

ORDINANCE No. 113690

COUNCIL BILL No. 106347

The City of

AN ORDINANCE relating to the Business and Occupation Tax and the business tax on utilities; amending Seattle Municipal Code (SMC) Sections 5.44.020, 5.44.072, 5.44.110, 5.44.180, 5.48.020, 5.48.050, 5.48.100, and subdividing SMC 5.44.020 into new sections.

Honorable President:

Your Committee on Finance

to which was referred the within Council report that we have considered the same

PA

Vote

COMPTROLLER FILE No.

Introduced: <u>SEP 8 1987</u>	By: <u>EXECUTIVE REQUEST</u>
Referred: <u>SEP 6 1987</u>	To: <u>Energy</u>
Referred: <u>SEP 14 1987</u>	To: <u>Finance</u>
Referred:	To:
Reported: <u>OCT 12 1987</u>	Second Reading: <u>OCT 12 1987</u>
Third Reading: <u>OCT 12 1987</u>	Signed: <u>OCT 12 1987</u>
Presented to Mayor: <u>OCT 13 1987</u>	Approved: <u>OCT 21 1987</u>
Returned to City Clerk: <u>OCT 21 1987</u>	Published:
Vetoed by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained: <u>OK</u>

OK

Gen Department

The City of Seattle--Legislative Department

Date Reported
and Adopted

REPORT OF COMMITTEE

President:

Committee on

Finance & Personnel

was referred the within Council Bill No.

106347

we have considered the same and respectfully recommend that the same:

PASS 10/8/87

Vote 9-0

Committee Chair

RJP:ndc
08/20/87
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ORDINANCE 113690

AN ORDINANCE relating to the Business and Occupation Tax and the business tax on utilities; amending Seattle Municipal Code (SMC) Sections 5.44.020, 5.44.072, 5.44.110, 5.44.180, 5.48.020, 5.48.050, 5.48.100, and subdividing SMC 5.44.020 into new sections.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 5.44.020 of the Seattle Municipal Code is amended and subdivided into new sections as follows:

5.44.020 Definitions generally.

~~((A-))~~ In construing the provisions of this chapter except when otherwise declared or clearly apparent from the context, ~~((the following definitions shall be applied*))~~ the definitions in Sections 5.44.022 through 5.44.028 apply. Words in the singular number shall include the plural, and the plural shall include the singular. Words in one gender shall include all other genders. The definition of a word or phrase in RCW 82.04.020 through 82.04.212 shall apply to the same word or phrase in this chapter unless its context or definition in this chapter indicates otherwise.

5.44.022 Definitions, A-I

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

1 2. "Business" includes all activities engaged in
2 with the object of gain, benefit or advantage to the tax-
3 payer or to another person or class, directly or indirectly.

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

7 4. "City" means The City of Seattle.

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

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

12 b. Leasing or renting of extracted or manufac-
13 tured products;

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

17 d. Any other use of products extracted or
18 manufactured on a commercial scale under such rules and
19 regulations as the Director of Licenses and Consumer
20 Affairs shall prescribe.

21 6. "Comptroller" means the City Comptroller and ex
22 officio City Clerk of The City of Seattle.

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

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

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

4 10. "Gross proceeds of sales" has the meaning con-
5 tained in RCW 82.04.070, as now existing or hereafter
6 amended.

7 5.44.024 Definitions, J-R

8 (~~11.~~) 1. "Manufacturer" means every person who,
9 either directly or by contracting with others for the
10 necessary labor or mechanical services, manufactures for
11 sale or commercial use from his own materials or ingre-
12 dients any articles, substance or commodities. When the
13 owner of equipment or facilities furnishes, or sells to
14 the customer prior to manufacture, all or a portion of the
15 materials that become a part of whole of the manufactured
16 article, the Director of Licenses and Consumer Affairs
shall prescribe equitable rules for determining tax
liability.

17 (~~12.~~) 2. The word "person" (~~(or "company," used in~~
18 ~~this chapter interchangeably)~~) means any individual,
19 receiver, assignee, trustee in bankruptcy, trust, estate,
20 firm, copartnership, joint venture, club company, joint-
21 stock company, business trust, corporation, association,
22 society, or any group of individuals acting as a unit,
23 whether mutual, cooperative, fraternal, non-profit or
24 otherwise, and includes the United States or any instru-
25 mentality thereof, provided a valid tax may be levied upon
26 or collected therefrom under the provisions of this
27 chapter.
28

1 (~~13-~~) 3. "Quarterly period" shall mean only the
2 following periods: January - February - March, April - May
3 - June, July - August - September, October - November -
4 December, and shall begin the first day of the first month
5 and include the last day of the third month within said
6 period.

