transferred in Seattle, even though the same tonnage of solid waste may be involved at each successive stage in the disposal process, and the economic burden of the two (2) taxes may aggregate.

G. Income derived from activities described in subsection C shall be taxed under SMC Chapter 5.44.

(Ord. 117183 § 1(part), 1994: Ord. 116955 § 2, 1993: Ord. 116460 § 1, 1992: Ord. 116429 § 1, 1992: Ord. 116186 § 1, 1992; Ord. 115954 §§ 1 — 4, 1991; Ord. 115908 § 1, 1991: Ord. 115756 § 2, 1991; Ord. 115549 § 1, 1991; Ord. 115422 § 1, 1990; Ord. 115386 § 1, 1990: Ord. 115055 § 1, 1990; Ord. 114779 § 1, 1989: Ord. 114371 § 1, 1989: Ord. 114212 § 1, 1988: Ord. 114155 § 9, 1988: Ord. 113714 § 1, 1987: Ord. 113690 § 6, 1987: Ord. 113375 § 1, 1987; Ord. 113172 § 1, 1986: Ord. 112943 § 1, 1986: Ord. 112552 § 1, 1985: Ord. 112021 § 1, 1984: Ord. 111432 § 1, 1983: Ord. 110843 § 1, 1982: Ord. 110590 § 1, 1982; Ord. 110274 § 2, 1981: Ord. 108886 § 1, 1980: Ord. 108639 § 1, 1979: Ord. 106526 § 1, 1977: Ord. 106088 § 1, 1976: Ord. 106041 § 1, 1976: Ord. 104434 § 1, 1975: Ord. 104357 § 1, 1975: Ord. 104033 § 1, 1974: Ord. 98423 § 2, 1969: Ord. 97288 § 1, 1968: Ord. 94116 § 1, 1965: Ord. 90511 § 1, 1961; Ord. 87623 § 1, 1958; Ord. 85885 § 1, 1957: Ord. 84414 § 1, 1955: Ord. 62662 § 5, 1932.)

5.48.060City of Seattle subject to tax.

Subsections C, D, and H of Section 5.48.050, Section 5.48.055, and Section 5.48.140 shall, so far as permitted by law, be applicable to The City of Seattle, except that the City shall not, as a taxpayer, be required to conform to the other provisions of this chapter. The fee or tax imposed upon the municipal light and power system of the City shall be applicable to the business of such system both within and without the City; provided, that as to the gross income derived by such system from the production, sale or transfer of electric energy for resale or consumption outside the state the fee or tax shall be in an amount equal to five percent (5%) of the gross income.

(Ord. 117183 § 2, 1994: Ord. 116460 § 2, 1992: Ord. 104802 § 1, 1975: Ord. 99524 § 1, 1970: Ord. 84414 § 2, 1955: Ord. 62662 § 6, 1932.)

5.48.070Exceptions and deductions.

A. There shall be excepted and deducted from the total gross income upon which the license fee or tax is computed, amounts derived from business which the City is prohibited from taxing under the Constitution or laws of the United States, the Constitution or laws of the state, or the Charter[1] of the City; and any amounts collected by the taxpayer as an excise tax and remitted to the taxing authority, including but not limited to the leasehold excise tax, retail sales and use tax, admission tax, and gambling tax.

B. Any person subject to a license fee or tax under the provisions of any ordinance of the City, other than this chapter or Ordinance 98776,[2] on account of engaging in any activity for which he or she is liable for tax under this chapter, may deduct the amount of such fee or tax from the amount of fee or tax imposed by this chapter on account of such activity, but such person shall nevertheless, in the manner provided for in this chapter, apply for and procure an occupation license.

C. There shall be excluded from the total gross income upon which the license fee or tax is computed the amount of state excise taxes, imposed pursuant to RCW 82.18.010 through RCW 82.18.080 upon persons using the service of a refuse collection business and collected by the refuse collection business.

D. There shall be excluded from the total gross income upon which the license fee or tax is computed charges by a taxpayer engaging in a telephone business to a telecommunications company, as defined in RCW 80.04.010, for network telephone service that the purchaser buys for the purpose of resale.

(Ord. 116951 § 4, 1993: Ord. 116462 § 1, 1992: Ord. 114850 § 1, 1989: Ord. 112943 § 2, 1986: Ord. 100327 § 1, 1971: Ord. 62662 § 9, 1932.)

1.Editor's Note: The Charter is included at the beginning of this Code.
2.Editor's Note: Ord. 98776 has been repealed by Ord. 108138.

Cases: Since the exactions levied under Seattle Ordinance 62662 and the corresponding state law are not "taxes imposed or levied upon the sale or distribution of property or services," the amounts paid pursuant to the terms of such ordinance and state law are not deductible under Section 9 of Ordinance 62662. **Seattle Gas Co. v. Seattle,** 192 Wn. 456, 73 P.2d 1312 (1937).

5.48.072Anti-pyramiding credit for haulers of CDL Waste.

There shall be allowed to anyone who is engaged in carrying on the business of the collection of CDL Waste and subject to tax under Section 5.48.050 H a credit against the tax in the amount of One Dollar and Forty-three Cents ($1.43) per ton for each ton of CDL Waste collected in Seattle, delivered to a person engaged in or carrying on the business of transferring CDL Waste from one (1) mode of transportation to another under Section 5.48.050 G (called the "transfer station"), and used by the transfer station in measuring the tax due under Section 5.48.050 G upon the transfer stations's activities of transferring CDL Waste from one (1) mode of transportation to another. When the transfer station engages in recycling activities, the tonnage used by the taxpayer in measuring the credit shall be reduced by the proportion of the transfer station's tonnage recycled.

