

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).

5.40.025 Tax 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.)

5.40.026 Tax 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:

5.40.026 REVENUE, FINANCE AND TAXATION

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.)

5.40.040Swimming 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.)

5.40.050Resort 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.)

5.40.053Complimentary 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.)

5.40.056Discount admission.

5.40.056 REVENUE, FINANCE AND TAXATION

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 mid-night performance); or
4. The reduced charge is based on the presentation 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.)

5.40.060 Ticket 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.)

5.40.070 Remittance 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 admission charge is paid and such taxes shall be remitted by the

(Seattle 9-94)

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 col-

lection 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.

5.40.080 REVENUE, FINANCE AND TAXATION

(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 5.40.026 A 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 non-profit 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 5.40.026 A by making a false representation in its application, or fails to adhere to its criteria or (2) otherwise violates Section 5.40.026 A 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. 118141 § 1, 1996; 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.)

(Seattle 9-96)

5.40.086 Elimination of exemptions.

If any exemption from the admission tax is found to be unconstitutional because a court determines it wrongly exempts some events or entities but not others, then that exemption shall be eliminated in its entirety effective on the date of the court decision.

(Ord. 118141 § 2, 1996.)

5.40.090 Certificate 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.)

5.40.100 Rules 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-

5.40.100 REVENUE, FINANCE AND TAXATION

Seattle Municipal Code
April, 2001 code update file
Text provided for historic reference only.

See ordinances creating and amending sections for complete text, graphics, and tables and to confirm accuracy of this source file.

(Seattle 9-96)

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5-22.24

ated 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.)

5.40.110 Effective date.

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

5.40.120 Receipts to General Subfund and Arts Account.

All receipts from the admission tax levied in this chapter shall be placed in the General Subfund of the General Fund, except that from and after January 1, 2001, twenty (20) percent of all previously unrestricted admission tax receipts shall be deposited into the Arts Account of the General Subfund of the General Fund. Money in the Arts Account of the General Subfund shall be annually appropriated to the Seattle Arts Commission for the following purposes:

A. Initiatives to keep artists living, working and creatively challenged in Seattle;

B. Initiatives to build community through the arts and create opportunities for the public to intersect with artists and their work; and

C. For each new generation, initiatives that include art opportunities for youth in and out of school.

(Ord. 120183 § 2, 2000; Ord. 106058 § 3, 1976; Ord. 79849 § 1, 1951; Ord. 72495 § 11-1, 1943.)

5.40.135 Inspection 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.)

5.40.140 Violation—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) or to imprisonment in the City Jail for not to exceed

5.44.010 REVENUE, FINANCE AND TAXATION

ninety (90) days, or to both such fine and imprisonment.
(Ord. 72495 § 13, 1943.)

5.40.150 Aiding 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:

Subchapter I General Provisions

- 5.44.010 Exercise of revenue license power.
- 5.44.020 Definitions generally.
- 5.44.022 Definitions, A—I.
- 5.44.024 Definitions, J—R.
- 5.44.026 Definitions of “sale.”
- 5.44.028 Definitions, S—Z.
- 5.44.030 Tax and fees on business with the City—Payment of City contracts.
- 5.44.040 Due date—Returns.
- 5.44.050 Computation of time.
- 5.44.060 Payments due under this chapter.
- 5.44.070 Payment of tax or fees by NSF check.
- 5.44.080 Books and records to be kept five years—Failure to make return or provide records.
- 5.44.090 Payments—Extension—Penalties.
- 5.44.100 Under or over payment of tax or fee.
- 5.44.110 Quitting, selling or transferring of business.
- 5.44.120 Appeals and judicial review.
- 5.44.130 Director to make rules.
- 5.44.140 Mailing of notices.
- 5.44.150 Unlawful actions.
- 5.44.160 Tax or fee additional to others.

5.44.170 Collection of delinquent tax or fee—Tax and fees constitute debt.

5.44.180 Application to City's business activities.

5.44.190 Violation—Penalty.

5.44.200 Returns confidential—Exceptions.

5.44.210 Fees for copies and research.

Subchapter II Business License

5.44.300 Business license required.

5.44.310 Renewal of license.

5.44.320 License—Not transferable or assignable—Exceptions.

5.44.330 Suspension or revocation of license.

5.44.340 Unlawful acts.

5.44.350 License not obtained.

Subchapter III Business License Tax

5.44.400 Tax or fee levied.

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

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

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

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

5.44.418 Multiple activity exclusion—Determination; documentation.

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

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

5.44.424 Allocation principles—Motor carriers of freight for hire.

5.44.426 Allocation principles—Property services.

5.44.428 Persons rendering services both within and without the City.

(Seattle 3-01)

- 5.44.430** Ancillary allocation authority of Director.
- 5.44.440** Determination of value of products.
- 5.44.442** Sales by consignee, bailee, factor or auctioneer.
- 5.44.444** Persons engaged in telephone business—Resale of network telephone services.
- 5.44.450** Exemptions—Designated.
- 5.44.460** Exemptions—Accommodation sales.
- 5.44.470** Deductions allowed in computing tax or fees.
- 5.44.480** Tax or fees not to be passed on.