7 5.44.026 Definitions of "Sale"

8 (~~14-~~) 1. "Sale" includes the exchange of property
9 as well as the sale thereof for money, and also includes
10 conditional sale contracts, leases with option to purchase
11 and any other contract under which possession of the pro-
12 perty is given to the purchaser but title is retained by
13 the vendor as security for the payment of the purchase
14 price. It shall also be construed to include the fur-
15 nishing of food, drink, or meals for compensation, whether
16 consumed upon the premises or not.

17 (~~15-~~) 2. "Sale at retail" or "retail sale" means
18 every sale of tangible personal property (including
19 articles produced, fabricated, or imprinted) to all per-
20 sons irrespective of the nature of their business and
21 including, among others, without limiting the scope
22 hereof, persons who install, repair, clean, alter,
23 improve, construct, or decorate real or personal property
24 of or for consumers other than a sale to a person who (i)
25 purchases for the purpose of resale as tangible personal
26 property in the regular course of business without inter-
27 vening use by such person, or (ii) installs, repairs,
28

1 cleans, alters, imprints, improves, constructs, or decora-
2 tes real or personal property of or for consumers, if such
3 tangible personal property becomes an ingredient or com-
4 ponent of such real or personal property without inter-
5 vening use by such person, or (iii) purchases for the
6 purpose of consuming the property purchased in producing
7 for a sale a new article of tangible personal property or
8 substance, of which such property becomes an ingredient or
9 component or is a chemical used in processing, when the
10 primary purpose of such chemical is to create a chemical
11 reaction directly through contact with an ingredient of a
12 new article being produced for sale, or (iv) purchases for
13 the purpose of consuming the property purchased in produ-
14 cing ferrosilicon which is subsequently used in producing
15 magnesium for sale, if the primary purpose of such pro-
16 perty is to create a chemical reaction directly through
17 contact with an ingredient of ferrosilicon, or (v)
18 purchases for the purpose of providing the property to
19 consumers as part of competitive telephone service, as
20 defined in RCW 82.04.065. The term shall include every
21 sale of tangible personal property which is used or con-
22 sumed or to be used or consumed in the performance of any
23 activity classified as a "sale at retail" or "retail sale"
24 even though such property is resold or utilized as pro-
25 vided in (i), (ii), (iii), (iv), or ((iii)) (v) above
26 following such use. The term also means every sale of
27 tangible personal property to persons engaged in any busi-
28 ness which is taxable under RCW 82.04.280, subsections (2)
and (7) and RCW 82.04.290.

1 a. "Sale at retail" or "retail sale" shall
2 include((s)) the sale of or charge made for tangible per-
3 sonal property consumed and/or for labor and services ren-
4 dered in respect to the following: (i) the installing,
5 repairing, cleaning, altering, imprinting, or improving of
6 tangible personal property of or for consumers, including
7 charges made for the mere use of facilities in respect
8 thereto, but excluding charges made for the use of coin
9 operated laundry facilities when such facilities are
10 situated in an apartment house, hotel, motel,
11 roominghouse, trailer camp or tourist camp for the exclu-
12 sive use of the tenants thereof, and also excluding sales
13 of laundry service to members by nonprofit associations
14 composed exclusively of nonprofit hospitals, and excluding
15 services rendered in respect to live animals, birds and
16 insects; (ii) the constructing, repairing, decorating, or
17 improving of new or existing buildings or structures
18 under, upon, or above real property of or for consumers,
19 including the installing or attaching of any article of
20 tangible personal property therein or thereto, whether or
21 not such personal property becomes a part of the realty by
22 virtue of installation, and shall also include the sale of
23 services or charges made for the clearing of land and the
24 moving of earth excepting the mere leveling of land used
25 in commercial farming or agriculture; (iii) the charge for
26 labor and services rendered in respect to constructing,
27 repairing, or improving any structure upon, above, or
28 under any real property owned by an owner who conveys the
property by title, possession, or any other means to the
person performing such construction, repair, or improve-