This section is intended to prevent pyramiding of the economic impact of the tax imposed under subsections G and H of Section 5.48.050 on CDL Waste, and is limited in its application to fulfilling that purpose.

(Ord. 116955 § 3, 1993.)

5.48.080Application for license.

On or before the first day of each tax year, every taxpayer shall apply to the Finance Director for an occupation license, upon forms provided by the Director. Every such application shall be accompanied by the specified minimum fee or tax, which amount shall be credited against future installments; provided Section 7A[1] occupation license applications shall be accompanied by the specified annual fee or quarterly installment thereof.

(Ord. 117169 § 45, 1994: Ord. 107158 § 9, 1978: Ord. 102620 § 2, 1973: Ord. 98423 § 3, 1969: Ord. 62662 § 10, 1932.)

1.Editor's Note: Section 7A of Ord. 62662 was repealed by Ord. 101033.

5.48.090 Monthly and quarterly payment of tax—Returns.

A. Where the amount of the license fee or tax is based upon gross income, the taxpayer shall pay his fee or tax in monthly installments during the life of his license, each such installment to be paid on or before the fifteenth day of each month during the tax year and to be based on the total gross income of the preceding month. In all other cases the taxpayer may pay his fee or tax in equal installments during the life of his license, each such installment to be paid on or before March 1st, June 1st, September 1st, and December 1st respectively.

B. Each such remittance shall be by bank draft, certified check, cashier's check or money order, payable to the City Finance Director or in cash, in the amount of the tax or fee or installment thereof required by the provisions of this chapter, and shall be accompanied by a return on blanks or forms prepared and provided by the Director requesting such information as may be necessary to enable the Director to determine the lawful amount of the fee or tax. The taxpayer shall, in a legible manner, write in such blank or form or return the information required and shall sign the same and by affidavit at the foot thereof shall swear or affirm that the information given is full and true and that he or she knows the same to be so.

C. If the taxpayer is a partnership, the return must be made by one of the partners; if a corporation, by one of the officers thereof; if a foreign corporation, copartnership or nonresident individual, by the resident agent or local manager of the corporation, copartnership or individual.

(Ord. 117169 § 46, 1994; Ord. 116368 § 162, 1992; Ord. 102620 § 3, 1973: Ord. 98423 § 4, 1969: Ord. 62662 § 11, 1932.)

5.48.100 Commencement of business during tax year.

Whenever a taxpayer commences during any tax year to engage in any business, occupation, pursuit or privilege, for which an occupation license is required under the provisions of this chapter, and as to which the amount of the license fee or tax is based on gross income, his returns and the license fee or tax shall be based upon and cover the portion of the tax year during which he is engaged in business.

(Ord. 113690 § 7, 1987: Ord. 98423 § 5, 1969: Ord. 62662 § 12, 1932.)

5.48.110 Sale or transfer of business.

Upon the sale or transfer during any tax year of a business on account of which a fee or tax is required by this chapter, the purchaser or transferee shall, if the fee or tax has not been paid in full for the year, be responsible for its payment for that portion of the year during which he carries on such business.

(Ord. 62662 § 14, 1932.)

5.48.120 Taxpayer to keep books and records—Returns confidential.

A. It shall be the duty of each taxpayer taxed upon his gross income to keep and enter in a proper book or set of books or records an account which shall accurately reflect the amount of his or her gross income, which account shall always be open to the inspection of the Finance Director, or his or her duly authorized agent, and from which the officer or his or her agent may verify the return made by the taxpayer.

B. The applications, statements or returns made to the Director pursuant to this chapter shall not be made public, nor shall they be subject to the inspection of any person except the Mayor, the City Attorney, the City Finance Director or his or her authorized agent, members of the City Council or their authorized agents, and the Director of the Office of Management and Planning or his or her authorized agent. Returns are also subject to disclosure when the Public Disclosure Act, RCW 42.17.160, et seq., requires disclosure.

(Ord. 117408 § 23, 1994; Ord. 117169 § 47, 1994: Ord. 116368 § 163, 1992; Ord. 106168 § 1, 1977: Ord. 102620 § 4, 1973: Ord. 62662 § 15, 1932.)

5.48.130 Director to investigate returns.

If any taxpayer fails to apply for license or make his return, or if the Finance Director is dissatisfied as to the correctness of the statements made in the application or return of any taxpayer, the officer, or his or her authorized agent, may enter the premises of such taxpayer at any reasonable time for the purpose of inspecting his or her books or records of account to ascertain the amount of the fee or tax or to determine the correctness of such statements, as the case may be, and may examine any person under oath administered by the officer or his or her agent

touching the matters inquired into, or the officer or his or her authorized agent may fix a time and place for an investigation of the correctness of the return and may issue a subpoena to the taxpayer, or any other person, to attend upon such investigation and there testify, under oath administered by the officer or his or her agent in regard to the matters inquired into and may, by subpoena, require the taxpayer, or any person, to bring with him/her such books, records and papers as may be necessary.
(Ord. 117169 § 48, 1994: Ord. 102620 § 5, 1973: Ord. 62662 § 16, 1932.)

5.48.140Extension of time for filing returns—Late payment of tax—Penalties.

A. The Finance Director for good cause shown may extend the time for making and filing any return required under this chapter and may grant such reasonable additional time within which to make and file such return as he/she may deem proper.