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).

Subchapter I General Provisions

5.44.010 Exercise of revenue license power.

The provisions of this chapter shall be deemed an exercise of the power of the City to license for revenue. The provisions of this chapter are subject to periodic statutory or administrative rule changes or judicial interpretations of the ordinances or rules. The responsibility rests with the licensee or taxpayer to reconfirm tax computation procedures and remain in compliance with the City code.

(Ord. 118314 § 1, 1996; Ord. 72630 § 1, 1943.)

5.44.020 Definitions 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 82.04.214 shall apply to the same word or phrase in this chapter unless its context or definition in this chapter indicates otherwise.

(Ord. 118314 § 2, 1996; 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.)

5.44.022 Definitions, A—I.

1. “Business” includes all activities engaged in with the object of gain, benefit or advantage to

5.44.022 REVENUE, FINANCE AND TAXATION

the taxpayer, licensee, or to another person or class, directly or indirectly.

2. "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.

3. "City" means The City of Seattle.

4. "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 person, as defined in subsection 5.44.024 (5), either without consideration or in the performance of contracts; or

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

5. "Consumer" has the meaning contained in RCW 82.04.190, subsections (1) through (5) and (7), as now existing or hereafter amended.

6. "Department" means the Department of Finance of The City of Seattle, or its functional successor.

7. "Director" means the Director of Finance of The City of Seattle, or his or her functional successor.

8. "Engaging in business" means commencing, conducting or continuing in business and includes any business activity, professional, trade, commercial activity or occupation which is carried on, or based, within the City. It includes any business activity whether or not the business entity or person has a location within or without the City, or within or without the State, whereby employees, representatives, brokers or agents solicit sales, enter into contracts, deliver products or services, perform other business activities, endeavor to maintain a share of the market within the City, or the business entity avails itself of the benefits of an economic market in the City. Engaging in business includes 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.

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

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

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

12. "Insurer" includes every person engaged in the business of making contracts of insurance, other than a fraternal benefit society. A "health care service contractor" as defined by RCW 48.44.010 (3) or a "health maintenance organization" as defined by RCW 48.46.020 (1) are not insurers.

(Ord. 120181 § 95, 2000; Ord. 118397 § 83, 1996; Ord. 118314 § 3, 1996; 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).

5.44.024 Definitions, J—R.

1. "Licensee" includes any person, as defined herein, required to have a license hereunder, or liable for any license hereunder, or liable for any license fee hereunder, or for the collection of any license fee hereunder, or who engages in any business, or who performs any act, for which a license fee is imposed by this chapter.

2. "Manufacturer" means every person, as defined in subsection 5.44.024 (5), who, either directly or by contracting with others for the necessary labor or mechanical services, manufactures for sale or commercial use from his or her 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 or whole of the manufactured

(Seattle 3-01)

article, the Finance Director shall prescribe equitable rules for determining tax liability.

3. "Newspaper" means a publication issued regularly at stated intervals at least twice a month and printed on newsprint in tabloid or broadsheet format folded loosely together without stapling, glue or any other binding of any kind.

4. "Nonprofit tax-exempt organization" means an organization, corporation, or association which is currently recognized by the United States of America as exempt from federal income taxation pursuant to Section 501(c)(1), (3), (4), or (6) of the Internal Revenue code of 1954, 26 U.S.C. §501, as now existing or hereafter amended.

5. "Person" means any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, partnership(s), joint venture, joint-stock company, corporation, association, society, limited liability corporation, 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 or fee may be levied upon or collected therefrom under the provisions of this chapter. The term includes all nonprofit tax-exempt organizations.

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

(Ord. 118314 § 4, 1996; Ord. 117914 § 1, 1995; 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.)

5.44.026 Definitions 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 furnishing food, drink, or meals for compensation, whether consumed upon the premises or not.

2. "Casual or isolated sale" means a sale by a person who is not engaged in the business of selling the type of property involved.

3. "Sales at retail" or "retail sales."

a. "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; provided that, "sale at retail" or "retail sale" does not include a sale to a person who presents a resale certificate pursuant to RCW 82.04.470 and who:

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

ii. 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

**Seattle Municipal Code
April, 2001 code update file
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- iii. 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
- iv. 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

See ordinances creating and amending sections 5.44.026, update text, graphics, and tables and to confirm accuracy of this source file.