1 ment for the purpose of performing such construction,
2 repair, or improvement and the property is then reconveyed
3 by title, possession, or any other means to the original
4 owner; (iv) the sale of or charge made for labor and ser-
5 vices rendered in respect to the cleaning, fumigating,
6 razing or moving of existing buildings or structures, but
7 shall not include the charge made for janitorial services;
8 and for purposes of this section the term "janitorial ser-
9 vices" shall mean((s)) those cleaning and caretaking ser-
10 vices ordinarily performed by commercial janitor service
11 businesses including, but not limited to, wall and window
12 washing, floor cleaning and waxing, and the cleaning in
13 place of rugs, drapes and upholstery. The term
14 "janitorial services" does not include painting, papering,
15 repairing, furnace or septic tank cleaning, snow removal
16 or sandblasting; ((iv)) (v) the sale of or charge made for
17 labor and services rendered in respect to automobile
18 towing and similar automotive transportation services, but
19 not in respect to those required to report and pay taxes
20 under Chapter 82.16 RCW; ((v)) (vi) the sale of and charge
21 made for the furnishing of lodging and all other services
22 by a hotel, rooming house, tourist court, motel, trailer
23 camp, and the granting of any similar license to use real
24 property, as distinguished from the renting or leasing of
25 real property, and it shall be presumed that the occupancy
26 of real property for a continuous period of one (1) month
27 or more constitutes a rental or lease of real property and
28 not a mere license to use or enjoy the same; ((v+)) (vii)
the sale of or charge made for tangible real property,

1 labor and services taxable under (i), (ii), (iii), (iv),
2 ((and)) (v) and (vi) above when such sales or charges are
3 for property, labor and services which are used or con-
4 sumed in whole or in part by such persons in the perfor-
5 mance of any activity defined as a "sale at retail" or
6 "retail sale" even though such property, labor and ser-
7 vices may be resold after such use or consumption.

8 Nothing contained in this paragraph shall be construed to
9 modify the first paragraph of this section and nothing
10 contained in the first paragraph of this section shall be
11 construed to modify this paragraph.

12 b. "Sale at retail" or "retail sale" shall
13 include(s) the sale of or charge made for personal busi-
14 ness or professional services, including amounts
15 designated as interest, rents, fees, admission, and other
16 service emoluments however designated, received by persons
17 engaging in the following business activities: (i) amuse-
18 ment and recreation businesses including but not limited
19 to golf, pool, billiards, skating, bowling, ski lifts and
20 tows and others; (ii) abstract, title insurance and escrow
21 businesses; (iii) credit bureau businesses; (iv) automo-
22 bile parking and storage garage businesses.

23 c. The term shall also include the renting or
24 leasing of tangible personal property to consumers.

25 d. The term shall also include the providing of
26 competitive telephone service, as defined in RCW
27 82.04.065, to consumers.

28 ((~~a.~~)) e. The term shall not include the sale of or
charge made for labor and services rendered in respect to
the building, repairing, or improving of any street,

1 place, road, highway, easement, right-of-way, and mass
2 public transportation terminal or parking facility,
3 bridge, tunnel, or trestle which is owned by a municipal
4 corporation or political subdivision of the state or by
5 the United States and which is used or to be used pri-
6 marily for foot or vehicular traffic including mass
7 transportation vehicles of any kind, nor shall it include
8 sale of feed, seed, seedlings, fertilizer, and spray
9 materials to persons for the purpose of producing for sale
10 any agricultural product whatsoever, including plantation
11 christmas trees, milk, eggs, wool, fur, meat, honey, or
12 other substances obtained from animals, birds, or insects
13 but only when such production and subsequent sale are
14 exempt from tax under RCW 82.04.330, nor shall it include
15 sales of chemical sprays or washes to persons for the pur-
16 pose of post-harvest treatment of fruit for the prevention
17 of scald, fungus, mold, or decay.

18 ((e-)) f. The term shall not include the sale of or
19 charge made for labor and services rendered in respect to
20 the constructing, repairing, decorating, or improving of
21 new or existing buildings or other structures under, upon,
22 or above real property of or for the United States, any
23 instrumentality thereof, or a county or city housing
24 authority created pursuant to Chapter 35.82 RCW, including
25 the installing, or attaching of any article of tangible
26 personal property therein or thereto, whether or not such
27 personal property becomes a part of the realty by virtue
28 of installation. Nor shall the term include the sale of
services or charges made for the clearing of land and the

1 moving of earth of or for the United States, any instru-
2 mentality thereof, or a county or city housing authority.

3 ((f. The term "sale at retail" shall include the
4 providing by any person of telephone equipment, apparatus,
5 or service, other than toll service, of a type that may be
6 provided by persons who are not subject to regulation as
7 telephone companies under Title 80 RCW, and for which a
8 separate charge is made.))

9 ((16.)) 3. "Sale at wholesale" has the meaning contained
10 in RCW 82.04.060, as now existing or hereafter amended.