B. If payment of any fee or tax is not received by the City Finance Director by the twenty-fifth day of the month in which such fee or tax becomes due, there shall be assessed a penalty of five percent (5%) of the amount due with a minimum penalty of Five Dollars ($5.00); and if the fee or tax is not received by the twenty-fifth day of the month next succeeding the month in which the due date falls, there shall be assessed a total penalty of ten percent (10%) of the amount due with a minimum penalty of Fifteen Dollars ($15.00); and if the fee or tax is not received by the twenty-fifth day of the second month next succeeding the month in which the due date falls, there shall be assessed a total penalty of twenty percent (20%) of the amount due, with a minimum penalty of Twenty-five Dollars ($25.00).
(Ord. 117169 § 49, 1994; Ord. 116368 § 164, 1992: Ord. 111431 § 1, 1983: Ord. 104802 § 2, 1975: Ord. 62662 § 16.A, 1932.)

5.48.150Over or under payment of tax.

If the Finance Director upon investigation or upon reviewing returns finds that the total tax paid is more than the amount due within the preceding three (3) year period, he or she shall allow the overpayment as a credit upon future taxes due and/or certify the amount overpaid for refund by a warrant upon the General Fund.

If the Director finds that the fee or tax is less than required, he or she shall mail the taxpayer a statement showing the balance due and shall add thereto interest on such balance at the rate of ten percent (10%) per year from the date of underpayment until paid and the taxpayer shall within ten (10) days from the date of mailing statement, pay the balance due plus interest shown thereon. The Director shall not make any demand for an additional tax more than four (4) years after the close of the year in which the same accrued unless:

A. The taxpayer is not registered as required by this chapter;

B. The taxpayer has committed a fraud or misrepresented a material fact; or

C. The taxpayer has waived this limitation in writing.

(Ord. 117169 § 50, 1994: Ord. 116368 § 165, 1992; Ord. 114847 § 1, 1989: Ord. 111428 § 1, 1983: Ord. 102620 § 6, 1973: Ord. 62662 § 17, 1932.)

5.48.160Remedy for nonpayment of tax.

A. If any taxpayer fails to apply for a license, or make his or her returns, or to pay the fee or tax therefor, or any part thereof, within fifteen (15) days after the same shall have become due, the Finance Director shall ascertain the amount of the fee or tax or installment thereof due and shall notify such taxpayer thereof, who shall be liable therefor in any suit or action by the City for the collection thereof.

B. The Finance Director shall also notify the City Attorney in writing of the name of such delinquent taxpayer and the amount due from him or her, and the officer shall, with the assistance of the Finance Director, collect the same by any appropriate means or by suit or action in the name of the City.

(Ord. 117169 § 51, 1994: Ord. 102620 § 7, 1973: Ord. 98423 § 6, 1969: Ord. 62662 § 18, 1932.)

5.48.170Appeals.

Any taxpayer aggrieved by the amount of the fee or tax found by the Finance Director to be required under the provisions of this chapter, may file a written appeal with the Office of the Hearing Examiner within twenty (20) days from the time such taxpayer was given notice of such amount and providing a copy of the notice of appeal to the Director and the City Attorney. The hearing shall be conducted in accordance with the procedures for hearing contested cases in the Seattle Administrative Code (SMC Chapter 3.02; Ordinance 102228). The determination appealed from shall be regarded as prima facie correct. The Hearing Examiner may reverse or modify an action of the Director and ascertain the correct amount of the fee or tax due if the Director's determination violates the terms of this chapter or is contrary to law. The decision of the Hearing Examiner shall be final.

(Ord. 117169 § 52, 1994: Ord. 114595 § 1, 1989: Ord. 102620 § 8, 1973: Ord. 62662 § 19, 1932.)

5.48.180Director to make rules.

The Finance Director shall have the power, and it shall be his or her duty, from time to time, to adopt, publish and enforce rules and regulations not inconsistent with this chapter or with law for the purpose of carrying out the provisions thereof, and it is unlawful to violate or fail to comply with, any such rule or regulation.

(Ord. 117169 § 53, 1994: Ord. 102620 § 9, 1973: Ord. 62662 § 20, 1932.)

5.48.190Display of license.

A. All licenses issued pursuant to the provisions of this chapter shall be kept posted by the licensee in a conspicuous place in his principal place of business in the City.

B. No person to whom a license has been issued, pursuant to this chapter shall suffer or allow any other person chargeable with a separate license to operate under or display his license, nor shall such other person operate under or display such license.

(Ord. 102620 § 10, 1973: Ord. 62662 § 21, 1932.)

5.48.200False statements.

It shall be unlawful for any person liable to tax under this chapter to fail or refuse to make application or return for a license or to pay the fee or tax or installment thereof when due, or for any person to make any false or fraudulent application or return or any false statement or representation in, or in connection with, any such application or return, or to aid or abet another in any attempt to evade payment of the fee or tax, or any part thereof, or for any person to fail to appear and/or testify in response to subpoena issued pursuant to this chapter, or to testify falsely upon any investigation of the correctness of a return, or

upon the hearing of any appeal, or in any manner to hinder or delay the City or any of its officers in carrying out the provisions of this chapter.
(Ord. 62662 § 22, 1932.)

5.48.210Violation—Penalty.

Any person violating or failing to comply with any of the provisions of this chapter or any lawful rule or regulation adopted by the Finance Director pursuant to this chapter, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine in any sum not to exceed Three Hundred Dollars ($300.00), or by imprisonment in the City Jail for a term not exceeding ninety (90) days, or by both such fine and imprisonment.
(Ord. 117169 § 54, 1994: Ord. 102620 § 11, 1973: Ord. 62662 § 24, 1932.)

5.48.250Bad debt deduction—Cellular telephone service companies.