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reaction directly through contact with an ingredient of ferrosilicon; or

v. Purchases for the purpose of providing the property to consumers as part of a competitive telephone service, as defined in RCW 82.04.065. A sale to a person who presents a resale certificate and purchases tangible personal property pursuant to paragraphs (i) through (v) of subsection 3a is a wholesale sale.

b. The term "sale at retail" or "retail sale" 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 paragraphs (i) through (v) of subsection 3a 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 RCW 82.04.290.

c. 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:

i. 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;

ii. 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;

iii. 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;

iv. 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 sand-blasting;

v. 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; or

vi. 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, bed and breakfast, 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.

d. The term "sale at retail" or "retail sale" shall include the sale of or charge made for tangible real property, labor and services taxable under paragraphs (i) through (v) of subsection 3a 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 subsections 3c and 3d shall be construed to modify subsections 3a and 3b of this section and nothing contained in subsections 3a and 3b of this section shall be construed to modify subsections 3c and 3d.

e. 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:

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

ii. Abstract, title insurance and escrow services;

iii. Credit bureau services;

iv. Automobile parking and storage garage services;

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

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

vii. Guided tours and guided charters; and

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

f. The term "sale at retail" shall also include the renting or leasing of tangible personal property to consumers and the rental of equipment with an operator.

g. The term "sale at retail" shall also include the providing of competitive telephone service, as defined in RCW 82.04.065, to consumers.

h. The term "sale at retail" 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. (Public road classification.)

i. The term "sale at retail" 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. (Wholesaling classification.)

j. The term “sale at retail” shall also 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. The term shall 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.

4. “Sale at wholesale” means any sale of tangible personal property, or any sale of competitive telephone service as defined in RCW 82.04.065, which is not a sale at retail and also means any charge made for labor and services rendered for persons who are not consumers, in respect to real or personal property, if such charge is expressly defined as a retail sale by RCW 82.04.050 when rendered to or for consumers.

5. 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 or fee under this chapter on the business of making sales of precious metal bullion or monetized bullion, the tax or fee 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 salespersons 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 there-

fore, 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.

6. Notwithstanding any other definition of the term “sales at retail” or “retail sales” contained in this chapter, the term shall specifically not include any network telephone services, waste collecting,

and other services taxed pursuant to Chapter 5.48 of the Seattle Municipal Code.

(Ord. 118314 § 5, 1996; Ord. 117801 § 1, 1995; 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 or her 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 person, as defined in SMC Section 5.44.024 (5), required to have a business license under this chapter, or liable for any license or fee under this chapter, or liable for any tax or fee, or for the collection of any tax or fee under this chapter, or who engages in any business or who performs any act for which a tax or fee 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, 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, articles, and substances of trade or commerce 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.

5. “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.

6. “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 conditional contracts of sale may be reported as of the dates when the payments become due.

7. “Within the City” or “in the City” includes but is not limited to all federal areas lying within the boundaries of The City of Seattle.

(Ord. 119640 § 1, 1999; Ord. 118314 § 6, 1996; Ord. 117801 § 2, 1995; 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.)

5.44.030 Tax and fees on business with the City—Payment of City contracts.

A. There is levied upon and there shall be collected from every person, a tax or fee 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 or fee 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 5.44.400 but without any apportionment under Sections 5.44.420 through 5.44.428 inclusive, or except for an interstate carrier, without a deduction under Section 5.44.470 E for an interstate shipment. Such tax or fee shall not be levied when:

1. The business activity subject to tax by this section is taxed under Section 5.44.400 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;
2. 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
3. The person's only source of revenue consists of contracts with the City for neighborhood planning purposes, sister city associations, or Arts Commission grants.

B. All persons subject to this section are required to obtain and maintain a business license as prescribed in Section 5.44.300.

C. This section applies to the City and organizations chartered by the City, including but not limited to, contracts with the Seattle City Employees' Retirement System, the Police Pension Fund, the Fire Fighters Pension Fund, Public Safety Civil Service Commission, and any and all public development authorities chartered by the City.

D. All persons are required to pay in full all taxes or fees due under this chapter on account of

such contract, or otherwise, before accepting any warrant or check as payment for performing any contract for the City. The Finance Director may withhold payment due a City contractor pending satisfactory resolution of unpaid taxes and fees due the City under this title.

(Ord. 120114 § 16, 2000; Ord. 118314 § 7, 1996; 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).

