

ORDINANCE No. 111469

COUNCIL BILL No. 103990

AN ORDINANCE amending Ordinance 72495 as amended, the Admissions Tax Ordinance, to restrict the scope of the exclusion from tax of persons having an admission charge for certain events of non-profit tax-exempt organizations; and to relocate the codification of several phrases and paragraphs; amending Sections 2 and 8 they of and Seattle Municipal Code Sections 5.40.020 and 5.40.080, adding new Sections 5.40.025 and 5.40.85 in connection therewith.

Law Department
WJ
11-17-83
11-20-83

COMPTROLLER FILE No.

Introduced: OCT 24 1983	By: EXECUTIVE REQUEST
Referred: OCT 24 1983	To: <i>[Signature]</i>
Referred:	To: <i>[Signature]</i>
Referred:	To:
Report: NOV 28 1983	Second Reading: 28 1983
Third Reading: NOV 28 1983	Signed: NOV 28 1983
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<input type="checkbox"/> LIGHT	<input type="checkbox"/> HEALTH
<input type="checkbox"/> ENG	<input checked="" type="checkbox"/> PARKS
<input type="checkbox"/> DCLU	<input type="checkbox"/> I. & CA
<input type="checkbox"/> DGD	<input type="checkbox"/>
<input checked="" type="checkbox"/> LAW	<input type="checkbox"/>

ORDINANCE 111449

AN ORDINANCE amending Ordinance 72495 as amended, the Admissions Tax Ordinance, to restrict the scope of the exclusion from tax of persons paying an admission charge for certain events of non-profit tax-exempt organizations; and to relocate the codification of several phrases and paragraphs; amending Sections 2 and 8 thereof and Seattle Municipal Code Sections 5.40.020 and 5.40.080A, and adding new Sections 5.40.025 and 5.40.085 in connection therewith.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 5.40.020 of the Seattle Municipal Code (Ordinance 72495, § 2, as last amended by Ordinance 110374) is further amended as follows:

5.40.020 Tax levied.

A. There is levied and imposed a tax upon everyone, without regard to age, who pays an admission charge as defined in Section 5.40.010. ~~((provided, that such tax shall not apply to anyone paying an admission charge of Ten Cents (\$0.10) or less or to any activity of any elementary or secondary school as contemplated by RCW 35.21.280, or 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 a college or university or nonprofit tax organization, as defined in Section 5.40.010 and registered under Section 5.40.080, publicly sponsors and performs such activity, and receives the use and benefits of admission charges collected; provided, further, that during 1982 the foregoing exclusion from taxation shall not apply when a guest artist or other person supplies the~~

1 ~~major portion of the materials on exhibition or of the perfor-~~
2 ~~mance of such activity of the nonprofit tax-exempt organiza-~~
3 ~~tion.)~~

4 B. The tax here imposed shall be in the amount of five
5 percent on each admission charge or charge for season or
6 series ticket. ~~((provided, until January 1, 1983, the tax~~
7 ~~imposed upon taxable admissions charged by a private, non-~~
8 ~~profit organization shall be in the amount of two and one-half~~
9 ~~percent (2 1/2%) on each admission charge or charge for season~~
10 ~~or series tickets, for each admission to live entertainment,~~
11 ~~and thereafter, no tax shall be applied to admissions charged~~
12 ~~by private, nonprofit organizations.)) Any fraction of tax~~
13 one-half cent or more shall result in a tax at the next
highest full cent.

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

17 D. Anyone having the use of a box or seat permanently or
18 for a specified period, shall pay, in addition to the tax
19 required for admission under subsections A and B of this sec-
20 tion, a tax in the amount of five percent of the price of such
21 box or seat, the same to be collected and remitted in the
22 manner provided in Section 5.40.070 by the person selling such
tickets.

23 Section 2. There is added to Seattle Municipal Code
24 Chapter 5.40 the following new section, designated Section
25 5.40.025, as follows:
26
27
28

1 5.40.025 Tax exemption.

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

- 4 1. in the amount of ten cents (\$0.10) or less, or
5 2. to any activity of any elementary or secondary
6 school as contemplated by RCW 35.21.280; or

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

12 a. A college or university or non-profit tax-
13 exempt organization, as defined in Section 5.40.010 and
14 registered under Sections 5.40.080 and 5.40.085, that meets
15 one or more of the following criteria:

16 (i) publicly sponsors and through its
17 members, representatives, or personnel promotes, publicizes
18 and distributes most of the tickets for admission; or

19 (ii) publicly sponsors and presents the
20 event at a facility it owns or leases as lessee for a term of
21 not less than one month;

22 (iii) publicly sponsors and
23 (1.) performs a major portion of the
24 performance, or

25 (2.) supplies a major portion of the
26 materials on exhibition, or

27 (3.) when the event is part of a
28 season or series of performances or exhibitions, performs the
major portion of the performances or exhibitions in the season
or series.

1 b. The college, university or non-profit tax-
2 exempt organization receives the use and benefit of admission
3 charges collected; and

4 c. In the case of a performance, the seating
5 capacity of the location where the event occurs is three
6 thousand one hundred (3,100) people or less, or, in the case
7 of an exhibition, nor more than three thousand one hundred
8 (3,100) people are permitted on the premises at any one time.

9 B. The exemption to the admission tax as provided in
10 Section 5.40.025A.3 shall not apply to:

11 1. an athletic event;
12 2. an event containing dancing by persons paying an
13 admission charge;

14 3. an event in which a college university or non-
15 profit tax-exempt organization lends its name to an endorse-
16 ment for an ineligible person for the purpose of invoking the
17 tax exemption.

18 Section 3. Subsection 5.40.080A of the Seattle Municipal
19 Code (Ordinance 71495, § 8, as last amended by Ordinance
20 102719, § 3), is further amended as follows:

21 5.40.080 Certificate of registration-Required Application.

22 A. Any person conducting or operating any place for
23 entrance to which an admission charge is made shall, on a form
24 prescribed by the Director of Licenses and Consumer Affairs,
25 make application to the Director of Licenses and Consumer
26 Affairs for issuance (~~by the Comptroller~~) of a certificate
27 of registration, the fee for which shall be One Dollar
28 (\$1.00), which certificate shall continue valid until December
31st of the year in which the same is issued. Such cer-
tificate of registration, or duplicate original copies thereof

1 to be issued (~~by the Comptroller~~) without additional charge,
2 shall be posted in a conspicuous place in each ticket or box
3 office where tickets of admission are sold.

4 Section 4. Subsection 5.40.080B of the Seattle Municipal
5 Code (Ordinance 72495, § 8, as last amended by Ordinance
6 102719, § 3) is amended and redesignated as Section 5.40.085,
7 and there are added thereto two new subsections, designated
8 subsections A and B, as follows:

9 5.40.085 Certificate of exemption - Application, Issuance,
10 Cancellation

11 A. (~~Whenever the persons paying an admission charge in
12 excess of Ten Cents (\$0.10) are not to be taxed and are not
13 attending an activity of an elementary or secondary school,
14 the person putting on such activity, or set of activities, and
15 in the absence of registration by such person the person con-
16 ducting or operating the place at which such activity occurs~~)
17 Any person seeking to secure an exemption from the admission
18 tax pursuant to Section 5.40.025A.3 shall on application ((~~for~~
19 ~~certificate of registration or other form~~) for exemption as
20 prescribed by the Director of Licenses and Consumer Affairs:

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

23 2. Supply sufficient information as well as enable
24 the Director of Licenses and Consumer Affairs both (a) to
25 determine the applicability of the tax to the activity or set
26 of activities so identified and (b) to distinguish the same
27 from other occasions, if any, (~~of the applicant~~) when taxes
28 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
non-profit tax-exempt organization as defined in Section

1 5.40.010. The form may require the applicant to notify the
2 Director of Licenses and Consumer Affairs of any subsequent
3 change in condition from the facts stated or information
4 supplied. If the Director of Licenses and Consumer Affairs
5 determines that persons paying such admission charge are not
6 subject to the admission tax, the applicant shall receive a
7 certification of such determination. (~~upon the certificate~~
8 ~~of registration or upon such other document as the Director of~~
9 ~~Licenses and Consumer Affairs may determine which shall be~~
10 ~~posted with the certificate of registration. (Ord. 102710~~
11 ~~§ 3, 1973; Ord. 102622 § 3, 1973; Ord. 72495 § 8, 1943.))~~

11 B. The Director of Licenses and Consumer Affairs may
12 cancel the certificate of exemption of any college, univer-
13 sity, or non-profit tax-exempt organization which (1) secures
14 an exemption from the tax pursuant to Section 5.40.025A.3 by
15 making a false representation in its application, or fails to
16 adhere to its criteria or (2) otherwise violates Section
17 5.40.025A.3 or a rule or regulation of the Director imple-
18 menting it. The order of cancellation may bar such an organi-
19 zation from registering again for a period of two years.

20 C. If the Director has ordered a certificate of exemp-
21 tion cancelled, an aggrieved person may contest the can-
22 cellation by filing a notice of appeal and request for hearing
23 with the hearing examiner within ten days after service or
24 mailing of the order. If the Hearing Examiner is satisfied
25 that a mailed notice was not delivered or was unreasonably
26 delayed in delivery, he/she may allow an appeal made within
27 ten days after the appellant receives notice of the order of
28 cancellation.

(To be used for all Ordinances except Emergency.)

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.

Section 5. This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 28th day of November, 1983
and signed by me in open session in authentication of its passage this 28th day of November, 1983

John Williams
President of the City Council,

Approved by me this 2nd day of December, 1983

Charles Roper
Mayor.

Filed by me this 2nd day of December, 1983.

J. Hill
Attest: City Comptroller and City Clerk.

(SEAL)

Published.....

By J. Theresa Dunbar
Deputy Clerk.

JGB/LF:rbw
2/7/83

RULES IMPLEMENTING ADMISSION TAX ORDINANCE, AS AMENDED

These rules are proposed for adoption pursuant to Section 10 of Ordinance 72495, the Admission Tax Ordinance, Seattle Municipal Code (SMC), Section 5.40.100 and Section 4 of Ordinance 102228, the Administrative Code, SMC Section 3.02.030. These rules will implement Ordinance 72495, as amended by Ordinance _____, (SMC Section 5.40.020, .025, .080, and .085) and more fully explain the application of admission taxes to activities of colleges, universities and tax-exempt organizations, and the exemption from taxes of certain of their activities; These rules will replace Rules 1, 2, 3, 5, and 6 of the "Guidelines and Procedures to Implement Ordinance 102719."