A deduction from gross income shall be allowed, only to cellular telephone service companies who keep their regular books of account on an accrual basis, for credit losses actually sustained by a taxpayer as a result of cellular telephone service business which shall be phased in as follows: twenty percent (20%) of the credit losses occurring in 1995; forty percent (40%) of the credit losses occurring in 1996; sixty percent (60%) of the credit losses occurring in 1997; and eighty percent (80%) of the credit losses occurring in 1998; and a complete deduction for the credit losses occurring in 1999 and thereafter.
(Ord. 117401 § 2 (part), 1994.)

5.48.260Allocation of revenues—Cellular telephone service.

A. Service Address. In determining the total gross income from telephone business in the City for purposes of Section 5.48.050 A, there shall be included all gross income from cellular telephone service provided to customers whose principal service address is in the City, regardless of the location of the facilities used to provide the service. The customer's "principal service address" is, with respect to each telephone: (a) the customer's plant, store, office, or other facility where the telephone is normally assigned for use in conjunction with the customer's business activity; or (b) the customer's place of residence if the telephone is for personal use.

B. There is a rebuttable presumption that the principal service address shown on the cellular telephone service company's records is accurate. If the cellular telephone service company knows or should have known that a customer's principal service address for a telephone is within the City then the gross revenue from cellular telephone service provided to that customer with respect to that telephone is to be included in the company's gross income.

C. Non-Washington Roaming Phones. In determining the total gross income from telephone business in the City for purposes of Section 5.48.050 A, there shall be included all gross income from cellular telephone services rendered to customers using non-Washington telephones (which means cellular telephones with principal service addresses outside the state) through the use of switching facilities located in the City. In the event technological advances result in a cellular telephone service company's accounting system accurately assigning revenue from such a customer's call to the location of the originating cell site rather than to the location of the main cellular switching office that switched the call, and the company has elected to report, to all taxing jurisdictions throughout Washington State, its revenues from non-Washington telephones according to the location of the originating cell site, then that company's gross revenues for purposes of Section 5.48.050 A shall, instead of the preceding sentence, include all gross income from services rendered to customers using non-Washington telephones derived from calls originating in cell sites within the City.

D. Dispute Resolution. If there is a dispute between or among the City and another city or cities as to the principal service address for a customer's cellular telephone service, or any other matter concerning allocation of revenues, and the dispute is not resolved by negotiation among the parties, then the dispute shall be resolved by the City and the other city or cities through the Association of Washington Cities. Once taxes on the disputed revenues have been paid to one (1) of the contesting cities, the cellular telephone service company shall have no further liability with respect to additional taxes, penalties, or interest on the disputed revenues so long as it promptly changes its billing records for future revenues to comport with the settlement facilitated by the Association of Washington Cities.

(Ord. 117401 § 2 (part), 1994.)

5.48.270Rate change—Cellular telephone service.

No change in the rate of tax upon persons engaging in providing cellular telephone service shall apply to business activities occurring before the effective date of the change and, except for a change in the tax rate authorized by RCW 35.21.870, no change in the rate of the tax may take effect sooner than sixty (60) days following the enactment of the ordinance establishing the change.
(Ord. 117401 § 2 (part) 1994.)

Chapter 5.52
GAMBLING TAX

Sections:

5.52.010Tax levied.
5.52.020Filing of intent to conduct activity—Payments—Late fees.
5.52.030Enforcement—Over or under payment of tax.
5.52.040Keeping of books and records—Inspection.
5.52.050False statement or failure to pay tax—Penalty.
5.52.060Rule-making authority.

Statutory Reference: For statutory provisions authorizing cities to tax certain gambling activities, see RCW 9.46.110.

Severability: If any clause, sentence, paragraph or part of this chapter, or the application thereof to any person or circumstances, shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this chapter.
(Ord. 107278 § 5, 1978: Ord. 102459 § 6, 1973.)

5.52.010Tax levied.

A. In accordance with RCW Chapter 9.46, as amended, there is levied upon all persons, corporations, associations, or organizations conducting or operating within the City any of the following gambling activities authorized by RCW 9.46.010, as amended, and RCW 9.46.033 a tax as follows:

1. For the conduct of amusement games, a tax in an amount equal to two percent (2%) of the gross revenue, less the amount paid for as prizes; and

2. For punchboards and pull-tabs, a tax equal to five percent (5%) of the gross receipts.

B. In accordance with RCW Chapter 9.46, as amended, as to bona fide charitable or nonprofit organizations, as defined in RCW 9.46.0209, there is levied a tax as follows:

1. Upon and for the conduct of bingo games as defined in RCW 9.46.0205 and raffles, as defined in RCW 9.46.0277, a tax in an amount equal to ten percent (10%) of the gross revenue, less the amount paid for as prizes, received therefrom; and

2. Upon and for the conduct of a fund-raising event, as defined in RCW 9.46.0233, a tax in an amount equal to ten percent (10%) of the gross revenue, less the amount paid for or as prizes, received therefrom.

C. 1. No tax shall be imposed on bingo or amusement games when such activity or any combination thereof is conducted by a bona fide charitable or nonprofit organization as defined in RCW 9.46.0209, which organization has no paid operating or management personnel and has gross income from bingo or amusement games or any combination thereof, less the amount paid for or as prizes, not exceeding Five Thousand Dollars ($5,000.00) per year; and

2. No tax shall be imposed on the first Ten Thousand Dollars ($10,000.00) of net proceeds from raffles conducted by any bona fide charitable or nonprofit organization as defined in this chapter; and

3. The conduct of amusement games at the Seattle Center pursuant to a concession agreement with the City shall be exempt from the tax imposed by this chapter.
(Ord. 115916 § 2, 1991: Ord. 107278 § 1, 1978: Ord. 104087 § 2, 1974: Ord. 103598 § 1, 1974: Ord. 103016 § 1, 1974: Ord. 102835 § 9(part), 1973: Ord. 102459 § 1, 1973.)