5.44.040 Due date—Returns.

A. The taxes or fees imposed by this chapter, except the fee required to accompany the application for a business license as prescribed by Section 5.44.300, shall be due and payable in quarterly installments unless assigned to an annual reporting basis. Payment shall be made on or before the last day of the month after the end of the quarterly or annual period in which the tax accrued. The payment shall be made as provided in Section 5.44.060 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 or agent of the taxpayer. The individual signing the return shall swear or affirm that the information in the return is full and true.

5.44.080 REVENUE, FINANCE AND TAXATION

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 be less than Fifty Thousand Dollars (\$50,000.00) (the "threshold amount") in the current calendar year may file a declaration so stating 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. Any person whose declaration is accepted by the Finance Director shall be assigned to an annual reporting basis. Any person whose value of products, gross proceeds of sales, or gross income of the business, subject to tax after all allowable deductions, does not exceed the threshold amount in the current calendar year, shall file a return, declare no tax due on their annual return, and submit the return to the Finance Department. The gross receipts and deduction amounts shall be entered on the tax return even though no tax may be due. Quarterly, or annual returns as authorized, must be filed regardless of whether or not any tax is owed. Returns not received on or before the due date will be subject to late charges pursuant to SMC Section 5.44.090.

D. A taxpayer who commences to engage in business during any quarterly or annual period, shall file a return and pay the tax or fee for the portion of the quarterly or annual period during which he or she is engaged in business, subject to the conditions as set forth in subsection C above. (Ord. 118314 § 9, 1996; Ord. 118022 § 2, 1996; Ord. 117800 § 1, 1995; 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.)

5.44.050 Computation of time.

Except as otherwise specifically provided by any other 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 a Saturday, Sunday, or City legal holiday, in which case the last day of such period shall be the next succeeding day which is neither a Saturday, Sunday, or City legal holiday. (Ord. 118314 § 10, 1996.)

5.44.060 Payments due under this chapter.

The taxes or fees payable under this chapter shall be paid to the 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 returns, but failure of the taxpayer to receive any such forms shall not excuse the taxpayer from filing returns and making payment of the taxes or fees, when and as due under this chapter.

(Ord. 118314 § 11, 1996; Ord. 117169 § 32, 1994; Ord. 116368 § 157, 1992; Ord. 102623 § 7, 1973; Ord. 72630 § 14, 1943.)

5.44.070 Payment of tax or fees by NSF check.

A. Whenever payment of any tax imposed by this chapter is made by check which is returned for lack of sufficient fund or for any other reason, any tax or fee paid by that check is not paid and filed until payment is made to the Finance Director of the original amount due, plus an additional amount of Twenty Dollars (\$20.00) by certified check, money order, or in cash; penalties as provided in Section 5.44.090 may apply.

B. Whenever payment of any license fee imposed by this chapter is made by check which is returned for lack of sufficient funds or for any other reason, any license issued pursuant to payment by that check is void from the date of license issuance. Any void license shall be promptly returned to the Director and is subject to confiscation by the Director. The license may be reissued upon payment of the original amount due plus an additional amount of Twenty Dollars (\$20.00) by certified check, money order, or in cash.

(Ord. 118314 § 12, 1996.)

(Seattle 12-00)

5.44.080 Books and records to be kept five years—Failure to make return or provide records.

A. It shall be the duty of every person liable for the payment of any tax or fee 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 or her 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 tax or fee for which he or she may be liable under the provisions of this chapter; and all such books and records, including state and federal tax returns, and also invoices, vendor lists, 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 in advance to the Director the estimated amount thereof including round-trip fare, lodging, meals and incidental expenses, subject to adjustment upon completion of the examination.

C. If any taxpayer fails, neglects or refuses to make his or her return as and when required in this chapter, or refuses to provide or make available records as requested by the Department, the Finance Director is authorized to determine the amount of the tax or fees payable by obtaining facts and information upon which to base his or her estimate of the tax or fees due. Such assessment shall be deemed prima facie correct and shall be the amount of tax owing the City by the taxpayer. The taxpayer shall be notified by mail by the Director of the amount of tax so determined, together with any penalty, interest, and fees due; the total of such amounts shall thereupon become immediately due and payable. (Ord. 118314 § 13, 1996; Ord. 117801 § 7, 1995; Ord. 117169 § 33, 1994; Ord. 102623 § 8, 1973; Ord. 72630 § 15, 1943.)

5.44.090 Payments—Extension—Penalties.

A. 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.

B. Failure to Make Payment or Return by the Due Date. If any tax return, or payment of any tax, is not received by the Finance Director on or before the last day of the month following the end of the quarterly or annual period in which the tax accrued (the due date), pursuant to SMC Section 5.44.040 A, there shall be assessed a penalty of five percent (5%) of the amount due with a minimum penalty of Ten Dollars (\$10.00); and if the return and/or tax is not received within thirty (30) days from the due date, there shall be assessed a total penalty of ten percent (10%) of the amount due with a minimum penalty of Twenty Dollars (\$20.00); and if the return and/or tax is not received within sixty (60) days from the due date, there shall be assessed a total penalty of twenty percent (20%) of the amount due, with a minimum penalty of Forty Dollars (\$40.00).