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

15 In computing tax under this chapter on the business
16 of making sales of precious metal bullion or monetized
17 bullion, the tax shall be imposed on the amounts received
18 as commissions upon transactions for the accounts of
19 customers over and above the amount paid to other dealers
20 associated in such transactions, but no deduction or
21 offset is allowed on account of salaries or commissions
22 paid to salesmen or other employees.

23 For purposes of this sub-section, "precious metal
24 bullion" means any precious metal which has been put
25 through a process of smelting or refining, including, but
26 not limited to, gold, silver, platinum, rhodium, and
27 palladium, and which is in such state or condition that
28 its value depends upon its contents and not upon its form.
For purposes of this section, "monetized bullion" means
coins or other forms of money manufactured from gold,

1 silver, or other metals and theretofore, now, or hereafter
2 used as a medium of exchange under the laws of this state,
3 the United States, or any foreign nation, but does not
4 include coins or money sold to be manufactured into
5 jewelry or works of art.

6 5.44.028 Definitions, S-Z

7 ((17.)) 1. "Successor" means any person who through
8 direct or mesne conveyance, purchases or succeeds to the
9 business, or portion thereof, or the whole or any part of
10 the stock of goods, wares or merchandise or fixtures or
11 any interest therein of a taxpayer quitting, selling out,
12 exchanging or otherwise disposing of his business. Any
13 person obligated to fulfill the terms of a contract shall
14 be deemed a successor to any contractor defaulting in the
15 performance of any contract as to which such person is a
16 surety or guarantor.

17 ((18.)) 2. "Taxpayer" includes any individual,
18 group of individuals, corporation or association required
19 to have a business license hereunder, or liable for any
20 license hereunder, or liable for any license fee or tax,
21 or for the collection of any license fee or tax hereunder,
22 or who engages in any business, or who performs any act,
23 for which a license fee or tax is imposed by this chapter.

24 ((19.)) 3. "Tax year" or "taxable year" shall mean
25 either the calendar year or the taxpayer's fiscal year
26 when permission is obtained from the Director of Licenses
27 and Consumer Affairs to use a fiscal year in lieu of the
28 calendar year.

1 ((20-)) 4. "To manufacture" embraces all activities
2 of a commercial nature wherein labor or skill is applied,
3 by hand or machinery, to materials so that as a result
4 thereof a new, different or useful article of tangible
5 personal property or substance of trade or commerce is
6 produced and shall include the production or fabrication
7 of special made or custom made articles.

8 In addition to the activities set forth in the
9 preceding paragraph the term "to manufacture" includes the
10 producing of articles for sale, or for commercial or
11 industrial use from raw materials or prepared materials by
12 giving such materials new forms, qualities, properties or
13 combinations including, but not limited to, such activi-
14 ties as making, fabricating, processing, refining, mixing,
15 slaughtering, packing, aging, curing, mild curing, pre-
16 serving, canning, and the preparing and freezing of fresh
17 fruits and vegetables.

18 ((21-)) 5. "Treasurer" means the Treasurer of The
19 City of Seattle.

20 ((22-)) 6. "Tuition fee" shall be construed to
21 include library, laboratory, health service and other spe-
22 cial fees, and amounts charged for room and board by an
23 educational institution when the property or service for
24 which such charges are made is furnished exclusively to
25 the students or faculty of such institution; provided,
26 that the term "educational institution," as used herein,
27 shall be construed to mean only those institutions created
28 or generally accredited as such by the state and offering
to students an educational program of a general academic
nature, or those institutions which are not operated for

1 profit and which are privately endowed under a deed of
2 trust to offer instruction in trade, industry and agri-
3 culture, but not including specialty schools, business
4 colleges, trade schools or similar institutions.

5 ((23-)) 7. "Value proceeding or accruing" means the
6 consideration, whether money, credits, rights or other
7 property expressed in terms of money, actually received or
8 accrued. The term shall be applied, in each case, on a
9 cash receipts or accrual basis according to which method
10 of accounting is regularly employed in keeping the books
11 of the taxpayer. The Director of Licenses and Consumer
12 Affairs may provide by regulation that the value pro-
13 ceeding or accruing from sales on the installment plan
14 under conditional contracts of sale may be reported as of
15 the dates when the payments become due.

16 ((B- Words in the singular number shall include the
17 plural, and the plural shall include the singular. Words
18 in one gender shall include all other genders. The defi-
19 nition of a word or phrase in RCW Chapter 82.04 shall
20 apply to the same word or phrase in this chapter unless
21 its context or definition in this chapter indicates
22 otherwise.))

23 Section 2. Section 5.44.072 of the Seattle Municipal Code
24 is amended as follows:

25 5.44.072 Persons in wholesaling/retailing
26 both within and without the City.