The public is invited to submit written comments for or against the proposed rules to the Director of Licenses and Consumer Affairs, 102 Municipal Building, Seattle, WA 98104.

5.40.020 Tax Levied

(1) Who is required to pay admission taxes?

Rule 1: Ordinance 72495, as amended by Ordinance _____, SMC Section 5.40.020(A) levies Admission Taxes upon everyone who pays an Admission Charge for any activity which occurs or will occur within The City of Seattle and who does not meet the criteria in Section 5.40.025, regardless of where the tickets are sold.

(2) How does the tax apply to political events, such as fund-raising dinner with speakers; a reception for a candidate; an evening with professional entertainers?

Rule 2. The Admissions Tax is not intended to inhibit the exercise of First Amendment Freedoms guaranteed by the United

States or the Washington Constitution; the right of the electorate to be fully informed about candidates and social or political issues; or the right of citizens to seek and hold public office. Since its inception, Ordinance 72495 has not applied to assemblies, dinners and other meetings where the subject of the meeting is essentially political in nature, such as a fund-raising dinner with speeches on social or political issues; a reception to meet and exchange ideas with candidates and office-holders; or an evening lampooning or making fun of politicians and politics in general. The Admissions Tax does apply where the event would be indistinguishable from other activities subject to tax, e.g. a benefit by professional entertainers, except, perhaps, for an introduction or appearance by the sponsoring candidate(s) or its presentation by a politician or political party.

5.40.020 Tax Exemption

- (3) What is a "non-profit tax-exempt organization"?
(SMC § 5.40.020A.3a.)

Rule 3: Ordinance 72495, as amended by Ordinance _____,
SMC Section 5.40.025(A)(3) defines "non-profit tax-exempt organization" to mean:

"An organization, corporation, or association organized and operated for the advancement, appreciation, public exhibition or performance, preservation, study, and/or teaching of the performing arts (music, drama including puppetry), opera, or dance, visual arts, historic vessels, history, or science, which is currently recognized by the United States of America as exempt from federal income taxation pursuant to Section 501(c)(1) or (3) of the Internal Revenue Code of 1954, 26 USC & 501, as now existing or hereafter amended...."

The phrase "organized and operated" implies that an organization's primary functions determine its status. An organization engaged in activities related to arts, history, or science, will not lose its status by undertaking incidental endeavors in other fields. Likewise, a non-profit tax-exempt organization generally conducting other functions (e.g., religious activities) does not gain such status by a casual endeavor connected with arts, history or science.

- (4) How does the language "...publicly sponsors..." apply? (SMC § 5.40.025 A 3a (i)-(iii).)

Rule 4: In order to "publicly sponsor" an activity, the college, university, or non-profit tax-exempt organization must put on or present the performance, including its name on the tickets and advertising. A college, university, or its recognized student body organization can perform an activity through its students and staff or through a guest artist. With a guest artist, the college, university, or its recognized student body organization must, as a minimum:

- (a) Plan and put on the performance as an event directly connected with a college or university activity (e.g., homecoming); or
- (b) Arrange for and promote the performance for a student or university audience, although the general public may be invited.
- (5) How does the language "...performs the major portion of the performance..." apply? (SMC § 5.40.025A 3(a) (iii) (1).)

Rule 5: The major portion of the performance is determined by evaluating the relative degree of participation in the performance by the college, university or non-profit tax-

exempt organization with that of an ineligible individual or organization. The most important factors are:

- (i) The responsibility, control and direction over the performance, ticket sales, contracts for services and disbursement of expenses.
- (ii) The anticipated performance of the parties on stage, including the number and pre-eminence of performers, and length of performance.
- (iii) The reasonable expectations of those paying the admission charge.

In situations of doubt, advisory opinions of the State Arts Commission may be solicited, and will be duly considered. For example, no tax would be collected in these situations:

- (a) A symphony concert with a famous soloist or group, a well-known guest conductor, or a celebrated instrumentalist(s) with most of the participants belonging to the non-profit tax-exempt organization.
- (b) A theatre play with a guest actor(s) or actress(es) in a lead role(s) directed and produced by the non-profit tax-exempt organization, with participation of its members in most of the supporting roles.

But, unless the performance was one of a series to which Rule 5 applied, the tax would apply in these situations:

- (a) A concert or performance of a traveling star which uses members of the non-profit tax-exempt organization as background accompaniment, for preliminary introductions, or during scene or costume changes or similar pauses;

- (b) A play by a touring commercial theatre group or musical comedy that uses volunteers from the tax-exempt organization for minor parts or bystander roles; or
 - (c) A dramatic reading by a celebrated personality using a few members of the tax-exempt organization as chorus.
- (6) How does the language "... lends its name or an endorsement to an ineligible person for the purpose of invoking the tax exemption..." apply to a college, university or tax-exempt organization? (SMC § 5.40.025B3.)

Rule 6: A college, university, or tax-exempt organization lends its name or an endorsement when a guest artist, a promotor, or commercial producer exercises effective control over the production, takes the business risks, and directs the expenditure of the gross proceeds. For example, the admission tax would apply in the following situation: An agreement by which the guest artist, promotor, or commercial producer collects and disburses the receipts of ticket sales with the college, university, or tax-exempt organization receiving a fixed dollar payment; or a contract by which the college, university or tax-exempt organization is a nominal sponsor, with its name or endorsement in advertising and on the tickets, and receives a percentage or fee per ticket sold, but does not participate in production or business decisions or arrange for and assume responsibility for the premises where the event occurs.

- (7) How does the language "...receives the use and benefit of admission charges collected..." apply? (SMC § 5.40.025A 3 b.)

Rule 7: By the phrase "...receives the use and benefit or admission charges collected..." the Admissions Tax

Ordinance mandates that the college, university or non-profit tax-exempt organization be credited with the proceeds of the performance from which expenses may be deducted. The sponsoring organization may, but need not, contract with a booking agency for presentation services, such as promotional advertising, rental of facilities program printing, ticket sales and collection, and other activities directed toward public attendance. However, the sponsoring organization would not "receive the use and benefit of admission charges..." if it were paid a flat fee or fixed payment for the performance independent of the proceeds received or expenses.

A college, university or non-profit tax-exempt organization may use any depository or accounting system (including use of revolving funds) which assures that disbursements of the proceeds after payment of the expenses of the performance are devoted to the arts, history or science and permits ready auditing.

(8) How does Sub-section B of SMC § 5.40.025 relate to the exemptions granted by Subsection A?

Rule 8: The Admission Tax applies to the three types of events identified in Subsection B even though all three criteria in Subsection A are met. For example, the tax would be collected during an athletic event, such as a football game, basketball tournament, or a gymnastics meet or exhibition conducted by a college or university; or a square dance, a benefit night at a disco, a ballroom dancing party, or other fundraising event with music and a floor for the dancing pleasure of those who attend which is sponsored by a non-profit tax-exempt organization.

5.40.060 Ticket Information

- (9) How does a donation or contribution differ from an "admission charge?"

Rule 9: SMC Section 5.40.010 defines admission charge by adopting its "usual and ordinary meaning" and including a series of examples. These examples are charges made for entering on premises, for receiving a service, or using property. SMC 5.40.060 B makes it unlawful to represent an admission charge as a "donation or contribution where persons are not admitted or allowed to remain in attendance without payment of such charge or fee."

Applying these principles, a payment will be regarded as an admission charge whenever (a) a reasonable person would receive an impression that entry to the premises or event, or enjoyment of the service or property would not be welcomed without making the payment, or (b) having entered, an individual would be placed at a disadvantage or subjected to disapproval on account of failing to make the payment. Such an impression may be conveyed by an advertisement, an announcement or invitation with a suggested "donation;" the presence of a guard, collector, turnstyle or other barrier at an entrance; accepted practices or customs of making payments to such events; the making of a collection before the event begins; or any other facts and circumstances. A payment will be regarded as a donation or contribution when it is a bona fide gift, (made independently from permission to enter or remain on the premises by the donor without expecting, or receiving anything in return,) and it is in whatever amount the donor thinks fit. Examples include deposits in a hat or

collection plate passed for donations while an event is under-
way, or payments made into a coffer for an entertainer in a
park or on the street where anyone, without making a payment,
may stop, enjoy, or leave at will.

JGB/LF:rbw
2/7/83

SECTION-BY-SECTION ANALYSIS
OF ORDINANCE TO AMEND
ADMISSION TAX

OVERVIEW:

The proposed ordinance amends Ordinance 110374 which was passed by the City Council in January, 1982. Ordinance 110374 amends Ordinance 72495, the Admission Tax Ordinance, by providing that, effective January 1, 1983, no tax will be applied to the admission charged for activities featuring guest artists sponsored by colleges, universities or non-profit tax-exempt organizations. The proposed ordinance was drafted to prevent abuses arising from removal of the "guest artist" exclusion and to reorganize the sections for the purpose of making it more understandable.

The proposed ordinance creates separate sections delineating (1) the requirements for paying admission taxes (5.40.020); (2) the criteria for admission tax exemptions (5.40.025); (3) the registration requirements whenever an admission charge is collected (5.40.080); (4) the application requirement when seeking an admission tax exemption. (5.40.085)

The creation of these separate sections is in answer to the Department of Licenses and Consumer Affairs' concern regarding the lack of clarity in the substantive and procedural requirements for (a) charging admission and (b) seeking an exemption from the Admission Tax.

The following is an analysis of the sections in the proposed ordinance that may need further explanation:

Section 5.40.020 - Tax Levied:

Section 5.40.020 contains those sections which levy the Admission Tax. The provided clauses, which contained the exemptions, were relocated to a new section, Section 5.40.025.

The language deleted from Subsection A appears as modified in Section 5.40.025A.

The language crossed out and in double jackets in Subsection B was deleted. It phased out the admissions tax. The phasing has been completed.

No change was made to Subsections C or D.

Section 5.40.025 - Tax Exemptions:

Section 5.40.025 sets out the tax exemptions.

Subsection A.1 restates the exemption in the first pro-
vided clause currently in SMC 5.40.020A, "provided that such tax shall not apply to anyone paying an admission charge of ten cents (\$.10) or less."

Subsection A.2 restates the exemption in RCW 35.21.280. It is comparable to the language "...or to any activity of any elementary or secondary school as contemplated by RCW 35.21.280" in the provided clause of SMC 5.40.020A currently.