C. Interest and Penalty on Late Payment. If the Finance Director finds that the tax, fee, or penalty paid is less than the amount due, the Director shall mail the taxpayer a notice 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 twenty (20) days from the notice date, pay the amount shown thereon as the balance due plus such interest. If payment of any tax, fee, penalty, or interest assessed by the Finance Director is not received by the Department within the twenty (20) days, or any extension thereof, the Director shall add a penalty of ten percent (10%) of the amount of the additional tax or assessment found due. No penalty so added shall be less than Twenty Dollars (\$20.00).

D. Citation/Criminal Complaint. If a citation or criminal complaint is issued by the Director for the collection of taxes, fees, assessments, interest, or penalties, there shall be added thereto a penalty of ten percent (10%) of the amount due, but not less than Twenty Dollars (\$20.00).

E. Penalty for Disregarding Specific Written Instructions. If the Director finds that all or any part of a deficiency resulted from the disregard of specific written instructions as to reporting of tax or fee liabilities, the Director shall add a penalty of twenty (20) percent of the additional tax or fee

5.44.080 REVENUE, FINANCE AND TAXATION

found due because of the failure to follow the instructions. A taxpayer will be deemed to disregard specific written instruction when the Director has informed the taxpayer in writing of the taxpayer's tax obligations and the taxpayer fails to act in accordance with those instructions unless the Department has not issued final instructions because the matter is under appeal pursuant to this chapter. The Director shall not assess the penalty under this section upon any taxpayer who, in the Director's opinion, has made a good faith effort to comply with the specific written instructions provided by the Department to that taxpayer. Specific written instructions may be given as a part of a tax assessment, audit, determination, letter of instruction or closing agreement, provided that such specific written instructions shall apply only to the taxpayer addressed or referenced on such documents. Any specific written instructions by the Department shall be clearly identified as such and shall inform the taxpayer that failure to follow the instructions may subject the taxpayer to the penalties imposed by this subsection. No penalty so added shall be less than Twenty Dollars (\$20).

(Ord. 118314 § 15, 1996; Ord. 118022 § 3, 1996; Ord. 117801 § 8, 1995; 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.)

5.44.100 Under or over payment of tax or fee.

A. Assessments or demands for any additional tax, fee, penalty, or interest shall be made by the Director within four (4) years after the close of the calendar year in which the same accrued with the following exceptions:

1. Against a taxpayer who is not currently licensed or has not filed a tax return as required by this chapter; assessments or demands for any additional tax, fee, penalty or interest due, as provided for in Section 5.44.090, as a result of failure to obtain and maintain a license as provided for under Section 5.44.300 and file a tax return as required by this chapter may be made by the Director within ten (10) years after the close of the calendar year in which the same accrued:

2. Against a taxpayer who has committed fraud;

3. Against a taxpayer who misrepresented a material fact; or

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

B. If, after receipt of a written application for a refund within the time period specified within this subsection, an audit of a taxpayer's records, or an examination of a taxpayer's returns or records, the Finance Director determines that the taxpayer has paid any amount of tax, penalty, or interest in excess of that due for the statutory period for assessments as prescribed in Section 5.44.100 A, that amount shall, at the taxpayer's option, be either credited to the taxpayer's account or refunded to the taxpayer. Except as provided in Section 5.44.100 C and 5.44.100 D, no refund or credit may be allowed for taxes, penalties, or interest accrued more than four (4) years prior to the beginning of the calendar year in which the written refund application is made or an audit of a taxpayer's records, or an examination of a taxpayer's returns or records is completed. In addition, the Director shall not grant a refund or credit for any tax or fee that accrued before January 1, 1997.

C. A taxpayer that has executed a written waiver of limitations as provided for in Section 5.44.100 A4 may apply for a refund or credit of

(Seattle 12-00)

any tax or fee that accrues during the assessment years included in the waiver. The application must be filed before the expiration of the waiver period.

D. 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.

E. The Finance Director may enter into an agreement in writing with any person relating to the liability of such person in respect of any tax, fee, or assessment imposed by this chapter for any taxable period or periods.