27 A. A person who is subject to tax under subsections
28 C, D, and E of Section 5.44.030 and has no office, store
or other place of business within this City, shall allo-
cate to Seattle the gross proceeds of all sales in which

1 the taxpayer's business activity within Seattle is either
2 a determining element in the transaction or, under the
3 facts and circumstances, a ((predominant)) significant
4 factor in making or holding the market here. Conversely,
5 a taxpayer, who engages in the business of making sales at
6 wholesale or retail using an office, store, or other
7 outlet within the City and maintains no equivalent faci-
8 lity elsewhere in Washington, may deduct the gross pro-
9 ceeds of sales, which (1) are used by another Washington
10 city in levying a license fee or tax measured by gross
11 receipts and (2) reflect business activity conducted in
12 the taxing city that is either a determining element in a
13 transaction or a ((predominant)) significant factor in
14 making or holding the taxpayer's market there. A person,
15 who engages in the business of making sales at wholesale
16 or retail using an office, store or other outlet within
17 this City and maintains another equivalent facility
18 elsewhere in Washington, may allocate the gross proceeds
19 of sales to the office, store or outlet in Washington
20 where the predominant selling activity occurs.

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

1 Section 3. Section 5.44.110 of the Seattle Municipal Code
2 is amended as follows:

3 5.44.110 Deductions allowed in computing license fees.

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

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

9 B. Amounts derived from bona fide initiation fees,
10 dues, contributions, donations, tuition fees and endowment
11 funds. The provisions of this subsection shall not be
12 construed to exempt any person, association or society
13 from tax liability upon selling tangible personal property
14 or upon providing facilities or services for which a spe-
15 cial charge is made to members or others; provided, that
16 dues which are for, or graduated upon, the amount of ser-
17 vice rendered by the recipient thereof are not permitted
18 as a deduction under this chapter;

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

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

1 E. Amounts derived from business which the City is
2 prohibited from taxing under the constitution or laws of
3 the state or the Constitution or laws of the United
4 States, and any amounts collected by the taxpayer as an
5 excise tax;

6 F. Amounts received from the United States or any
7 instrumentality thereof or from the State of Washington or
8 any municipal corporation or political subdivision thereof
9 as compensation for, or to support, health or social
10 welfare services rendered by a health or social welfare
11 organization or by a municipal corporation or political
12 subdivision. The terms "health or social welfare ser-
13 vices" and "health or social welfare organization," have
14 the meanings contained in RCW 82.04.431, enacted as
15 Chapter 196, Laws of 1979, 1st Ex. Sess. Section 6, as now
16 existing or hereafter amended;

17 G. Amounts excluded by allocation or apportionment
18 pursuant to sections 5.44.070 through 5.44.078 inclusive,
19 provided, no allocation or apportionment by Sections
20 5.44.072 through 5.44.076 inclusive shall reduce taxes
21 payable with respect to extracting or manufacturing under
22 subsections A and B of Section 5.44.030.

23 H. With respect to ((A))any non-profit, tax-exempt
24 organization, as defined in SMC Section 5.40.010 C and
25 registered as provided in SMC Sections 5.40.080 through
26 5.40.085, ((with respect to)) revenues ((±)) from admission
27 charges, as defined in SMC Section 5.40.010((~~7~~ (2)))1 to an
28 opera, concert, dance recital, or like musical entertain-
ment, a play, puppet show or dramatic reading, an exhibi-
tion of painting, sculpture, or artistic or historical

1 objects or a museum, historic vessel or science center((
2 (3)), when admission taxes do not apply under SMC Section
3 5.40.020.

4 I. Amounts received by artistic or cultural organiza-
5 tions which represent income derived from business activi-
6 ties conducted by the organizations, if the artistic or
7 cultural organization is registered as provided in SMC
8 Section 5.40.080 through 5.44.085. The term "artistic or
9 cultural organization" has the meanings contained in RCW
10 82.04.4328, as now existing or hereafter amended.

11 Section 4. Section 5.44.180 of the Seattle Municipal Code
12 is amended as follows:

13 **5.44.180 Payments--Extention--Late penalty.**

14 The Director of Licenses and Consumer Affairs for
15 good cause shown may extend the time for ((making and))
16 filing any return as required under this chapter and may
17 grant such reasonable additional time within which to file
18 such returns as he or she may deem proper. If any tax
19 return, or payment of any tax, is not received by the City
20 Treasurer by the twenty-fifth day of the month in which
21 such return and or tax becomes due, there shall be
22 assessed a penalty of five percent (5%) of the amount due
23 with a minimum penalty of Five Dollars (\$5.00); and if the
24 return and or tax is not received by the fifteenth day of
25 the month next succeeding the month in which the due date
26 falls, there shall be assessed a total penalty of ten per-
27 cent (10%) of the amount due with a minimum penalty of
28 Fifteen Dollars (\$15.00); and if the return and or tax is
not received by the last day of the month next succeeding

1 the month in which the due date falls, there shall be
2 assessed a total penalty of twenty percent (20%) of the
3 amount due, with a minimum penalty of Twenty-five Dollars
4 (\$25.00).