Subsection A.3 provides for the tax-exemption of people paying an admission charge to attend a performance or exhibition of a college, university or non-profit tax-exempt organization. To qualify, an organization must meet the definitions in Section 5.40.010, register as provided in Sections 5.40.080 and 5.40.085, and satisfy the criteria of parts (a), (b), and (c) of this subsection. It can satisfy part (a) in one of three ways: publicly sponsor the event and (i) promote, publicize and distribute most of the tickets, (ii) provide the facility where the event takes place, or (iii) supply a major

portion of the performance or exhibition for the event, or for a series of which the event is a part. To satisfy part (b) it needs to receive the use and benefit of the admission charges. Part (c) disqualifies events where more than three thousand one hundred people attend.

Part (a.) assures that an eligible organization participates in a substantial way in presenting the event. Public sponsorship is an essential ingredient in all three means described to satisfy part (a.). Sub-part (i) allows an organization to qualify under part (a.) if its members, representatives, or personnel handle the distribution of tickets. Thus, an organization that sells most of its tickets through its members or to its members would qualify, e.g., a special exhibition limited to members of the organization and their guests; or a fund raising event starring a celebrity or company in which organization members, like Shriners for the Shrine Circus, promote and handle ticket sales, with supplemental assistance from an outlet. Sub-part (ii) allows an organization to pass the test of part (a.) by supplying the place where the event takes place. Our research showed that requiring ownership of the premises would be too onerous. Some non-profit arts organizations (e.g., Bathhouse Theater) simply lease the facility. Financing organizations may take security interests in larger theatres so that the beneficiary organization may not technically have title. At the opposite end of the spectrum, to allow any lease of the premises by an eligible organization to qualify would let an eligible organization transfer its tax-exemption to a commercial promotor by signing a lease for the duration of the presentation and sub-leasing the premises at the same rate or higher rate to the

promotor. Our research indicates that a lease term of one month would separate eligible organizations that make a commitment for a production or performance from those that are merely lending an endorsement. Sub-part (iii) allows an organization to meet the requirement of part (a.) by putting on a major portion of the event itself, or, including the event in a season or series, most of which the organization performs.

Part (a.) ends an ambiguity that exists in Ordinance 72495, as amended by Ordinance 110374. Ordinance 110374 had left the "guest artist" exclusion in Section 5.40.020. That exclusion had made the tax applicable "when a guest artist or other person supplies the major portion of the materials on exhibition or of the performance of such activity of the non-profit tax exempt organization." However, the City Council's manifest intent in amending Subsection B was to end the application of the Admission Tax with respect to the Fifth Avenue Theatre. The Fifth Avenue brings in stage productions and artists, where the "guest artist" exclusion would otherwise apply.

Our research led to this compromise: exempt performances through a "guest artist" exclusion with respect to an owner or lessee of a facility for one month, and to an organization like the opera or symphony, which may include a "celebrity performance" to cap its season. At the same time, we included provisions to prevent a promotor for profit from "buying" tax-exemption for an event by paying a fee to an eligible organization for its sponsorship or endorsement, or operating through the guise of a non-profit organization, which the promotor might found. The Department of licenses and consumer Affairs was particularly concerned about such abuses.

Part (b.) requires the eligible organization to receive the use and benefit of admission charges collected. The proposed

regulations explain this further in Rule 5. The current Section 5.40.020, in its clause, requires the eligible organization to "receive" the use and benefits of admission charges collected. Part (b.) therefore makes no substantial change.

Part (c.) sets a limit on the performance or exhibition by excluding events with more than 3,100 people. Personnel of the Department of Licenses and Consumer Affairs believed that the City should recover the costs associated with a major event (such as a concert, regardless of the sponsorship) and maintained that events drawing several thousand people usually require the presence of a police officer near ticket or entry lines; engineering personnel to put up traffic signs; and enforcement officers to direct traffic. Staff of the Department also felt that abuses of the tax exemption privilege are most likely to arise at events with mass attendance. The art and cultural groups -- and the Seattle Center Director -- wanted assurance that use of the Seattle Center Opera House would not be subject to the Admissions Tax. Three Thousand One Hundred (3,100) preserves the eligibility of the Fifth Avenue Theatre and the Opera House; it would subject to tax any event at the Colosseum, the Kingdome, the University of Washington Stadium, and probably the Clarence S. "Hec" Edmundson Pavilion; and, it would also make clear that the tax applies to the Bumbershoot Festival of the Arts. Staff members of the Department of Licenses and Consumer Affairs insisted that seating capacity, rather than ticket sales or people in attendance, measure eligibility, because the applicability of the tax has to be determined before tickets are printed.

Subsection B reinforces the requirements of Section A.3. It is implemented by Proposed Rule 5. Personnel of the Department of Licenses and Consumer Affairs felt that an explicit exclusion of athletic events would assist it in enforcing the tax, and that the exclusion of social dancing should be made more explicit. "Social dancing" covers activities such as square dancing, ballroom dancing, disco, dance parties and other similar entertainment in which those paying an admission charge participate as part of the activities.

The prohibition against leading a name or an endorsement to an ineligible person is the converse of Parts (a.) and (b.). Its presence strengthens those provisions. Responsible persons in the Department of Licenses and Consumer Affairs felt that language expressly mentioning a for-profit promotor or traveling show ("ineligible person") would be more persuasive than making arguments based on negative inferences. The arts organizations consulted accepted the provision when the words "... for the purpose of invoking the tax exemption" were added.

This revision would delete the words "... each admission to live entertainment" in the provided clause of Section 5.40.026B. That phrase appeared in the clause with the phase-out period, but not in the following "thereafter" clause. This omission would tend to show that the distinction between the visual and the performing arts would cease January 1, 1983. The distinction could be difficult to administer, e.g., the Seattle Art Museum has an auditorium. How would the tax apply if the museum held evening events for fundraising, with its galleries open upstairs and a recital downstairs?

Section 5.40.080 - Certificate of Registration required

Section 3 of the proposed Ordinance amends Subsection A only; changes to Subsection B are discussed under Section 5.40.085. This change is purely "housekeeping." The reference to the Comptroller is deleted. The Director of Licenses and Consumer Affairs has been issuing licenses since Article VIII, Section 1 of the City Charter was amended at a November 8, 1977 election.

Section 5.40.085 - Certificate of Exemption

This section changes procedures used in carrying out the exemption from admission taxes. Subsection A separates the application for tax-exemption from the application for registration. Subsection B gives the Director authority to cancel a certificate of exemption; and subsection C provides for an appeal from a cancellation.

Subsection A amends subsection B of the current Section 5.40.080 by providing for separation of the application for registration and the application for exemption. The Department of Licenses and Consumer Affairs has been using separate forms in practice for several years. Separating the ordinance sections makes the ordinance more readable. The subsection also deletes the requirement of the posting of the certificate of tax-exemption. The Department of Licenses and Consumer Affairs stated that posting of the certificate of registration would be enough.

Subsection B empowers the Director to cancel a certificate of tax exemption of an organization that has made a false representation in its application or violates the ordinance or implementing rules, and to bar an organization from seeking the exemption for two years. An interview with an Assistant

Attorney General, advising the State Gambling Commission, indicated that such a power is an important tool in policing the granting of privileges to non-profit organizations under that law. It encourages honesty and completeness in the application and assists in taking action when an organization is not bona fide. That analysis seems appropriate to apply here.

Subsection C provides an aggrieved person an opportunity to appeal a cancellation to the Hearing Examiner. This is in keeping with appeals allowed from the City's Business and Occupation Tax Ordinance, Section 5.44.230.

City of Seattle

Executive Department-Office of Management and Budget

Gary Zarker, Director
Charles Royer, Mayor

October 14, 1983



CITY OF SEATTLE

OCT 16 1983

5677

The Honorable Douglas Jewett
City Attorney
City of Seattle

Douglas N. Jewett
CITY ATTORNEY

[Handwritten signature]

[Handwritten signature]

Dear Mr. Jewett:

The Mayor is proposing to the City Council that the enclosed legislation be adopted.

REQUESTING
DEPARTMENT: Licenses and Consumer Affairs

SUBJECT: An ordinance amending Ordinance 72495 as amended, the Admissions Tax Ordinance, to restrict the scope of the exclusion from tax of persons paying an admission charge for certain events of non-profit tax-exempt organizations; and to relocate the codification of several phrases and paragraphs; amending Sections 2 and 8 thereof and Seattle Municipal Code Sections 5.40.020 and 5.40.080A, and adding new Sections 5.40.025 and 5.40.085 in connection therewith

Pursuant to the City Council's S.O.P. 100-014, the Executive Department is forwarding this request for legislation directly to your office for review and drafting.

After reviewing this request and drafting appropriate legislation:

- (X) File the legislation with the City Clerk for formal introduction to the City Council as an Executive Request.
- () Do not file with City Council but return the proposed legislation to OMB for our review. Return to _____

Sincerely,

Charles Royer
Mayor

By

[Handwritten signature of Gary Zarker]

GARY ZARKER
Budget Director

GZ/dh/ecb

Enclosure

cc: Director, DLCA

Your
Seattle
Department of Licenses and Consumer Affairs



Regina L. Glenn, Director
Charles Royer, Mayor

October 7, 1983

Honorable Jeanette Williams, President
Seattle City Council
The City of Seattle
600 4th Ave, 12th Floor
Seattle, Washington 98104

Re: Revision of the Admission Tax Ordinance to prevent
the misuse of tax exemption for non-profit art and
cultural organizations.

Dear Ms. Williams:

This letter forwards to you a proposed ordinance revising the City's Admission Tax Ordinance (Ordinance 72495, Seattle Municipal Code Chapter 5.40) with respect to events of non-profit tax-exempt art and cultural organizations. This ordinance seeks to preserve the current tax exempt status and limit the exemption in situations that the City Council had not intended.

In November of 1982, the Council expanded the tax exemption from Admissions Taxes by removing the guest artist provision, effective January 1, 1983. We were concerned that the following abuses may occur:

- a) A promoter might utilize an exemption from admissions tax by contracting with an eligible non-profit organization to sponsor it. The promoter could then create a 5% profit by paying a use fee to the exempt organization. The recent Kool Jazz Festival is such a case in point. (See Attachment A)
- b) A booking agency might operate as a consultant to an exempt organization and operate essentially as a commercial agency promoting events only remotely connected to the exempted sponsor. Northwest Entertainment Corporation, whose officers were formerly Northwest Releasing have established such a relationship with an exempt group and sponsors formerly commercial events. (See Attachment B)

An equal opportunity employer. M/F/V. The City of Seattle is an affirmative action employer.