F. The denial of a refund may only be appealed when and as set forth in Section 5.44.120.

G. Refund of overpayments as authorized in this section shall be paid from the Refund Account of the General Fund. Interest shall be allowed on any refund or credit granted under this chapter at the rate of five (5) percent per annum. (Ord. 119566 § 1, 1999; Ord. 119257 § 1, 1998; Ord. 118529 § 1, 1997; Ord. 118314 § 16, 1996; Ord. 117801 § 9, 1995; 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.)

5.44.110 Quitting, selling or transferring of business.

Whenever any taxpayer quits business, or sells out, exchanges, or otherwise disposes of his or her business or stock of goods, any tax or fee payable hereunder shall become immediately due and payable, and such taxpayer shall, within twenty (20) days thereafter, make a return and pay the tax or fee due; and any person who becomes a successor shall become liable for the full amount of the tax or fee and withhold from the purchase price a sum sufficient to pay any amount due from the taxpayer until such time as the taxpayer shall produce a receipt from the Department showing

payment of any amounts due for taxes or fees or a certificate that none is due, and if such tax or fee are not paid by the taxpayer within twenty (20) days from the date of such sale, exchange, or disposal, the successor shall become liable for the payment of the full amount of taxes and fees, and the payment thereof by such successor shall, to the extent thereof, be deemed a payment upon the purchase price, and if such payment is greater in amount than the purchase price the amount of the difference shall become a debt due such successor from the taxpayer. No successor shall be liable for any tax or fee due from the person from whom he or she has acquired a business or stock of goods if he or she gave written notice to the Director of such acquisition and no assessment is issued by the Department within six (6) months of such notice against the former operator of the business and a copy thereof mailed to such successor.

(Ord. 118314 § 17, 1996; Ord. 98817 § 5, 1970; Ord. 88270 § 6, 1959; Ord. 72630 § 18, 1943.)

5.44.120 Appeals and judicial review.

A person aggrieved by the amount of the tax, fee, interest, or penalty assessed by the Finance Director under the provisions of this chapter may appeal the Director's decision only as provided in this section. A person aggrieved by the denial of a refund by the Finance Director under the provisions of this chapter may appeal the Director's decision only if and as provided in this section. The denial of a refund may be appealed only if the taxes for which a refund is sought were not the subject of any assessment by the Finance Director. An appeal to the Hearing Examiner of either an assessment or a denial of a request for a refund is an administrative remedy that must be exhausted before judicial review of an assessment or denial of a refund may be sought.

A. In order to appeal, a person aggrieved shall file a written appeal ("petition") with the Office of the Hearing Examiner within twenty (20) days from the date that the assessment or denial notice was mailed to the taxpayer, or within the period covered by any extension of said due date granted in writing by the Finance Director. The Finance Director may grant an extension of the appeal period only if the taxpayer, within the twenty (20) day period to appeal, makes written application showing good cause why an extension is necessary. A copy of the petition must be provided by the person filing it to the Finance Director and the

5.44.100 REVENUE, FINANCE AND TAXATION

City Attorney on or before the date the petition is filed with the Hearing Examiner. If no such petition is filed with the Hearing Examiner and provided to the Finance Director and City Attorney within the twenty (20) day period, the assessment covered by the notice shall become final and no refund request may be made for the audit period covered in that assessment.

B. The petition shall set forth the reasons why the assessment should be reversed or modified. The petition shall also include the amount of the tax, fee, interest, or penalties which the taxpayer believes to be due. If the appeal is from the denial of a refund, the petition shall set forth the amount of refund or credit the taxpayer believes to be due. The Hearing Examiner shall fix the time and place of the hearing and notify the taxpayer thereof by mail. The hearing shall be conducted in accordance with the procedures for hearing contested cases in the Seattle Administrative Code (Chapter 3.02 of the Seattle Municipal Code).

C. In all appeals, the Finance Director's assessment or refund denial shall be regarded as prima facie correct. The Hearing Examiner may, by subpoena, require the attendance of any person at the hearing, and may also require him or her to produce pertinent books and records. Any person served with such a subpoena shall appear at the time and place therein stated and produce the books and records required, if any, and shall testify truthfully under oath administered by the Hearing Examiner as to any matter required of him or her pertinent to the appeal; and it shall be unlawful for him or her to fail or refuse to do so. The City Attorney shall seek enforcement of a Hearing Examiner subpoena in an appropriate court.

D. The Hearing Examiner may reverse or modify an action of the Director and ascertain the correct amount of the tax, fee, interest, or penalty due if the Director's assessment or refund denial violates the terms of this chapter. The decision of the Hearing Examiner shall be final and conclusive unless the decision is reversed or remanded on judicial review. The taxpayer, any other person beneficially interested, or Finance Director shall only obtain judicial review of the decision of the Hearing Examiner by applying for a Writ of Review by the Superior Court of Washington in and for King County in accordance with the procedure set forth in Chapter 7.16 RCW and other applicable law and local court rules

within fourteen (14) days from the date of the decision.