Cases: A tax upon gambling revenues to include those received a short time prior to enactment of the tax is not unconstitutional. **Drum & Bugle Corps. v. Seattle,** 14 Wn. App. 845, 545 P.2d 1235 (1976).

5.52.020Filing of intent to conduct activity—Payments—Late fees.

A. Any person, corporation, association, organization, or bona fide charitable or nonprofit organization intending to conduct or operate in the City any such gambling activity or fundraising event as authorized by or under RCW Chapter 9.46, as amended, and subject to the tax imposed by Section 5.52.010 shall, prior to the commencement of any such activity, file with the Finance Director a sworn declaration of intent to conduct or operate such activity together with a copy of the license therefor issued in accordance with said chapter, if such is required, and thereafter for any period covered by such license, or any renewal thereof, or by such statement of intent, shall on or before the fifteenth day of the month next succeeding the end of the quarterly period in which the tax accrued, file with the Finance Director a sworn return on a form to be provided and prescribed by the Director, and containing such information as the Director shall prescribe for the purpose of ascertaining the tax due for the preceding quarterly period.

B. As used in this chapter, the term "quarterly period" shall mean the periods January-February-March, April-May-June, July-August-September, October-November-December and shall begin the first day of the first month and include the last day of the third month within each such period. The term, "monthly," shall mean the period beginning with the first day of each calendar month and include the last day of that month.

C. The tax imposed by Section 5.52.010 A2 for punchboards and pulltabs shall be due and payable in monthly installments; all other taxes shall be due and payable for each quarterly period. Remittance of the tax shall accompany each return and be made on or before the fifteenth day of the month next succeeding the period in which the tax accrued.

D. For each payment due, if such payment is not made within sixteen (16) days from the due date thereof, there shall be added a penalty as follows:

Seventeen (17) to forty (40) days' delinquency, ten percent (10%) with a minimum penalty of Five Dollars ($5.00); forty-one (41) to seventy (70) days' delinquency, fifteen percent (15%) with a minimum penalty of Fifteen Dollars ($15.00); seventy-one (71) or more days' delinquency, twenty percent (20%) with a minimum penalty of Twenty-five Dollars ($25.00).

(Ord. 117169 § 55, 1994; Ord. 115916 § 3, 1991: Ord. 107278 § 2, 1978: Ord. 103598 § 2, 1974:

Ord. 102835 § 9(part), 1973: Ord. 102459 § 2, 1973.)

5.52.030Enforcement—Over or under payment of tax.

A. The Finance Director shall have the power, and it shall be his duty, from time to time, to adopt, publish and enforce rules and regulations not inconsistent with this chapter or with law for the purpose of carrying out the provisions hereof, and he shall have the further duty and authority to prescribe and issue appropriate forms for determination and declaration of the amount of tax to be paid.

B. In the event of overpayment of any tax due under this chapter, the Finance Director or his or her authorized agent, upon written application by the taxpayer for a refund or credit within two (2) years after the date of such overpayment, may offset the amount of such overpayment against the taxpayer's existing tax liability under this chapter and certify for refund any balance to such taxpayer or credit such balance to taxes which may accrue under this chapter. To be eligible therefor, refund of overpayments as authorized in this section shall be approved by the Finance Director or his or her authorized agent. No refund or credit may be allowed with respect to any payments made to the City more than two (2) years before the date of such application; provided, that where a taxpayer makes application for a refund or credit of an overpayment made more than two (2) years before the date of such application, the amount of the refund or credit otherwise allowable for the portion of the assessment period preceding the two (2) year period may be offset against any existing tax deficiency which accrued under this chapter within such assessment period.

C. If the Finance Director finds that the fee or tax or penalty paid is less than the amount due, he or she shall mail the taxpayer a statement showing the balance due and shall add thereto interest on such balance at the rate of six percent (6%) per year from the date of underpayment until paid and the taxpayer shall within three (3) days from the date of mailing statement pay the amount shown thereon as the balance due plus such interest. No demand for an additional fee or tax or penalty shall be made by the Finance Director more than four (4) years after the close of the year in which the same accrued except:

1. Against a taxpayer who is not registered as required by this chapter;

2. As against a taxpayer who has been guilty of fraud or misrepresentation of a material fact; or

3. Where a taxpayer has executed a written waiver of such limitations.

(Ord. 117169 § 56, 1994: Ord. 116368 § 166, 1992; Ord. 102835 § 9(part), 1973: Ord. 102459 § 3, 1973.)

5.52.040Keeping of books and records—Inspection.

It shall be the duty of every person, corporation, association, organization or bona fide charitable or nonprofit organization liable for the payment of any tax imposed by this chapter to keep and preserve for the period of five (5) years such books and records as will accurately reflect the amount of gross revenue received from any gambling activity or fund-raising event enumerated in Section 5.52.010 and from which can be determined the amount of tax for which such person, corporation, association, organization or bona fide charitable or nonprofit organization may be liable under the provisions of this chapter; and all such books and records, and also invoices, inventories and stocks of goods, wares and merchandise shall be open for inspection at all reasonable times by the Finance Director or his or her duly authorized agent.

(Ord. 117169 § 57, 1994: Ord. 107278 § 3, 1978: Ord. 103598 § 3, 1974: Ord. 103016 § 2, 1974: Ord. 102835 § 9(part), 1973: Ord. 102459 § 4, 1973.)