City of Seattle--Department of Licenses and Consumer Affairs, 400 South 4th Street, 12th Floor, Seattle, Washington 98104 (206) 625-2536/625-6500

Honorable Jeanette Williams
October 7, 1983
Page Two

- c) The for-profit commercial operators will complain that there exists unfair competition. A letter from Paramount Northwest is attached. (See Attachment C)

The extension of this exemption to allow non-profit groups to essentially sponsor commercial events is verified by the Law Department correspondence of July 25th, 1983, copy attached. Without control on this exemption, we expect that all the commercial operators will utilize a non-profit arts and cultural group in order to be competitive in the market. Last year, \$459,277 (See Attachment D), were collected from major events of commercial promoters; it can be assumed that this tax category is most at risk. Since the exempted groups do not file financial statements, we cannot document how many dollars have already been exempted.

The proposal before you seeks to protect this segment of the tax base and not affect the organizations currently exempted. This proposal seeks to tax those major events which utilize the major concert halls which exceed capacity of 3100 seats. Namely, the Coliseum, Arena, Memorial Stadium, Kingdome and The Hec Edmundson Pavilion. This allows the exempt organizations to conduct their fund raising efforts as they do now, but protect the tax base derived from major entertainment events. Attached is a list of the typical events that would be protected in a year.

Also in 1982 the top four promoters were:

1. Paramount Theatre	tax paid	\$216,852
2. Albatross Productions	"	122,418
3. John Bauer Concert Co.	"	124,676
4. 5th Ave Theatre	"	191,508

Notably, the Fifth Ave is totally exempt at this time and Northwest Entertainment, previously Northwest Releasing, a former major promoter, operates as a consultant to a non-profit exempted group.

Honorable Jeanette Williams
October 7, 1983
Page Three

This proposed ordinance would require an eligible organization to participate in a substantial way when presenting an event featuring a guest artist. Moreover, the proposed ordinance specifically prohibits lending a name or endorsement to an ineligible person which would emphasize such a requirement. The proposed ordinance reflects a compromise that carries out the Council's intent in fostering artistic and cultural activities within the city while effectively foreclosing the sale of a tax exempt privilege to ineligible promoters.

The ordinance was drawn by Ms. Leonor Fuller, a Law student at the University of Washington, who worked as an intern with the Law Department last summer. Her research included the following: she interviewed the Director and enforcement personnel of the Department of Licenses and Consumer Affairs, members of the City Council and Council Staff, the Director of the Seattle Center, and the Assistant Budget Director, representatives of various arts groups and theatre owners, and others with useful information; and she studied the records on the City Comptroller's office on Ordinance 110719 (establishing the exemption in 1973) and 1982's proceedings, newspapers and other articles about the arts organizations and financing, and our records and the pattern of tax collections.

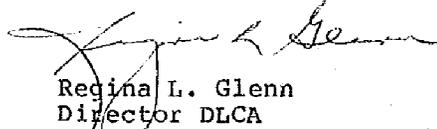
Ms. Fuller prepared a preliminary discussion draft of the ordinance and circulated it for comment, incorporating as many comments and suggestions received; and she drafted a set of implementing rules and regulations to accompany the ordinance.

As part of her final report, she prepared an explanation of the ordinance including a section analysis. The explanation and proposed rules are attached, along with written comments to an earlier draft of the proposed ordinance from the Fifth Avenue Theatre Association. In recognition of the thoroughness of her preparation and the assistance she can provide, we request that you invite her to the Council Committee meeting which considers the ordinance, in order that she may explain its content further, if needed, and answer any questions you may have.

Honorable Jeanette Williams
October 7, 1983
Page Four

The proposed ordinance and the implementing rules
are an excellent work, which we are pleased to present
for your consideration.

Sincerely,



Regina L. Glenn
Director DLCA



Douglas Jewett
City Attorney

RLG:DNJ:wtc

Attachments

92983.WT-99

TOO KOOL

Public interest
cool so far to a
hot jazz lineup

By Regina Hackett
Jazz Critic

Seattle's second annual version of the Kool Jazz Festival is slipping into town with much less fanfare and noticeably less interest from the public. Ticket sales are sharply down, reports Seattle Symphony public relations director Marianne Lewis.

As was true last year, the symphony is sponsoring the festival as a fund-raiser. Fortunately, the symphony doesn't have to depend on ticket sales to make a profit, even though all proceeds from the jazz festival at Marymoor Park go to the symphony. Brown & Williamson Tobacco Corp., makers of Kool and other cigarettes, gives the symphony a cash gift for its participation. Although Lewis wouldn't say what that amount is, she said it is less than \$20,000.

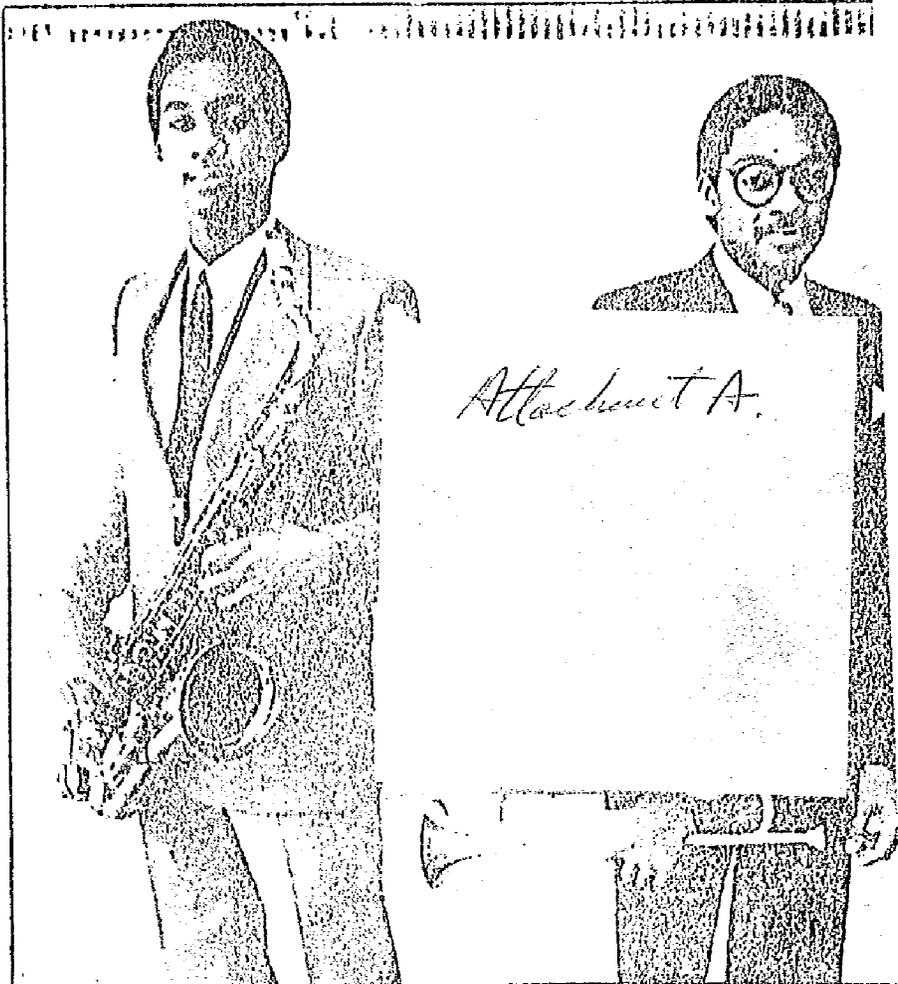
With the exception of tomorrow night's Spyro Gyra and Cam Newton date at the Paramount Theater that is produced by Albatross Productions, Brown & Williamson is paying for the concerts and stands to profit or break even from ticket sales. But profits aren't Brown & Williamson's primary motive in sponsoring Kool. A company marketing spokesman explained that the company wants to relate its brand to the world of music, hoping to associate Kool's name with something that isn't dangerous to health.

A fair exchange

This year's Kool lineup holds its own compared to last year's. True, Miles Davis appeared last year and canceled tomorrow night's concert or less than a week, reportedly because of slow ticket sales here and the cancellation of two other West Coast dates. Davis, said an Albatross spokesman, simply couldn't afford to bring his band from New York for one concert, especially since the ticket sales were slow.

Even though we won't see Davis this year, or Dexter Gordon, Woody Shaw, Gerry Mulligan, Ella Fitzgerald, Oscar Peterson and Bobby Hutcherson, all of whom turned in first-rate efforts last year, we will see Eric Jones, Steps Ahead, Tania Maria, John Klemmer, Nancy Wilson, Lionel Hampton, Carmen McRae, Ralph Towner, Gary Peacock, Joey Graneli, Dizzy Gillespie, Art Blakey and Sam Rivers, Barbara Donald and Unity, Julien Priester, Dan Leisner and Dave Collier instead, which seems like a fair exchange.

Remaining from last year will be Herbie Hancock, Tony Williams, Ron Carter, Wynton Marsalis, Branford Marsalis and Ernestine Anderson, along with the formula-ridden Spyro Gyra. (At least we are spared the Crusaders.)



The Marsalls brothers: Branford, left, and Wynton, perform on Thursday.

JAZZ PREVIEW

Kool Jazz Festival, tomorrow afternoon through Thursday night at a variety of locations. Tickets at Ticketmaster outlets. Call 628-0088. Tickets available at the door for all concerts, including the picnic.

Some jazz fans complain about the big-business feel to these festivals, saying they miss the intimacy of jazz club concerts. That argument isn't a good reason for skipping Kool in Seattle.

Since the club scene here is practically moribund, Kool is the only game in town. Seattle isn't likely to see this much jazz talent here before the next Kool festival, presuming there is one.

Events listed

A list of events follows. Those that are of particular interest are starred.

Tomorrow at noon: Dan Dean and Dave Collier play Waterfront Park. It's free.

Tomorrow at 8:30 p.m.: Spyro Gyra and Cam Newton play the Paramount Theater. Tickets are \$12.50. Those who previously bought higher-priced tickets, when Davis was included in the bill, can get refunds or rebates through Ticketmaster.

*Sunday, from 1 p.m. to around 8:30 p.m.: The Marymoor Park Jazz Picnic at Marymoor Park. Playing are Maynard Ferguson and his orchestra (more flamboyant and less substantive than last year's Gerry Mulligan), the Elvin Jones Trio, Steps Ahead, John Klemmer, Tania Maria, Ernestine Anderson, Julian Priester's Quintet, Barbara Donald

and Unity with Carter Jefferson, the Ramier Jazz Band, Allen Youngblood and Skip Thomas. Directions: from Seattle go over the Evergreen Point Bridge; from Bellevue follow 405 to 520. Take the second Redmond exit and turn right onto West Sammamish Parkway. Turn left at the first stoplight. This is the entrance to the park. The event is on rain or shine, and tickets cost \$10 and \$5 for children under 12. Day of show tickets are available at the park or open Ticketmaster outlets for \$12.50 for adults and \$5 for kids.