5 Section 5. Section 5.48.020 of the Seattle Municipal Code
6 is amended as follows:

7 5.48.020 Definitions.

8 In construing the provisions of this chapter save
9 when otherwise plainly declared or clearly apparent from
10 the context, the following definitions shall be applied:

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

27 B. "Person or persons" means persons of either sex,
28 firms, copartnerships, corporations, and other asso-

1 ciations of natural persons, whether acting by themselves
2 or by servants, agents, or employees.

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

5 D. "Tax year" or "taxable year" means the year com-
6 mencing March 1st and ending on the last day of February
7 of the following year, or, in lieu thereof, the taxpayer's
8 fiscal year when permission is obtained from the Director
9 of Licenses and Consumer Affairs to use the same as the
10 tax period.

11 E. "Telephone business" means the business of pro-
12 viding access to a local telephone network, local
13 telephone network switching service, toll service, coin
14 telephone services, telephonic, video, data, or similar
15 communication, or transmission for hire, via a local
16 telephone network, toll line or channel, cable, microwave,
17 or similar communication or transmission system. The term
18 includes cooperative or farmer line telephone companies or
19 associations operating exchanges. "Telephone business"
20 does not include the ((provision)) providing of com-
21 petitive telephone service, ((N)) or ((provision)) provi-
22 ding of cable television service, or other providing of
23 broadcast services by radio or television stations.

24 F. "Competitive telephone service" means the pro-
25 viding by any person of ((telephone)) telecommunications
26 equipment((7)) or apparatus, directory advertising and
27 lease of telephone street directories, ((and)) or service,
28 other than toll service, related to that equipment or
29 apparatus such as repair or maintenance service, if the
30 equipment or apparatus is of a type which may be provided

1 by persons not subject to regulation as telephone com-
2 panies under Title 80 RCW, and for which a separate charge
3 is made.

4 Section 6. Section 5.48.050 of the Seattle Municipal Code
5 is amended as follows:

6 5.48.050 Occupations subject to tax -- Amount.

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

13 A. Upon everyone engaged in or carrying on a
14 telegraph business, a fee or tax equal to nine percent
15 (9%) of the total gross income from such business in the
16 City; provided, that the minimum fee or tax shall not be
17 less than Fifty Dollars (\$50.00) per tax year.

18 B. Upon everyone engaged in or carrying on a
19 telephone business, a fee or tax equal to nine and three-
20 tenths of one percent (9.3%) of the total gross income
21 from such business in the City; provided, that the minimum
22 fee or tax shall not be less than Fifty Dollars (\$50.00)
23 per tax year; and provided further, that effective January
24 1, 1987, the tax liability imposed under this section
25 shall not apply for that portion of gross income derived
26 from charges to another telecommunications company, as
27 defined in RCW 80.04.010, for connecting fees, switching
28 charges, or carrier access charges relating to intrastate
toll telephone services, or for access to, or charges for,
interstate services, which shall be taxed under SMC 5.44.

1 C. Upon everyone engaged in or carrying on the
2 business of selling or furnishing gas for hire, a fee or
3 tax equal to seven and two-tenths of one percent (7.2%) of
4 the total gross income from such business in the City;
5 provided, that the minimum fee or tax shall not be less
6 than One Thousand Dollars (\$1,000.00) per tax year.

7 D. Upon everyone, including The City of Seattle,
8 engaged in or carrying on the business of selling or fur-
9 nishing water for hire, a fee or tax equal to eight and
10 six-tenths of one percent (8.6%) of the total gross income
11 from such business in the City; provided that the minimum
12 fee or tax shall not be less than One Thousand Dollars
13 (\$1,000.00) per tax year; and provided further that as to
14 The City of Seattle in the conduct of its municipal water
15 utility, such tax shall be applicable to the business of
16 such utility done without, as well as within the City.