5.52.050False statement or failure to pay tax—Penalty.

It is unlawful for anyone to falsify or fail to furnish any declaration or return required by this chapter, or to fail or refuse to pay the tax levied by this chapter. Upon conviction of any violation of this section, the offender shall be subject to a fine of not to exceed Five Hundred Dollars ($500.00).

(Ord. 102835 § 9(part), 1973: Ord. 102459 § 5, 1973.)

5.52.060Rule-making authority.

The Finance Director shall have the power from time to time to promulgate rules and regulations to implement this chapter, including the adoption by reference of provisions of state law or

the Washington Administrative Code relating to gambling; the waiver of delinquency penalties for delayed reporting of the gambling tax when occurring due to causes beyond the taxpayer's control or due to excusable neglect; and the allocation of gross revenues among taxing jurisdictions when raffles or other gambling activity occur in Seattle and elsewhere.
(Ord. 117169 § 58, 1994: Ord. 115916 § 4, 1991.)

Chapter 5.56
LEASEHOLD EXCISE TAX

Sections:

Subchapter I General Provisions
5.56.010Tax levied—Remittance.
5.56.020Rate of tax—Credits allowed.
5.56.030Administration and collection—Contract.
5.56.040Exemptions.
5.56.050Inspection of records.
5.56.060Failure to pay tax—Violation and penalty.

Severability: If any provision of Subchapter I, or its application to any person or circumstance is held invalid, the remainder of Subchapter I or the application of the provision to other persons or circumstances is not affected.
(Ord. 105450 § 6, 1976.)

Subchapter II City as Lessor
5.56.100Tax levied.
5.56.110Collection of tax.
5.56.120Remittance of tax.
5.56.130Establishment of subaccounts.

Statutory Reference: For statutory provisions on leasehold excise taxes, see RCW Ch. 82.29A.

Subchapter I General Provisions

5.56.010Tax levied—Remittance.

There is levied and shall be collected a leasehold excise tax on and after January 1, 1976, upon the act or privilege of occupying or using publicly owned real or personal property within The City of Seattle through a "leasehold interest" as defined by Section 2, Chapter 61, Laws of 1975-76, Second Extraordinary Session (hereafter "the State Act"), which tax shall be paid, collected, and remitted to the Department of Revenue of the State of Washington at the time and in the manner prescribed by Section 5 of the State Act.

(Ord. 105450 § 1, 1976.)

5.56.020Rate of tax—Credits allowed.

The rate of the tax imposed by Section 5.56.010 shall be four percent (4%) of the taxable rent (as defined by Section 2 of the State Act); provided, that the following credits shall be allowed in determining the tax payable:

A. With respect to a leasehold interest arising out of any lease or agreement, the terms of which were binding on the lessee prior to July 1, 1970, where such lease or agreement has not been renegotiated (as defined by Section 2 of the State Act) since that date, and excluding from such credit: (1) any leasehold interest arising out of any lease of property covered by the provisions of RCW 28B.20.394 and (2) any lease or agreement including options to renew which extends beyond January 1, 1985, as follows:

With respect to taxes due in calendar year 1976, a credit equal to eighty percent (80%) of the tax produced by the above rate,

With respect to taxes due in calendar year 1977, a credit equal to sixty percent (60%) of the tax produced by the above rate,

With respect to taxes due in calendar year 1978, a credit equal to forty percent (40%) of the tax produced by the above rate,

With respect to taxes due in calendar year 1979, a credit equal to twenty percent (20%) of the tax produced by the above rate;

B. With respect to a product lease (as defined by Section 2 of the State Act), a credit of thirty-three percent (33%) of the tax produced by the above rate.

(Ord. 105450 § 2, 1976.)

5.56.030Administration and collection—Contract.

The administration and collection of the tax imposed by this chapter shall be in accordance with the provisions of the State Act, and for such purpose the Mayor is authorized for and on behalf of the City to execute a contract with the Washington State Department of Revenue.
(Ord. 105450 § 3, 1976.)

5.56.040Exemptions.

Leasehold interests exempted by Section 13 of the State Act as it now exists or may hereafter be amended shall be exempt from the tax imposed pursuant to Section 5.56.010.
(Ord. 105450 § 4, 1976.)

5.56.050Inspection of records.

In furtherance of the administration and collection of the tax imposed by this chapter, and as contemplated by RCW 82.32.330, proper officers of the state for official purposes may inspect such records of the City as may be necessary upon consent by the State Department of Revenue to inspection of similar state records by proper officers of the City.
(Ord. 105450 § 5, 1976.)

5.56.060Failure to pay tax—Violation and penalty.

A. It is unlawful for any person within the City, upon whom is levied the leasehold excise tax imposed by this chapter, to fail to pay such tax at the time and in the manner prescribed by Section 5 of the State Act.

B. Conduct made unlawful by this chapter shall constitute a violation subject to the provisions of Chapters 12A.02 and 12A.04 of this Code (Seattle Criminal Code) and any person convicted thereof may be punished by a civil fine or forfeiture not to exceed Five Hundred Dollars ($500.00).
(Ord. 105450 § 7, 1976.)

Subchapter II City as Lessor

5.56.100Tax levied.

Chapter 61, Laws of 1975-76, Second Extraordinary Session (hereafter "the State Act"), imposes a leasehold excise tax upon the act or privilege of occupying or using publicly owned real or personal property through "a leasehold interest," as defined by Section 2 of the State Act. The rate of said tax has been established by the State Act at twelve percent (12%) of taxable rent. The administration and collection of the tax shall be exclusively performed by the Department of Revenue of the State of Washington.
(Ord. 105679 § 1, 1976.)