Monday at noon: the Overton Berry Trio at Freeway Park. It's free.

Monday at 8 p.m.: Charlie Rouse and his trio at the Broadway Performance Hall, at the corner of Broadway and Pike Street.

Monday at 8:30 p.m.: Nancy Wilson and Hubert Laws at the Paramount Theater. Tickets are \$12.50 to \$17.50.

*Tuesday at 9:30 p.m.: Lionel Hampton and his big band and Carmen McRae play the Paramount Theater. Tickets are \$12.50 to \$17.50.

*Wednesday at 6 p.m.: Ralph Towner, Gary Peacock and Jerry Graneli play Broadway Performance Hall. Tickets are \$7.50.

*Wednesday at 8:30 p.m.: Dizzy Gillespie, Art Blakey and the Jazz Messengers and Jon Faddis play the Paramount Theater. Tickets are \$10 to \$15.

*Thursday at 6 p.m.: Sam Rivers plays the Broadway Performance Hall in a solo concert. Tickets are \$6. At noon the same day, Rivers gives a free lecture at Cornish Institute.

*Thursday at 8:30 p.m.: Herbie Hancock, Tony Williams, Ron Carter, Wynton Marsalis and Bran-



Nancy Wilson sing-

ing. The Marsalls brothers play the Paramount Theater. Scott Cossu of the Harvard Exit is p

two-day program of jazz screenings begin at noon

Seattle Post

M E M O R A N D U M

July 25, 1983

TO: Ms. Regina Glenn
Director of Licenses and
Consumer Affairs

Attention: Mr. Walter Tank
Assistant Director

FROM: The Law Department

By: Jorgen Bader 
Assistant City Attorney

RE: Application of Admissions Tax to Kool Jazz Festival

By memorandum, dated July 8, 1983, you inquired whether persons paying an admission charge to the "Kool Jazz Festival" are subject to admission tax under Seattle Municipal Code Chapter 5.40 (Ordinance 72495, as last amended by Ordinance 110374). The Seattle Symphony, a non-profit tax-exempt organization registered with your Department, will co-sponsor the event under an agreement with Festival Productions, Inc. Under the agreement, the Seattle Symphony appears in advertising for the event as a sponsor, assists in securing use of a facility for the event, and participates in providing promotional publicity. Festival Productions manages the event arranging for the artists, advertising, presentation of the event, sale of tickets, payment of taxes, and promotion of tobacco products. The Seattle Symphony will receive a substantial flat fee; the contract states that Festival Productions ". . . is responsible for all profits and/or losses that may accrue from the Festival."

Seattle Municipal Code ("SMC") § 5.40.020A levies and imposes the admission tax upon persons paying an "admission charge". Its provided clause makes an exclusion for certain activities of non-profit tax-exempt art and cultural organizations. It provides, in part, as follows:

- A. There is levied and imposed upon everyone without regard to age, who pays an admission charge . . . ; provided that such tax shall not apply to . . . an opera, concert, dance recital or like musical entertainment . . . when a . . . non-profit tax-organization . . . publically

Ms. Regina Glenn
July 25, 1983
Page Two

sponsors and performs such activity, and receives the use and benefit or admissions charges collected; provided, further, that during 1982 the foregoing exclusion shall not apply when a guest artist . . . supplies the major portion . . . of the performance of such activity of the non-profit tax-exempt organization.

SMC § 5.40.020B establishes the amount of the tax and refines the scope of the exclusion.

- B. The tax here imposed shall be in the amount of five percent on each admission charge or charge for season or series ticket; provided, until January 1, 1983, the tax imposed upon taxable admissions to the activities itemized in subsection A, above, charged by a college, universities or non-profit tax-exempt organizations for events featuring guest artists shall be in the amount of two and one-half percent (2-1/2%) on each admission charge or charge for season or series tickets, for each admission to live entertainment; and thereafter, no tax shall be applied to such admissions to the itemized activities featuring guest artists charged by colleges, universities or non-profit tax-exempt organizations. (Emphasis added)

Ordinance 102719 added the exclusion for activities of art and cultural organizations to Subsection A. Ordinance 110275, as amended by Ordinance 110374, amended Subsection B by adding the underscored language. It was intended to reduce to 2 1/2% the tax on admission charged by non-profit organizations for guest artist performances in 1982 and eliminate it thereafter. See letter of the Director of Licenses and Consumer Affairs contained in the file of Ordinance 110374.

Your inquiry arises from an apparent dissimilarity between Subsections A and B of SMC 5.40.020. The language of each is parallel to the other part-way:

Ms. Regina Glenn
July 25, 1983
Page Three

Subsection A

. . . provided, that such
tax shall not apply

. . . to anyone paying an
admission charge

. . . to an opera, concert,
dance recital or like musical
entertainment, . . . etc.

. . . when a college or
university or non-profit
tax-exempt organization,
as defined

Subsection B

provided, no tax shall
be applied

. . . to such admissions

. . . to the itemized
activities

. . . by colleges,
universities or
tax-exempt organizations

Subsection A continues with the phrase "publicly sponsors and performs such activity, and receives the use and benefit of admission charges collected." Subsection B has no equivalent counterpart.

Under the maxim, expressio unius est exclusio alterius, the mention of one thing implies the exclusion of others, Bradley v. Department of Labor & Industries, 52 Wn.2d 780, 329 P.2d 196 (1958). Here, the mention of certain requirements implies the deletion of others. When two enactments contain inconsistent procedures or requirements, the ordinance later in time takes precedence over the earlier ordinance. Paine v. State, 156 Wash. 31, 286 Pac. 89 (1930). If there is doubt as to the meaning of a tax ordinance, the language is interpreted in favor of the taxpayer, Vita Food Products v. State, 91 Wn.2d 132, 587 P.2d 535 (1978); Foremost Dairies v. State Tax Commn., 75 Wn.2d 758, 453 P.2d 870 (1969).

Under these circumstances, the probabilities are that, were the issue presented on an appeal, the Hearing Examiner would rule that the tax exclusion applies, and that no admission taxes are due.

For your information, we are also attaching a copy of a joint letter to the City Council from your department and ours forecasting that commercial promoters might ally with eligible nonprofit organizations for presentation of art and cultural events and thereby gain the advantages of tax exemption.

JGB:mc

L. The Paramount

**The
Paramount
Theatre/Seattle**

907 Pine Street
Seattle, Washington 98101
206/682-1414

May 9, 1983

Rod Eiler
City of Seattle Admission Tax Division
600 4th Avenue
Seattle, Washington 98101

Dear Mr. Eiler:

Please excuse the delay in formalizing our discussion concerning the admission tax issue as it regards the Paramount Theatre and its tenants.

As you know, we are faced with a very critical and somewhat unique problem which revolves around the 5% admission tax. The current city ordinance exempting any not for profit corporation from the admission tax has greatly effected our leasing program in the last year and one half. The Paramount Theatre is the largest privately owned venue in the City of Seattle, as well as a primary rental facility. In order to remain attractive to clients we must remain competitive with the venues comparable to our seating capacity, i.e the Opera House and the Fifth Avenue. In the past, our rates could not compete with the Opera House, a subsidized facility, yet we received the overflow of activity and have aggressively pursued clients.

However, the recent developments with the Fifth Avenue has created an unbalanced competition in the marketplace, primarily because of their tax shelter. In other words, to attract some of our frequent users we have had to make concessions to keep them in our facility. Recently, we had four shows with Liza Minelli whose gross paid \$16,467.03 in admission taxes. In order to procure this date, the Paramount agreed to pay up to \$5000.00 on the first \$300,000.00 in receipts. The promoter for this event was attracted to the Fifth Avenue because of their supposed tax shelter.

It seems that we are being penalized for not being incorporated as a not for profit corporation; a status that has more benefits than just admission tax shelters. Added to this irony is the fact that the Paramount Theatre has brought substantial revenue to the city in this taxation process, which in-turn must benefit all public facilities. "The King and I" alone had over \$112,000.00 in admission taxes in its five week run.

I write this letter as a grievance toward what I see as an unfair situation. However, I must advise you that we are asking our corporate attorneys to seek some legal protection for this unjust ruling. I would be most grateful for your suggestions on how we can further pursue and rectify this situation.

Very truly yours,

Lynn
Lynn Landis
Theatre Manager

cc: Eulysses Lewis, President

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Peter, Paul and Mary

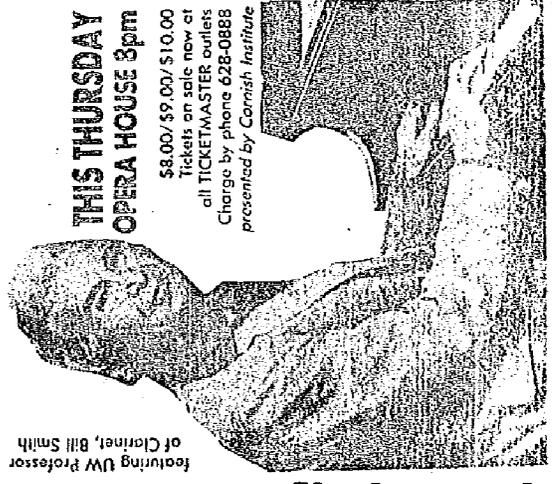


KEZZ
WELCOMES

OPERA HOUSE-WED, OCT. 26-8 PM
Tickets: \$12/\$14/\$16
On sale at The BCN and all TICKETMASTER outlets. Charge by phone: 628-0888.
presented by Cornish Institute

KEZZ INVITES YOU TO AN EVENING WITH

dave brubeck



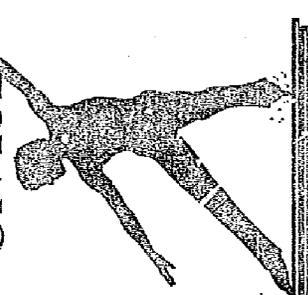
featuring UW Professor of Clarinet, Bill Smith

THIS THURSDAY OPERA HOUSE 8pm

\$8.00/\$9.00/\$10.00
Tickets on sale now at all TICKETMASTER outlets
Charge by phone 628-0888
presented by Cornish Institute

The Seattle Times, October 21, 1978

THE SPECTACULAR NEW SYMPHONY ON ICE



STARTING JOHN CURRY
OLYMPIC, WORLD AND EUROPEAN CHAMPION
PLUS
SPECIAL GUEST STAR DOROTHY HAMILL
FEATURING
JO JO STARBUCK - DAVID SANTEE
PLUS A COMPANY OF INTERNATIONAL SKATING CHAMPIONS

SUNDAY, OCT. 9, 3pm
Seattle Center Arena

Seated on the floor, the skaters will perform a variety of spectacular stunts, including jumps, spins, and intricate footwork. The program will be a combination of the best of the sport and the art of skating.