(Ord. 119611 § 1, 1999; Ord. 118529 § 2, 1997; Ord. 118314 § 18, 1996; Ord. 117801 § 11, 1995; Ord. 117169 § 39, 1994; Ord. 108355 § 1, 1979; Ord. 102623 § 13, 1973; Ord. 85918 § 1, 1957; Ord. 72630 § 22, 1943.)

5.44.130 Director 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 of this chapter and it shall be unlawful to violate or fail to comply with, any such rule or regulation.

(Ord. 118314 § 19, 1996; Ord. 117169 § 40, 1994; Ord. 102623 § 14, 1973; Ord. 72630 § 23, 1943.)

5.44.140 Mailing of notices.

Any notice required by this chapter to be mailed to any taxpayer or licensee shall be sent by ordinary mail, addressed to the address of the taxpayer or licensee 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 or licensee to receive any such mailed notice shall not release the taxpayer or licensee

(Seattle 12-99)

from any tax, fee, interest, or any penalties thereon, nor shall such failure operate to extend any time limit set by the provisions of this chapter. (Ord. 118314 § 20, 1996; Ord. 117169 § 41, 1994; Ord. 102623 § 15, 1973; Ord. 72630 § 24, 1943.)

5.44.150 Unlawful actions.

It shall be unlawful for any person liable for tax or fee under this chapter to fail or refuse 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. Remedial action by the City may include fines as provided for in Section 5.44.190. (Ord. 118314 § 21, 1996; Ord. 72630 § 25, 1943.)

5.44.160 Tax or fee additional to others.

The taxes or fees 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. 118314 § 22, 1996; Ord. 72630 § 26, 1943.)

5.44.170 Collection of delinquent tax or fee—Tax and fees constitute debt.

Any tax or fee due and unpaid and delinquent under this chapter, and all penalties and interest thereon, shall be a lien against all assets, real or personal, owned by the taxpayer or licensee. Such lien may be collected by civil action, including, but not limited to, the perfecting and filing of such lien with a court of competent jurisdiction. The exercise of such civil action shall be in addition to any and all other existing remedies.

Any tax or fee due and unpaid under this chapter, and all interest and penalties thereon, shall constitute a debt to The City of Seattle and may be collected by court proceedings in the same manner as any other debt in like amount which

remedy shall be in addition to all other existing remedies.

(Ord. 118314 § 23, 1996; Ord. 81150 § 7, 1952; Ord. 72630 § 27, 1943.)

5.44.180 Application to City's business activities.

Whenever the City through any department, division, or employee association engages in any business activity which if engaged in by any person would under this chapter require a business license and the payment of any tax or fee by such person, the City department, division, or employee association engaging in such business activity shall make application and file returns and from the funds of such department, division, or employee association pay any taxes or fees imposed by this chapter.

(Ord. 118314 § 24, 1996; Ord. 86164 § 1, 1957; Ord. 72630 § 28, 1943.)

5.44.190 Violation—Penalty.

A. A person who violates or fails to comply with any provision of this chapter or any rule, regulation or order of the Director is guilty of a misdemeanor subject to the provisions of Chapters 12A.02 and 12A.04 of the Seattle Municipal Code, except that absolute liability shall be imposed for such a violation or failure to comply and none of the mental states described in Section 12A.04.030 of the Seattle Municipal Code need be proved. A corporation which violates or fails to comply with any provision of this chapter or any rule, regulation or order of the Director shall be punishable by a fine of not more than One Thousand Dollars (\$1,000). Each day of violation or failure to comply is a separate offense.

B. Prosecution for a criminal offense shall not be commenced more than four (4) years after the violation or failure to comply.

(Ord. 118314 § 25, 1996; 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).

5.44.200 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

5.44.160 REVENUE, FINANCE AND TAXATION

in any examination of books and records made pursuant to Section 5.44.080, 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 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 or 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 Strategic Planning Office 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 Commission, 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 Department of Finance from:

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

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

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

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. 118912 § 32, 1998: Ord. 118314 § 26, 1996: Ord. 118022 § 4, 1996; 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.)

5.44.210 Fees 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. 118314 § 27, 1996: 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.

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5.44.300 Business license required.

A. No person, whether or not subject to the payment of a tax or fee imposed by this chapter, shall engage in any business activity, profession, trade, or occupation 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." The fee for the business license shall be the license fee or tax imposed by this chapter and Seventy-five Dollars (\$75) for persons engaging in any business activity, professional, trade, or occupation in the City prior to July 1st in the calendar year. The fee for the business license shall be the license fee or tax imposed by this chapter and Thirty-seven Dollars and Fifty Cents (\$37.50) for persons beginning their business activity, profession, trade, or occupation in the City on or after July 1st in the calendar year. The fee shall accompany the application for the license.