5.56.110Collection of tax.

Section 5 of the State Act requires the lessor to collect the tax from the lessee and remit the same to the Department of Revenue. City departments acting as lessors under terms of the State Act shall, effective January 1, 1976, collect the tax as a surcharge upon contract rent in the amount of twelve percent (12%) of taxable rent, as defined in Section 2 of the State Act, or according to such different manner as the Department of Revenue may prescribe in accordance with Section 2 of the State Act. Collections of the tax shall be deposited in the appropriate operating funds of those City departments acting as lessors. The amounts shall be paid by the City Finance Director to the Department of Revenue upon execution of appropriate vouchers by the affected departments and in accordance with such rules as the Department of Revenue may promulgate.
(Ord. 116368 § 167, 1992: Ord. 105679 § 2, 1976.)

5.56.120Remittance of tax.

City departments required to collect the tax shall remit the tax collected to the state upon such forms and in accordance with such rules as the Department of Revenue shall prescribe.
(Ord. 105679 § 3, 1976.)

5.56.130Establishment of subaccounts.

The City Finance Director shall establish such subaccounts in the operating funds of departments required to collect the tax as shall be necessary to permit the separate and appropriate accounting of such tax, and shall inform such departments concerning the identity and coding of such subaccounts.
(Ord. 116368 § 168, 1992: Ord. 105679 § 4, 1976.)

Chapter 5.60
SALES AND USE TAX

Sections:

5.60.010Imposition of sales and use tax.
5.60.020Rate of tax imposed.
5.60.030Administration and collection of tax.
5.60.040Consent to inspection of records.
5.60.050Authorizing execution of contract for administration.
5.60.060Special initiative.
5.60.070Penalties.

Section 8. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of this ordinance or the application of the provisions to other persons or circumstances is not affected.
(Ord. 110877 § 8, 1982.)

5.60.010Imposition of sales and use tax.

There is hereby imposed a sales and use tax, as the case may be, as authorized by RCW 82.14.030(1) and by 82.14.030(2), upon every taxable event, as defined in RCW 82.14.020, occurring within The City of Seattle. The tax shall be imposed upon and collected from those persons from whom the state sales tax or use tax is collected pursuant to RCW Chapters 82.08 and 82.12.
(Ord. 113520 § 1, 1987: Ord. 110877 § 1, 1982.)

5.60.020Rate of tax imposed.

The rate of the tax imposed by Section 5.60.010 shall be the five-tenths (5/10) of one percent (1%) of the selling price or value of the article used, as the case may be, as authorized by RCW 82.14.030(1), effective April 1, 1970; and three-tenths (3/10) of one percent (1%) effective July 1, 1983, increasing to five-tenths (5/10) of one percent (1%) effective January 1, 1988, as authorized by RCW 82.14.030(2); provided however, that during such period as there is in effect a sales tax and use tax imposed by King County under RCW 82.14.030(2) at a rate which is less than the rate imposed by this section, the County shall receive from the tax imposed by Section 5.60.010 that amount of revenues equal to fifteen percent (15%) of the rate of the tax imposed by King County under RCW 82.14.030(2).
(Ord. 113727 § 1, 1987: Ord. 113520 § 2, 1987: Ord. 110877 § 2, 1982.)

5.60.030Administration and collection of tax.

The administration and collection of the tax imposed by this chapter shall be in accordance with the provisions of RCW 82.14.050.
(Ord. 110877 § 3, 1982.)

5.60.040Consent to inspection of records.

The City of Seattle hereby consents to the inspection of such records as are necessary to qualify the City for inspection of records of the Department of Revenue, pursuant to RCW 82.32.330.
(Ord. 110877 § 4, 1982.)

5.60.050Authorizing execution of contract for administration.

The Mayor is hereby authorized to enter into a contract with the Department of Revenue for the administration of this tax.
(Ord. 110877 § 5, 1982.)

5.60.060Special initiative.

The ordinance codified in this chapter shall be subject to a special initiative as contemplated by Section 19, Chapter 49, Laws of 1982, First Extraordinary Session, and Article IV, Section 1 of the City Charter.
(Ord. 110877 § 6, 1982.)

5.60.070Penalties.

Any seller who fails or refuses to collect the tax as required with the intent to violate the provisions of this chapter or to gain some advantage or benefit, either direct or indirect, and any buyer who refuses to pay any tax due under this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be fined no more than Five Hundred Dollars ($500.00) or imprisoned for not more than six (6) months, or by both such fine and imprisonment.

(Ord. 110877 § 7, 1982.)

Chapter 5.64
TAX ON SALE OF REAL ESTATE

Sections:

5.64.010Imposition of real estate excise tax.
5.64.020Consistency with state tax.
5.64.030Deposit and use of tax proceeds.
5.64.040Lien provisions.
5.64.050Seller's obligation.
5.64.060Notation of payment.
5.64.070Date payable.
5.64.080Refunds of excessive and improper payments.
5.64.090Apportionment.
5.64.100Additional real estate excise tax.

Severability: The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.
(Ord. 110674 § 2, 1982.)

5.64.010Imposition of real estate excise tax.

There is hereby imposed an excise tax upon each sale of real property in the corporate limits of this City at the rate of one-quarter (1/4) of one percent (1%) of the selling price as authorized by Chapter 49, Laws of 1982, 1st Extraordinary Session.
(Ord. 110674 § 1(part), 1982.)

5.64.020Consistency with state tax.