THE CITY OF SEATTLE

LAW DEPARTMENT

MUNICIPAL BUILDING - SEATTLE, WASHINGTON 98104

AREA CODE 206 TELEPHONE 625-2402

DOUGLAS N. JEWETT, CITY ATTORNEY

September 22, 1982

Honorable Jeanette Williams, President
The City Council
The City of Seattle

Re: Revision of Admissions Tax Ordinance
to prevent misuse of exemption for
non-profit art and cultural organizations

Dear Ms. Williams:

This letter forwards to you a proposed ordinance revising the City's Admission Tax Ordinance (Ordinance 72495; Seattle Municipal Code Chapter 5.40) with respect to events of non-profit tax-exempt art and cultural organizations. The ordinance would prevent use of the exemption from admissions taxes in situations that the City Council had not intended, while preserving the exemption for events of bona fide organizations.

As you recall, last November, the City Council amended Ordinance 72495 to expand the exemption from admissions taxes for events of non-profit tax-exempt art and cultural organizations by removing the guest artist exemption, effective January 1, 1983. Licensing officials stated that would present such problems as the following:

- a) A promotor might "purchase" an exemption from admissions taxes for an event by contracting with an eligible non-profit organization to sponsor it; the promotor would continue to manage the affair. For example, gross receipts on a rock concert at the Coliseum, the High School Memorial Stadium or the Kingdome may exceed \$200,000. Admissions taxes at 5% would yield \$10,000 in City revenues. By paying \$1000 to an eligible organization for the use of its name as a sponsor, the promotor would net an additional \$9,000.

ATTACHMENT

C

Jeanette Williams
September 22, 1982
Page two

- (b) A booking agency might organize an affiliated non-profit tax-exempt organization. The managers would assign a portion of their gross receipts (say 2%) to eligible organizations or for performing arts activities, but continue to draw their salaries and operate essentially as a commercial agency. The non-profit organization would claim the exemption from admissions taxes; and as long as the Internal Revenue Service recognized its status, our offices would effectively have to bear the burden of proof in denying it.

A for-profit booking agency had also complained that removal of the "guest artist" provision would engender unfair competition. During the Council's deliberations, several council members requested the Department of Licenses and Consumer Affairs to study these problems during the intervening year before the full exemption would take effect and to report its recommendations in conjunction with the coming year's budget.

The proposed ordinance responds to that request and reflects a compromise that carries out the City Council's intent in fostering artistic and cultural activities within the City while effectively foreclosing the sale by eligible organizations of the tax-exemption privilege to ineligible promoters.

The ordinance was drawn by Ms. Leonor Fuller, a law student at the University of Washington, who worked as an extern with the Law Department this summer. Her research included the following: she interviewed the Director and enforcement personnel of the Department of Licenses and Consumer Affairs, members of the City Council and council staff, the Director of the Seattle Center, and the Assistant Budget Director, representatives of various art groups and theatre owners, and others with useful information; and she studied the records in the City Comptroller's office on Ordinance 110719 (establishing the exemption in 1973) and last year's proceedings, newspapers and other articles about the arts organizations and financing, and our records and the pattern of our tax collections. She prepared a preliminary discussion draft of the ordinance and circulated it for comment, incorporating many comments and suggestions received; and she drafted a set of implementing rules and

Jeanette Williams
September 22, 1982
Page three

regulations to accompany the ordinance. As part of her final report, she prepared an explanation of the ordinance including a section analysis. The explanation and proposed rules are attached, along with written comments to an earlier draft of the proposed ordinance from the Fifth Avenue Theater Association. In recognition of the thoroughness of her preparation and the assistance she can provide, we request that you invite her to the Council Committee meeting which considers the ordinance in order that she may explain its content further, if needed, and answer any questions you may have.

The proposed ordinance and the implementing rules are an excellent work, which we are pleased to adopt and forward to you for your consideration.

Very truly yours,

REGINA L. GLENN
Director of Licensing and
Consumer Affairs

DOUGLAS N. JEWETT
City Attorney

RLG:lf
Enc.
cc: Mayor

Your
Seattle
Department of Licenses and Consumer Affairs



Regina L. Glenn, Director
Charles Royer, Manager

March 23, 1983

M E M O R A N D U M

TO: Dave Hewitt, Budget Analyst
Office of Management & Budget

FROM: *Regina L. Glenn*
Regina L. Glenn, Director
Department of Licenses & Consumer Affairs

SUBJECT: EFFECTS OF 5TH AVENUE THEATRE ADMISSION TAX EXEMPTION

Since the exemption for non-profit performing arts groups from Admission Tax was established, the entertainment industry has changed operations as follows:

Northwest Entertainment, a show promoter, has become a sub-contractor to Cornish School so that these commercial events fall into the exempt category, i.e.:

Ballet Folklorico sponsored by the Cornish School, tickets handled by Northwest Entertainment, was held at the Opera House on February 13, 1983. The Admission Tax exempted was \$660.64.

Johnny Cash sponsored by the Cornish School handled by Northwest Entertainment was held at the 5th Avenue Theatre on January 13th and 14th, 1983. The Admission Tax exempted was \$2,337.72.

Hal Halbrook sponsored by the Cornish School, tickets handled by Northwest Entertainment, was held at the Opera House on January 25th, 1983. The Admission Tax exempted was \$2,278.19.

Benefit concerts for the University of Washington Radio Station, KCMU have become an issue where it is the University's contention that the radio station is exempt. The department's position is that it is not exempt.

An equal employment opportunity - affirmative action employer

Seattle—Department of Licenses and Consumer Affairs, 102 Seattle Municipal Building, Seattle Washington 98104 (206) 625-2536/625-5500

Dave Hewitt, Budget Analyst
Page 2
March 23, 1983

Quincy Jones Concert sponsored, by Seattle Central Community College, on March 12th and 13th, held at the Paramount and Arena for the benefit of the school, was exempted from \$8,757.95 of Admission Tax.

Due to the exempt status created, there are few records of non-taxed events. The events described are the only ones we happen to be aware of through our industry contacts. Clearly the industry is moving to utilize this exemption as much as possible.

Therefore, we are addressing this problem through an amendment to the Admissions Tax Ordinance, which limits exemptions to locations with less than 3100 seating capacity. We can then continue the 5th Avenue exemption, but close out the big dollar events at the Kingdome, Coliseum, Opera House and Arena.

If I can be of further assistance, please call me or Walt Tank at 2537.

RLG:wtc

70
32183.WT1

LIST OF EVENTS IN 1982 HELD AT LOCATIONS WITH A CAPACITY OF 3100 SEATS

The following list is CONFIDENTIAL, as it reflects individual tax reports and should not be dispensed publically.

<u>DATE</u>	<u>EVENT</u>	<u>LOCATION</u>	<u>TAX PAID</u>
Jan 2	EARTH WIND & FIRE	COLISEUM	6,911
Jan 3	EARTH WIND & FIRE	COLISEUM	5,545
Jan 9	TORO TRADE SHOW	COLISEUM	4,806
Jan 18	AVON TENNIS TOURN.	ARENA	6,485
Jan 21	FOREIGNER	COLISEUM	8,545
Jan 22	BOAT SHOW	KINGDOME	14,057
Feb 5	WORLD OF WHEELS	COLISEUM	4,063
Feb 6	CONCERT	ARENA	265
Feb 9-			
Feb 11	AC-DC	COLISEUM	26,985
Feb 13	MOTOCROSS	KINGDOME	19,894
Feb 13-			
Feb 14	GLOBETROTTERS	COLISEUM	4,472
Feb 25	R.V. SHOW	MEMORIAL	985
Feb 27	ROB GLAZIER	ARENA	176
Mar 3	INTL SPORTSMAN EXPO	COLISEUM	2,536
Mar 11	AMY GRANT	ARENA	1,756
Mar 13	HOME SHOW	KINGDOME	14,696
Mar 18	SAMMY HAGAR	COLISEUM	7,196
Mar 19	NILE CIRCUS	COLISEUM	6,671
Apr 8	J. GIELS	COLISEUM	6,666
Apr 19	MERLE HAGGART	ARENA	1,002
Apr 23-			
Apr 24	BLACK SABBATH	ARENA	5,802
Apr 30	EMMY LOU HARRIS	ARENA	1,200
May 1	IMPERIALS	ARENA	2,197
May 7	AMWAY INTL	ARENA	5,454
May 14	U.F.O.	ARENA	2,743
May 21	OAK RIDGE BOYS	ARENA	6,486
Jun 5	McCLOUD	COLISEUM	1,315
Jun 15	OZZIE OSBOURN	COLISEUM	6,336
Jun 16-			
Jun 20	SESAME STREET	COLISEUM	3,887
Jun 29	JC-IN DENVER	COLISEUM	9,705
Jul 2	CIRCUS	COLISEUM	11,354
Jul 16	SCORPION	HEC EDMUND	4,502
Jul 23	4 BANDS	KINGDOME	30,405
Jul 31	ROYAL LIPPIZANS	COLISEUM	1,435

Aug 22	GO-GO'S	HEC EDMUN	4,089
Aug 29	GRATEFUL DEAD	COLISEUM	6,657
Sep 1	POLICE	COLISEUM	8,945
Sep 2	VAN HALEN	COLISEUM	7,157
Sep 3	QUEEN & BILLY SQUIER	COLISEUM	5,744
Sep 16	ZZ TOP	COLISEUM	5,073
Sep 17	GEM & MINERAL SHOW	COLISEUM	647
Sep 21	CIRCUS	COLISEUM	17,211
Sep 22	UW ALUMNAE	HEC EDMUN	489
Sep 29	RODEO	KINGDOME	5,022
Oct 1	BUMBERSHOOT	SEA CTR	19,414
Oct 2	TARGET SEATTLE	KINGDOME	1,017
Oct 5	KBIQ & KGDN	COLISEUM	3,260
Oct 6	MANUFACTURED HOUSING	KINGDOME	1,687
Oct 6	DIANA ROSS	COLISEUM	10,400
Oct 14	KENNY LOGGINS	ARENA	2,043
Oct 16	BACON BOWL	KINGDOME	10,500
Oct 20	WHO & CLASH	KINGDOME	41,820
Oct 29	AUTORAMA	COLISEUM	2,583
Oct 30	TRACTOR PULL	KINGDOME	16,523
Nov 10	AUTO SHOW	KINGDOME	7,789
Nov 13	SANTANA	ARENA	2,987
Nov 15	JUDAS PRIEST	COLISEUM	7,451
Nov 17	URIAH HEAP	ARENA	2,403
Nov 26	HARVEST FESTIVAL	COLISEUM	1,045
Dec 1	ICE CAPADES	COLISEUM	11,153
Dec 10	BILLY JOEL	COLISEUM	7,189
Dec 10	WAYLON JENNINGS	ARENA	3,787
Dec 17	CROSBY STILLE & NASH	COLISEUM	7,521
Dec 27	83 WAVE SPECTACULAR	ARENA	3,807
Dec 30-			
Dec 31	HEART	COLISEUM	7,644
TOTAL			\$459,277