17 E. Upon everyone, including The City of Seattle,
18 engaged in or carrying on the business of selling or fur-
19 nishing electric light and power, a fee or tax equal to
20 seven and two-tenths of one percent (7.2%) of the total
21 gross income from such business in the City; provided,
22 that the minimum fee or tax shall not be less than Two
23 Hundred Fifty Dollars (\$250.00) per tax year; provided,
24 that the tax liability imposed under this section shall
25 not apply to The City of Seattle for that portion of the
26 gross income derived by the imposition of the purchased
27 power surcharge imposed upon the rates for the use of
28 electric light and power pursuant to Section 1 of
Ordinance 106481.¹

1 F. Upon everyone conducting or engaged in the busi-
2 ness of supplying steam heat or power to the public for
3 hire, a fee or tax equal to seven and four-tenths of one
4 percent (7.4%) of the total gross income from such busi-
5 ness in the City; provided, that the minimum fee or tax
6 shall not be less than Ten Dollars (\$10.00) per tax year.

7 G. Upon The City of Seattle in respect to the con-
8 duct, maintenance, and operation of its municipal sewerage
9 system as a public utility under ordinance of said City, a
10 fee or tax equal to nine percent (9%) of the total gross
11 income from the sewerage charges provided for under such
12 ordinance.

13 H. Upon everyone, including The City of Seattle,
14 engaged in or carrying on the business of the collection
15 of garbage, rubbish, trash, and other solid waste, a fee
16 or tax equal to twenty-one and seven-tenths percent (21.7%)
17 of the total gross income from the business, less income
18 derived from recycling activities and less income from The
19 City of Seattle derived from collecting or disposing of
20 residential garbage and other solid waste, which shall be
21 taxed under SMC 5.44. The rate of tax shall be reviewed
22 by the City Council each time solid waste collection rates
23 are changed.

24 I. Upon everyone engaged in the business of
25 operating or conducting a cable television system (CATV),
26 a fee or tax equal to six percent (6%) of the total gross
27 income from gross subscriber revenues. For purposes of
28 this chapter, "gross subscriber revenues" means and inclu-
des those revenues derived from the supplying of subscrip-

1 tion service, that is, installation fees, disconnect and
2 reconnect fees, fees for regular cable benefits including
3 the transmission of broadcast signals and access and ori-
4 gination channels and per-program or per-channel charges;
5 it does not include leased channel revenue, advertising
6 revenues, or any other income derived from the system.

7 Section 7. Section 5.48.110 of the Seattle Municipal Code
8 is amended as follows:

9 5.48.100 Commencement of business during tax year.

10 ((A-)) Whenever a taxpayer commences during any tax
11 year to engage in any business, occupation, pursuit or
12 privilege, for which an occupation license is required
13 under the provisions of this chapter, and as to which the
14 amount of the license fee or tax is based on gross income,
15 his returns and the license fee or tax shall be based upon
16 and cover the portion of the tax year during which he is
17 engaged in business.

18 ((B. In all other cases where a person commences
19 during any tax year to engage in any business, occupation,
20 pursuit or privilege, for which an occupation license is
21 required under the provisions of this chapter, he shall be
22 entitled to a license for the remainder of such tax year
23 for the required fee apportioned in the ratio of said
24 remainder to a full tax year.))

(To be used for all Ordinances except Emergency.)

Section 8.... 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 12th day of October, 1987, and signed by me in open session in authentication of its passage this 12th day of October, 1987.

Approved by me this 21st day of October, 1987. *Charles Koyen* Mayor.

Filed by me this 21st day of October, 1987.

Attest: *Norman J. Brooks*
City Comptroller and City Clerk.

(SEAL)

Published _____ By *Theresa Dunbar* Deputy Clerk.

PUBLISH DO NOT PUBLISH
CITY ATTORNEY _____

9412

City of Seattle

Executive Department-Office of Management and Budget

James P. Ritch, Director
Charles Royer, Mayor



August 26, 1987

The Honorable Douglas Jewett
City Attorney
City of Seattle

Dear Mr. Jewett:

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

REQUESTING
DEPARTMENT: Department of Licenses and Consumer Affairs

SUBJECT: An Ordinance relating to the Business and Occupation Tax and the business tax on utilities, amending Seattle Municipal Code (SMC) Sections 5.44.020, 5.44.072, 5.44.110, 5.44.180, 5.48.020, 5.48.050, 5.48.100, and subdividing SMC 5.44.020 into new sections.

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

for

JIM RITCH
Budget Director

JR/jc/fd

Enclosure

cc: Andrew Lofton, Director, LCA

Your
Seattle
Department of Licenses and Consumer Affairs



Andrew J. Lofton, Director
Charles Royer, Mayor

August 25, 1987

REC'D OMB AUG 26 1987

M E M O R A N D U M

TO: Jim Ritch, Director
Office of Management and Budget
Attention: Judy Cox

FROM: Andrew J. Lofton, Director
Department of Licenses and Consumer Affairs

SUBJECT: LEGISLATION TO AMEND THE B&O TAX ORDINANCE

836637

Attached is proposed legislation to amend portions of the Seattle Municipal Code, Chapter 5.44 (Business and Occupation Tax) and Chapter 5.48 (Occupation Utility Tax). Also attached is a summary of each item contained in the legislation.