A. The tax shall be collected in the same manner as the State Real Estate Excise tax imposed by RCW Chapter 82.45.

B. All applicable rules, regulations, laws and court decisions regarding real estate excise taxes as imposed by the state under RCW Chapter 82.45 and implemented by Washington Administrative Code Chapter 458-60 shall apply.
(Ord. 110674 § 1(part), 1982.)

5.64.030Deposit and use of tax proceeds.

The King County Comptroller may retain one percent (1%) of the proceeds of the taxes collected for the county current expense fund to defray the costs of collection. All remaining proceeds from City taxes collected shall be paid to the City Finance Director at least monthly and, upon receipt, deposited in the Cumulative Reserve Fund

for municipal capital improvements, including those listed in RCW 35.43.040.
(Ord. 116368 § 169, 1992: Ord. 110674 § 1(part), 1982.)

5.64.040Lien provisions.

The tax and any interest or penalties thereon are a specific lien upon each piece of real property sold from the time of sale until the tax is paid, which lien may be enforced in the manner prescribed for the foreclosure of mortgages.
(Ord. 110674 § 1(part), 1982.)

5.64.050Seller's obligation.

The tax is an obligation of the seller and may be enforced through an action against the seller or in the manner prescribed for the foreclosure of mortgages. Resort to one (1) course of enforcement is not an election not to pursue another.
(Ord. 110674 § 1(part), 1982.)

5.64.060Notation of payment.

The tax shall be paid to and collected by the King County Comptroller, who shall act as agent for the City in collecting the tax and perform the duties contemplated by Section 16, Chapter 49, Laws of 1982, First Extraordinary Session.
(Ord. 110674 § 1(part), 1982.)

5.64.070Date payable.

The tax is due and payable immediately at the time of sale and, if not paid within thirty (30) days thereafter, shall bear interest at the rate of one percent (1%) per month from the time of sale until the date of payment.
(Ord. 110674 § 1(part), 1982.)

5.64.080Refunds of excessive and improper payments.

If the State Department of Revenue authorizes a refund of an excessive amount or an improper payment of the state real estate excise transaction upon a particular sale, the King County Comptroller, upon application of the taxpayer, may make a refund of the City tax paid, and withhold a like amount from the next monthly distribution to the City.
(Ord. 110674 § 1(part), 1982.)

5.64.090Apportionment.

When a sale involves a single property bisected by the City's limits, or two (2) or more real properties, some of which are located within the City and some of which are located outside, the King County Comptroller may determine the tax amount due to the City according to information supplied upon accompanying affidavits, and, if

unable to determine the appropriate value therefrom, the King County Comptroller may rely upon recommendations of the State Department of Revenue, or the King County Assessor in making a determination of the amount of tax due.
(Ord. 110674 § 1(part), 1982.)

5.64.100Additional real estate excise tax.

In accordance with RCW 82.46.035, and in addition to the excise tax on sale of real property imposed by Sections 5.64.010 and 5.64.020, there is hereby imposed an excise tax on each sale of real property located within the corporate limits of The City of Seattle at the rate of one-quarter of one percent (0.25%) of the selling price to be collected by the County as prescribed in RCW 82.46.060. Proceeds from this additional tax shall be deposited in the Real Estate Excise Tax Account Two of the Cumulative Reserve Fund and expended as authorized by law, solely for financing capital projects specified in a capital facilities plan element of a comprehensive plan.
(Ord. 116497 § 4, 1992: Ord. 115932 § 1, 1991.)

Chapter 5.68
USE TAX—NATURAL OR MANUFACTURED GAS

Sections:

5.68.010Imposition of use tax.
5.68.020Exceptions and deductions.
5.68.030Administration and collection of tax.
5.68.040Consent to inspection of records.
5.68.050Authorizing execution of contract for administration.

5.68.010Imposition of use tax.

There is hereby imposed upon every person a use tax for the privilege of using natural gas or manufactured gas in the City as a consumer at the rate of six percent (6%) of the value of the gas used, as authorized by RCW 82.14.230.
(Ord. 115960 § 1, 1991: Ord. 115160 § 1(part), 1990.)

5.68.020Exceptions and deductions.

A. The "Value of the gas used," does not include any amounts that are paid for the hire or use of a natural gas business in transporting the gas subject to tax under this subsection if those amounts are subject to tax under subsection C of Section 5.48.050.

B. The tax imposed under this section shall not apply to the use of natural or manufactured gas if the person who sold the gas to the consumer has paid a tax under subsection C of Section 5.48.050 with respect to the gas for which exemption is sought under this section.

C. There shall be allowed a deduction against the value of the gas used when: (1) the person who sold the gas to the consumer has paid a gross receipts tax similar to that imposed under this section to another state; or (2) the person consuming the gas has paid a gross receipts tax similar to that imposed under this section to another state. The deduction shall be with respect to and in the amount of the value of the gas for which the gross receipts tax was paid.

D. The use tax shall be paid by the consumer.
(Ord. 115160 § 1(part), 1990.)

5.68.030Administration and collection of tax.

The administration and collection of the tax imposed by this chapter shall be in accordance with the provisions of RCW 82.14.050.
(Ord. 115160 § 1(part), 1990.)

5.68.040Consent to inspection of records.

The City of Seattle hereby consents to the inspection of such records as are necessary to qualify the City for inspection of records of the

Department of Revenue, pursuant to RCW 82.32.330.
(Ord. 115160 § 1(part), 1990.)

5.68.050 Authorizing execution of contract for administration.

The Mayor is hereby authorized for and on behalf of the City to enter into a contract with the Washington State Department of Revenue for the administration of this tax.
(Ord. 115160 § 1(part), 1990.)