71
LISTFAX

Your
Seattle
Department of Licenses and Consumer Affairs

Regina L. Glenn, Director
Charles Royer, Mayor



COPY OF WITHIN RECEIVED

SEP 14 1982

September 9, 1982

Douglas N. Jewett
CITY ATTORNEY

Leonor Fuller
Law Department
City of Seattle
1000 Municipal Building
Seattle, WA 98104

Dear Ms. Fuller:

We cannot fully express our gratitude to you for the most professional and expert assistance you have provided in drafting and re-writing those sections of the Seattle Municipal Code pertaining to Admission Taxes levied upon Non-Profit Tax Exempt Organization's activities and also re-drafting the rules and regulations pertaining thereto.

We are aware of the intense political sensitivity you found to exist in this issue and commend you for your superior performance in dealing with the industry and their concerns.

We are certain that you will realize a most rewarding career in your chosen field.

Sincerely,

Regina L. Glenn
Director

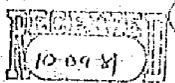
RLG:rit

cc: Walt Tank, Assistant Director for Licenses
Rod Ihler, Admission Tax Inspector
✓ Jorgen Bader, Law Department

An equal employment opportunity - affirmative action employer.

City of Seattle - Department of Licenses and Consumer Affairs, Consumer Affairs Division, 1022 Seattle Municipal Building, Seattle, WA 98104, (206) 465-3712

Peter
FYI
UB



11111

Northwest Releasing Corporation
200 Queen Anne Avenue North
Seattle, Wa. 98109 • 206-284-9940

October 8, 1981

Ms. Lorraine Brekke
Executive Director
City Council
600 Fourth Avenue
Seattle, WA 98104

Dear Ms. Brekke:

There has, of late, been considerable press coverage concerning the Fifth Avenue Theatre's application for a waiver of admission taxes on the basis that the Theatre is (1) a non-profit theatre and (2) part of the arts community in Seattle.

The City of Seattle currently subsidizes the Performing Arts to a great degree, both through a lower rent at the Seattle Center and the waiver of admission taxes. But these groups, the Symphony--Opera--Rep--Ballet, and others like them ARE local arts groups.

The Fifth Avenue Theatre is a commercial venture! Broadway musicals and plays have been presented in Seattle by our company and others for more than twenty years. The fact that a group of local businessmen joined together to refurbish a theatre to present these same shows may well be a benefit to the Seattle entertainment scene...but is it deserving of subsidy by the City, especially in times of budget cuts. And if the answer is yes, then why not the same advantage for the Paramount Theatre, which is doing exactly the same thing. And if for them, why not everyone!

The Fifth Avenue Theatre is not a resident arts group, it is a commercial venture. They deserve no more...or less...than the rest of the commercial ventures in this city.

Sincerely,

NORTHWEST RELEASING CORPORATION

Gerald J. Lonn

GJL/ghh

cc: City Council Members



CONCERT PROMOTION
SEATTLE • PORTLAND
VANCOUVER • MINNEAPOLIS
SPOKANE • YAKIMA
HONOLULU • ALASKA
and throughout the Western
United States and Canada



Seattle City Council
Memorandum

Date: November 13, 1981
To: All Councilmembers
From: Peter Moy and Debbie Cone
Subject: Additional Information on Tax Issues

This memorandum addresses the questions and suggestions raised at our staff presentation of the tax issues on October 27, 1981. The first section presents additional discussion of the admission tax issue and the second section presents revised and additional tables and discussion regarding the B&O tax issue. We will summarize comments concerning the Utility B&O tax after the hearings on November 16th and 17th.

ADMISSION TAX ON NON-PROFIT ORGANIZATIONS

Four issues regarding the admissions tax were identified by the Council for further investigation:

- 1) Non-profit exemption and guest artist exclusion
- 2) Eliminating the admission tax on guest performances for all non-profit organizations.
- 3) Imposing a 1% tax on all performances sponsored by non-profit organizations.
- 4) Additional viewpoints regarding the proposed 5th Avenue admission tax reduction.

Non-Profit Exemption and Guest Artist Exclusion

In 1973 Councilmembers sponsored a proposal to exempt all non-profit performing arts groups from the City's five percent admission tax. The sponsors felt that due to the poor financial condition of non-profit performing arts organizations the non-profit exemption was necessary to prevent the performing arts from deteriorating in quantity and quality. The exemption would also offset the cycle of increasing costs leading to higher prices, diminished audiences and performances with less general appeal. The intent of the proposal was to encourage the growth and development of the performing arts in the City by exempting the organizations that reside and conduct their affairs principally within the City of Seattle. The proposal did not make any distinction between guest artist and other types of performance. However, the final ordinance specifies that the:

. . . exclusion from taxation shall not apply when a guest artist or other person supplies the major portion of the materials or exhibition or of the performance of such activity of the non-profit tax-exempt organization.

The apparent reason for this exclusion is that out of town guest artists or their sponsors do not provide the same benefits to the City as local organizations. These benefits include increased employment, demand for office space and other services, greater assurance of continued activity in the arts and close relationship to other city sponsored cultural programs. We have not been able to find any documentation that shows what person or group suggested the inclusion of the above clause.

Elimination of Admission Tax on Guest Artist Performances

Eliminating the admission tax on guest artist performances will reduce tax revenue from existing non-profit organizations and could provide an incentive for private, for-profit organizations to avoid the admissions tax. The annual revenue loss from the elimination of the tax would be approximately \$600,000. This is based on our estimates of revenue from the 5th Avenue Theater assuming all performances are guest artist performances and DCLU estimate of revenue from all other non-profit organizations. This amount would be comprised of approximately \$500,000 from the 5th Avenue Theater and \$100,000 from 42 other non-profit organizations. Most of the 42 other organizations are small; the majority would have a reduced tax obligation of under \$2,000 annually.

Elimination of the guest artist admission tax would also provide the incentive for private, for-profit organizations to form non-profit corporations to sponsor performances. The non-profit corporation could pay all of the "profits" in the form of fees or salaries to their own private, for-profit corporation and thereby avoid the tax and keep the profits. We are not able to estimate how many private organizations would form non-profit corporations to avoid the tax or what the resultant loss of revenues would be.

One Percent Tax

Imposing a one percent tax on all non-profit performances would generate approximately \$200,000 in tax revenues. Approximately one half of the tax revenues would be paid by the 5th Avenue Theater and the remainder by all other non-profit organizations. A partial listing showed 130 non-profit performing arts organizations operating in Seattle. The majority are small organizations with annual ticket revenues of less than \$100,000. Currently, only about 42 of these organizations are paying admissions tax; the one percent tax would require the 88 remaining organizations to collect and pay taxes.

An informal survey of the performing arts community revealed a very strong reaction against the imposition of any tax on non-profit organizations. Several of those surveyed pointed out that the arts community struggled for many years to achieve their tax free status

and have that status for good reasons. They pointed out that non-profit organizations receive up to 50 percent of their revenues from contributed income. The taxes would have to be funded through increased charitable contributions or increased ticket prices. Since tickets are generally priced at even dollar or half dollar increments it would be difficult to pass on a 10 or 15 cent tax. Many of these organizations will receive reduced support from the Seattle Arts Commission or the King County Arts Commission this year because of reduced funding to those agencies. The non-profit organizations feel that an additional expense such as this tax would upset the very tenuous balance between their expenses and revenues and increase the workload of already overburdened and underpaid staff. The intent of the original exemption for non-profit organizations was to recognize their unique financial dilemma and provide some relief.

Additional Viewpoints on the 5th Avenue Theater

We surveyed several members of the private, for-profit performing arts organizations as well as members of non-profit organizations to get additional viewpoints on the proposed reduction in admission tax for the 5th Avenue Theater. Private, for-profit organizations expressed the opinion that, while the 5th Avenue Theater is non-profit, it is not non-commercial and therefore should be treated like any other commercial theater. If the fact that it is an historical landmark justifies a subsidy they feel that the Moore, the Paramount, and the Music Hall deserve the same treatment. One of those surveyed felt that the City should not subsidize touring groups and Broadway shows. Another felt that the fact that the 5th Avenue could go out of business should not be an argument for reduced taxes because the City would not offer the same tax reduction to other commercial establishments, and that even if the 5th Avenue did go out of business another performing arts tenant would be found for the building. This may not be easily accomplished because the 5th Avenue Theater has a 20-year lease and would probably be reluctant to sublease it for less than their cost. Their cost would include the substantial debt service for the renovation that is a major reason for their current financial plight.

The general feeling among non-profit organizations is that the 5th Avenue has made an enormous contribution to the community, that a large number of people benefit from the theater, both the theatergoers and the downtown Seattle businesses, and that the demise of the theater would be a serious step backward for the performing arts in Seattle.

B&O TAX ISSUE

The Council requested that we revise some tables included in our tax issue paper to make them more complete and easier to interpret, and to provide additional discussion of the impact of the B&O tax on prices.

Tax Issues
Page Four

The following discusses the changes we made in each of the tables, which are included in Attachment 1. Our discussion of B&O tax impacts is presented in Attachment 2.

Table 1 -- This table now includes data on the 10 percent (permanent) B&O tax increase as well as the 51.5 percent proposed increase. Rates for hotels and motels have also been included.

(Page 16 of text)--This table is from page 16 of the October 27 issue paper. The format has been revised to include the 10 percent proposed tax increase.

Table 2 -- Hotels and Motels have been included.

Table 3 -- Financial Institutions and Retail Groceries have been included and the format has been changed for (hopefully) easier understanding.

Table 3a--This is an additional table that presents the same material as Table 3, for a 10 percent tax increase.