These proposals affect the ongoing operation of the City's taxing function. These changes are "housekeeping" in nature and reflect changes to the WAC. There is no significant revenue impact associated with the revisions. I hope you can review this package as soon as possible for us to be able to file it along with other B&O legislation proposed by the Law Department on August 26, 1987.

If you have any questions, or need additional information, please call me at 4-8444, Dale Tiffany at 4-8424, or David Heleniak at 4-8484, extension 7417.

AJL:dtk
Attachments

cc: Dale Tiffany, Manager, Audit & Financial Services Division
David Heleniak, Supervising Tax Auditor

70825.1

**Your
Seattle**
Department of Licenses and Consumer Affairs



Andrew J. Lofton, Director
Charles Royer, Mayor

August 25, 1987

The Honorable Sam Smith, President
Seattle City Council
11th Floor, Municipal Building
Seattle, WA 98104

VIA: Office of Management and Budget

Dear Councilman Smith:

Attached for your review is an ordinance relating to Seattle's business and occupation tax and the business tax on utilities. Also enclosed is a summary of the proposed legislative action and the rationale for each change. The ordinance is proposed to correct mistakes and clarify confusing language and to promote ease of use and understanding of our tax laws for the benefit of taxpayers. It also incorporates State business and occupation law changes into our Municipal Code, ensuring consistency between the State and City codes.

Please feel free to contact me or Dale Tiffany, Manager of Audit and Financial Services Division, if you have any questions.

Sincerely,

Andrew J. Lofton
Director

AJL:dtk
Attachment

70825.4

LEGISLATIVE SUMMARY

AN ORDINANCE....to add new definition sections to SMC 5.44 to exclude from the definition of "sale at retail" and "sale at wholesale" the sale of precious metal bullion or monetized bullion.

Revises section 5.44.020 and adds new sections 5.44.022, 5.44.024, and 5.44.028. These sections to the tax code provide a sequential listing of definitions in alphabetical order. Section 5.44.026 incorporates recent State of Washington changes to the definition of "sale at retail" and "sale at wholesale" which excludes from the definition the sale of precious metal bullion or monetized bullion. However, persons making sales of precious metal bullion or monetized bullion are subject to tax on the amounts received as commissions upon transactions.

AN ORDINANCE.... amending section 5.44.072 to make minor language changes.

This is a "housekeeping change to make minor language change. The word "predominant" has been changed to "significant."

AN ORDINANCE.... amending section 5.44.110 to provide a deduction from the tax amounts received by artistic or cultural organizations.

This change provides non-profit artistic or cultural organizations a deduction from the tax those amounts received which represent income received from business activities conducted by the organization. This change is consistent with the State tax code.

AN ORDINANCE.... amending section 5.44.180 to clarify penalty assessment on no remittance tax returns received late.

The tax code requires the filing of a return regardless of the amount of tax due. If the return is not filed within ten days after the due date, filing penalty is assessed. Timely filing of tax returns provides the Department with current records information; i.e., address changes or cancellations. The language of this section has been clarified to reflect that a return received after the 10-day grace period after the due date is subject to late filing penalties even though no tax was due.

AN ORDINANCE.... amending section 5.48.020 incorporating recent changes to the definition "Telephone Business" and "Competitive Telephone Service."

This change incorporates recent State of Washington changes to the definition "Telephone Business" and "Competitive Telephone Service." This change is consistent with the State tax code.

AN ORDINANCE.... amending section 5.48.050 exempting certain charges by one telecommunication company to another from the Utility Tax.

This change incorporates recent State of Washington legislation which exempts cities from imposing the Occupation Utility Tax on charges by one telecommunication company to another for connecting fees, switching fees, intrastate toll access charges and interstate services; however, these charges are subject to tax under SMC 5.44 (Business and Occupation Tax.)

AN ORDINANCE.... amending section 5.48.100 eliminating language relating to certain license fees which are no longer required under this code.

This change eliminates language relating to certain annual flat fees which are no longer required under this tax code.

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. 113690

was published on October 29, 1987

A. Spicuzza
Subscribed and sworn to before me on

October 29, 1987

Yvonne Summers
Notary Public for the State of Washington,
residing in Seattle.