The license shall be personal and nontransferable. Applications for the business license shall be made to the Finance Director on forms provided by the Director. Each license shall be numbered, shall show the name, place and character of the business of the licensee, and such other information as the 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 licensee is changed, the taxpayer shall return the license to the Director and a new license shall be issued for the new place of business free of charge.

B. Where 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) license fee shall be imposed and accompany each application for the license required for each additional business location.

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 SMC Section 6.20.040, a participant at an event, identified in the list supplied by the promoter or organizer, shall be exempt from the minimum fee established by subsection A of this section or the fee for a separate

business location established by subsection B of this section on account of business activities at the licensed event for the duration of the license.

E. The business license shall expire at the end of the calendar year for which it is issued. (Ord. 118750 § 1, 1997; Ord. 118395 § 1, 1996; Ord. 118314 § 28, 1996; 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).

5.44.310 Renewal of license.

Any business license may be renewed by the payment for the ensuing year of the license fee herein prescribed on or before the date of the expiration of such license. Any licensee who fails to make payment on or prior to the expiration date of said license shall be subject to penalties in the following amounts:

A. One (1) to thirty (30) days after the expiration date, inclusive: a penalty of Five Dollars (\$5);

B. Thirty-one (31) to sixty (60) days after the expiration date, inclusive: a penalty of Ten Dollars (\$10);

C. More than sixty (60) days after the expiration date: a penalty of Twenty Dollars (\$20).

All licenses issued subsequent to the initial license period shall be deemed renewal licenses if there has been no discontinuance of the licensee's operations or activities. Nonpayment of business license fees and taxes when due by the licensee during the term of any license shall constitute grounds for revocation or suspension of said license.

(Ord. 118314 § 29, 1996.)

5.44.320 License—Not transferable or assignable—Exceptions.

A. A license is not assignable or transferable, except that a license may be transferred:

1. To the surviving or new corporation, whenever the licensed corporation is merged or

consolidated pursuant to RCW Chapter 23B.11, as now or hereafter amended;

2. To the surviving partner, or to a new partnership which consists exclusively of the surviving partners, whenever one (1) partner of a licensed partnership dies;

3. To the surviving spouse, whenever one (1) spouse of a licensed marital community dies;

4. To any one (1) or more former partners, whenever a licensed partnership is dissolved and one (1) or more of the former partners of the licensed partnership continue the operation of the business as an individual proprietorship or partnership without the addition of any new partner, and all of the other former partners consent in writing to the transfer of the license, which written consent shall be filed with the application for such transfer;

5. To one (1) spouse, whenever a licensed marital community is dissolved and the other spouse consents in writing to the transfer of the license, which written consent shall be filed with the application for such transfer;

6. In case of the death of any licensee before the expiration of his or her license, his or her administrator or executor, duly appointed as such by order of court, may continue to act under said license for the unexpired term thereof upon filing with the City proof of such appointment.

B. As used in this section, the term "partnership" includes joint venture, and the term "partner" includes a coventurer.
(Ord. 118314 § 30, 1996.)

5.44.330 Suspension or revocation of license.

A. The Director, or designee, shall have the power and authority to suspend or revoke any license issued under the provisions of this subchapter. The Director, or designee, shall notify such licensee in writing by certified mail of the suspension or revocation of his or her license and the grounds therefor. Any license issued under this subchapter may be suspended or revoked based on one or more of the following grounds:

1. The license was procured by fraud or false representation of fact.

2. The licensee has failed to comply with any provisions of this subchapter.

3. The licensee has failed to comply with any provisions of this chapter.

4. The licensee is in default in any payment of any license fee or tax under this chapter or Title 6.

B. Any licensee may, within twenty (20) days from the date that the suspension or revocation notice was mailed to the licensee, appeal from such suspension or revocation by filing a written notice of appeal ("petition") setting forth the

5.44.330 REVENUE, FINANCE AND TAXATION

grounds therefor with the Office of the Hearing Examiner. A copy of the petition must be provided by the licensee to the Finance Director and the City Attorney on or before the date the petition is filed with the Hearing Examiner. The hearing shall be conducted in accordance with the procedures for hearing contested cases in the Seattle Administrative Code (Chapter 3.02 of the Seattle Municipal Code). The Hearing Examiner shall set a date for hearing said appeal and notify the licensee by mail of the time and place of the hearing. After the hearing thereon the Hearing Examiner shall, after appropriate findings of fact,

(Seattle 12-99)

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