Table 3b--This is an additional table that shows, in dollars, the same information that is presented in Tables 3 and 3a for selected industries. The first three columns reflect the 10 percent tax increase on average profit margin businesses (Table 3a). The second three columns reflect the 51.5 percent tax increase on average profit margin businesses (Table 3).

Table 4-- This table is corrected to show no increase in the proposed hotel and motel tax.

PM:DC:md

Attachments

GRAHAM & DUNN
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DAVID O. CANU
DOUGLAS G. BERRY
ANDREA A. DARVAS

TEXAS AND
LOUISIANA BAR ONLY

COPY OF WITHIN RECEIVED

AUG 27 1982

DONALD G. GRAHAM (884-1819)

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CITY ATTORNEY
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1301 FIFTH AVENUE
SEATTLE, WASHINGTON 98101
(206) 624-8300

TELECOPIER: (206) 624-8701
TELEX: 15-2631

August 25, 1982

Ms. Leonor Fuller
Law Department
City of Seattle
Municipal Buiding
Seattle, Washington 98104

Re: 5th Avenue Theatre Association/
Seattle Admission Tax

Dear Ms. Fuller:

Thank you for taking time to meet this afternoon with Andy Witt and me to discuss proposed amendments to the City's Admissions Tax Ordinance. I thought it was a positive, productive meeting.

During the course of the meeting, you gave us an August 25, 1982 draft of the proposed amendments to the Admissions Tax Ordinance. My notes reflect the following changes (except as noted in item 5) as those Mr. Witt and I suggested be made to the proposed amendments:

1. The first suggested change was deletion of Paragraph A of Proposed Code § 5.40.025, entitled "Declaration of Purpose." Our concern was that the broadly worded language could be misinterpreted or misconstrued at some future time when those presently involved are no longer available. The language is not intended to be operative in any event, and I believe 5th Avenue would be more comfortable with the Ordinance restricted to the operative language itself.

GRAHAM & DUNN

Ms. Leonor Fuller
August 25, 1982
Page -2-

^{NO} 2. At the present time, any activity of the 5th Avenue Theatre, regardless of character, will be exempt from the admissions tax as of January 1, 1983. Code § 5.40.020(B). Under Proposed Code § 5.40.025(B)(3), however, this would be true only if its activities fall within the "laundry list" there set forth. 5th Avenue would like to have that paragraph changed to also exempt those paying an admission charge to "any educational, civic or cultural activity of a private, nonprofit corporation."

3. For clarification purposes, we suggested that the period at the end of Proposed Code § 5.40.025(B)(3)(i) be deleted and the following phrase added: "that does any of the following:"

4. We would suggest that subparagraphs (a) and (b) under the subsection discussed in item 3, above, be changed slightly. We would like the word "representatives" added to subparagraph (a) and the words "or leases" added to subparagraph (b), so that the two paragraphs would read as follows:

"(a) publicly sponsors and through its members, representatives or personnel promotes, publicizes and distributes most of the tickets for admission; or

"(b) publicly sponsors and presents the event at a facility it owns or leases"

5. During our meeting we discussed changes to Proposed Code § 5.40.025(B)(3)(ii). One thought I overlooked mentioning concerned the portion of any admissions charge collected which is actually available to an exempt organization. 5th Avenue, for example, is required to pay for the cost of the shows it features. This cost comes out of admission charges. All that is available to it are the net proceeds from any performance. With this in mind, I suggest that subsection (ii) be changed to read as follows:

GRAHAM & DUNN

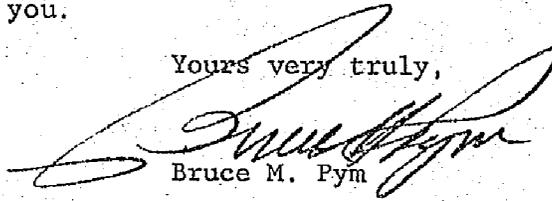
Ms. Leonor Fuller
August 25, 1982
Page -3-

"The college, university or non-profit tax exempt organization receives the use or benefit of admission charges collected, net of costs and expenses incurred in connection therewith; and . ?

6. The final change we suggested pertained to Proposed Code § 5.40.085(B). We suggested changing the reference to "its criteria" in part (1) of that section to "the criteria of Seattle Municipal Code Chapter 5.40.025" and deleting part (2) of the section. I think this would make the section a bit clearer and less vague.

Thank you again for meeting with us. I hope our comments are of help to you.

Yours very truly,


Bruce M. Pym

BMPskp

ORDINANCE 11149

AN ORDINANCE amending Ordinance 72495 as amended, the Admissions Tax Ordinance, to restrict the scope of the exclusion from tax of persons paying an admission charge for certain events of non-profit tax-exempt organizations; and to relocate the codification of several phrases and paragraphs; amending Sections 2 and 8 thereof and Seattle Municipal Code Sections 5.40.020 and 5.40.080A, and adding new Sections 5.40.025 and 5.40.085 in connection therewith.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 5.40.020 of the Seattle Municipal Code (Ordinance 72495, § 2, as last amended by Ordinance 110374) is further amended as follows:

5.40.020 Tax levied.

A. There is levied and imposed a tax upon everyone, without regard to age, who pays an admission charge as defined in Section 5.40.010. (~~provided, that such tax shall not apply to anyone paying an admission charge of Ten Cents (\$0.10) or less or to any activity of any elementary or secondary school as contemplated by RCW 35.21.280, or 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 a college or university or nonprofit tax organization, as defined in Section 5.40.010 and registered under Section 5.40.080, publicly sponsors and performs such activity, and receives the use and benefits of admission charges collected; provided, further, that during 1982 the foregoing exclusion from taxation shall not apply when a guest artist or other person supplies the major portion of the materials on exhibition or of the performance of such activity of the nonprofit tax-exempt organization.~~)

B. The tax here imposed shall be in the amount of five percent on each admission charge or charge for season or series ticket. (~~provided, until January 1, 1983, the tax imposed upon taxable admissions charged by a private, non-profit organization shall be in the amount of two and one-half percent (2 1/2%) on each admission charge or charge for season or series tickets, for each admission to live entertainment; and thereafter, no tax shall be applied to admissions charged by private, nonprofit organizations.~~) Any fraction of tax one-half cent or more shall result in a tax at the next highest full cent.

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

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

Section 2. There is added to Seattle Municipal Code Chapter 5.40 the following new section, designated Section 5.40.025, as follows:

5.40.025 Tax exemption.

A. 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 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 criteria are met:

a. A college or university or non-profit tax-exempt organization, as defined in Section 5.40.010 and registered under Sections 5.40.080 and 5.40.085, that meets one 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 month;

(iii) publicly sponsors and:

- (1.) performs a major portion of the performance, or
- (2.) supplies a major portion of the materials on exhibition, or
- (3.) 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.

b. The college, university or non-profit 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, not more than three thousand one hundred (3,100) people are permitted on the premises at any one time.

B. The exemption to the admission tax as provided in Section 5.40.025A.3 shall not apply to:

1. an athletic event;
2. an event containing dancing by persons paying an admission charge;
3. an event in which a college university or non-profit tax-exempt organization lends its name to an endorsement for an ineligible person for the purpose of invoking the tax exemption.

Section 3. Subsection 5.40.080A of the Seattle Municipal Code (Ordinance 71495, § 8, as last amended by Ordinance 102719, § 3), is further amended as follows:

5.40.080 Certificate of registration - Required Application.

A. Any person conducting or operating any place for entrance to which an admission charge is made shall, on a form prescribed by the Director of Licenses and Consumer Affairs, make application to the Director of Licenses and Consumer Affairs for issuance (~~by the Comptroller~~) 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 (~~by the Comptroller~~) without additional charge,

shall be posted in a conspicuous place in each ticket or box office where tickets of admission are sold.

Section 4. Subsection 5.40.080B of the Seattle Municipal Code (Ordinance 72495, § 8, as last amended by Ordinance 102719, § 3) is amended and redesignated as Section 5.40.085, and there are added thereto two new subsections, designated subsections A and B, as follows:

5.40.085 Certificate of exemption - Application, Issuance, Cancellation

A. (~~Whenever the persons paying an admission charge in excess of Ten Cents (\$0.10) are not to be taxed and are not attending an activity of an elementary or secondary school, the person putting on such activity, or set of activities, and in the absence of registration by such person the person conducting or operating the place at which such activity occurs~~) Any person seeking to secure an exemption from the admission tax pursuant to Section 5.40.025A.3 shall on application (~~for certificate of registration or other form~~) for exemption as prescribed by the Director of Licenses and Consumer Affairs:

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 of Licenses and Consumer Affairs 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, (~~of the applicant~~) 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 non-profit tax-exempt organization as defined in Section 5.40.010. The form may require the applicant to notify the Director of Licenses and Consumer Affairs of any subsequent change in condition from the facts stated or information supplied. If the Director of Licenses and Consumer Affairs determines that persons paying such admission charge are not subject to the admission tax, the applicant shall receive a

2

certification of such determination. (upon the certificate of registration or upon such other document as the Director of Finance and Consumer Affairs may determine which shall be printed with the certificate of registration. (Ord. 102710 S 3, 1971; Ord. 102622 S 3, 1971; Ord. 72495 S 8, 1943.))

B. The Director of Licenses and Consumer Affairs may cancel the certificate of exemption of any college, university, or non-profit tax-exempt organization which (1) secures an exemption from the tax pursuant to Section 5.40.025A.3 by making a false representation in its application, or fails to adhere to its criteria or (2) otherwise violates Section 5.40.025A.3 or a rule or regulation of the Director implementing it. The order of cancellation may bar such an organization from registering or applying for a period of two 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 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 days after the appellant receives notice of the order of cancellation.

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.

Section 5. This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council this 20th day of November, 1983 and signed by me in open session in authentication of its passage this 20th day of November, 1983

[Signature]
President of the City Council

Approved by me this 2nd day of December, 1983

[Signature]
Mayor

Filed by me this 2nd day of December, 1983.

[Signature]
Attest: City Comptroller and City Clerk

(SEAL)
By *[Signature]*
Deputy Clerk

Printed in order of TIM HILL, Comptroller and City Clerk.
Date of official publication in Daily Journal of Commerce, Seattle, December 8, 1983. (C-473)

C-473

Affidavit of Publication

STATE OF WASHINGTON
KING COUNTY—SS.

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

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

..... Ordinance No. 111449

..... was published on December 8, 1983

[Handwritten Signature]
.....

Subscribed and sworn to before me on
December 8, 1983

[Handwritten Signature]
.....
Notary Public for the State of Washington,
residing in Seattle.