

289691
ORDINANCE No.

115756

COUNCIL BILL No.

108675

Law Department

The City of

AN ORDINANCE amending Seattle Municipal Code Sections 5.48.020 and 5.48.050 to add definitions of recyclable material, recycled material and recovered materials and to exclude from the utility tax gross receipts from the lease or rental of containers used for collection.

Honorable President:

Your Committee on _____

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

COMPTROLLER FILE No. _____

Introduced: AUG 5 1991	By: SMITH
Referred: AUG 5 1991	To: Utilities
Referred:	To:
Referred:	To:
Reported: AUG 19 1991	Second Reading: AUG 19 1991
Third Reading: AUG 19 1991	Signed: AUG 19 1991
Presented to Mayor: AUG 20 1991	Approved: AUG 20 1991
Returned to City Clerk: AUG 20 1991	Published:
Vetoed by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained:

8-7-91/DOH

Full Council U

OK

Department

The City of Seattle--Legislative Department

Date Reported
and Adopted

REPORT OF COMMITTEE

President:

Committee on _____

was referred the within Council Bill No. _____

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

7-91/DO PASS/Utility Committee

all Council Vote 8-0


Committee Chair

ORDINANCE 115756

AN ORDINANCE amending Seattle Municipal Code Sections 5.48.020 and 5.48.050 to add definitions of recyclable material, recycled material and recovered materials and to exclude from the utility tax gross receipts from the lease or rental of containers used for collection.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Seattle Municipal Code Section 5.48.020 (Ordinance 62662, Section 2, as last amended by Ordinance 113690, Section 5) is further amended as follows:

5.48.020 Definitions.

In construing the provisions of this chapter, ((save when)) unless otherwise ((~~plainly~~)) declared or clearly apparent from the context, the following definitions shall be applied:

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

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

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

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

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

25 F. "Competitive telephone service" means the providing
26 by any person of telecommunications equipment or apparatus,
27 directory advertising and lease of telephone street
28 directories, or service, other than toll service, related to
that equipment or apparatus such as repair or maintenance
service, if the equipment or apparatus is of a type which may
be provided by persons not subject to regulation as telephone
companies under Title 80 RCW, and for which a separate charge
is made.

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2 G. "Recyclable" means material (1) that is collected
3 for recycling or reuse, such as papers, glass, plastics, used
4 wood, sand, building debris, metals, yardwaste, used oil and
5 tires and (2), that if not collected for recycling would
6 otherwise be destined for disposal at a landfill or
7 incineration.

8 H. "Recycled material" means material (1) that is in
9 fact recycled, re-used, or reprocessed after collection and
10 (2) if not recycled, re-used or reprocessed, would have been
11 destined for disposal at a landfill or incineration.

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

16 Section 2. Subsection H of Seattle Municipal Code
17 Section 5.48.050 (Ordinance 62662, Section 5, as last amended
18 by Ordinance 115055, Section 1) is further amended as follows:

19 H. Upon everyone, including The City of Seattle,
20 engaged in or carrying on the business of the collection of
21 garbage, rubbish, trash, and other solid waste, including
22 yardwaste and recyclables, and construction, demolition and
23 landclearing wastes, a fee or tax equal to sixteen and nine-
24 tenths percent (16.9%) of the total gross income from the
25 business, less income derived from:

- 26 1. Collection and/or sale of (~~recyclable~~) recycled
27 materials and/or recovered materials, including charges
28 for the lease or rental of containers used in the
collection of recycled/recovered materials;
2. Collection and/or sale after processing of yardwaste
products, including charges for the lease or rental of
containers used in the collection of yardwaste products;

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- 3. Sale of wheeled containers used for collection of residential solid waste;
- 4. Collection and disposal of bulky items and white goods;
- 5. Grants and contracts from governmental agencies;
- 6. The City of Seattle for collecting or disposing of residential garbage and other solid waste; and
- 7. The portion of the City's solid waste collection receipts expended for collection of recyclable materials and yardwaste;
- 8. Transportation or deposit of sand and gravel for construction or a public improvement.

Income derived from (1) through ((7)) (8) shall be taxed under SMC 5.44. The rate of tax shall be reviewed by the City Council each time solid waste collection rates are changed.

(To be used for all Ordinances except Emergency.)

Section 3... 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 19th day of August, 1991,
and signed by me in open session in authentication of its passage this 19th day of August, 1991.

[Signature]
President FRO TOM of the City Council.

Approved by me this 23rd day of August, 1991.

[Signature]
Mayor.

Filed by me this 26th day of August, 1991.

Attest: *[Signature]*
City Comptroller and City Clerk.

(SEAL)

Published.....

By *[Signature]*
Deputy Clerk.



Seattle City Council

Memorandum

Date: August 5, 1991

To: Sam Smith, Chair, Utilities Committee
Paul Kraabel, Dolores Sibonga

From: Dwight Dively, Council Central Staff *DD*

Subject: Changes in Definitions Applied to Solid Waste B&O Tax

The Utilities Committee will consider changes in the definitions applied to the solid waste Business and Occupation (B&O) tax at its meeting on August 7. These changes are embodied in C.B. 108675.

The proposed changes clarify the City's intent to exempt recycled materials from the utility B&O tax. This action was taken by the Council when it approved Ordinance 115055 on April 23, 1990. However, the current language in Seattle Municipal Code Section 5.48.020 has posed interpretation problems that need to be resolved. The problem is most notable in the case of materials collected with the intent to recycle, but which are ultimately landfilled instead. The City intended that the utility B&O tax should apply in this case, but the current language is not absolutely clear. C.B. 108675 clarifies that the tax exemption applies only to recycled materials, which are in fact recycled or reused.

The language in C.B. 108675 has been reviewed and approved by the Law Department, Solid Waste Utility, Office of Management and Budget, and Department of Licenses and Consumer Affairs. Council staff also recommends approval of this bill.

An earlier version of this legislation was also referred to the Utilities Committee as C.B. 108618. This version is now outdated and should not be passed.

cc: Nancy Glaser, Council staff
Nick Pealy, Solid Waste Utility
Jean Domergue, OMB
Dave Haley, LCA
Jorgen Bader, Law

TIME AND DATE STAMP

SPONSORSHIP

THE ATTACHED DOCUMENT IS SPONSORED FOR FILING WITH THE CITY COUNCIL BY THE MEMBER(S) OF THE CITY COUNCIL WHOSE SIGNATURE(S) ARE SHOWN BELOW:

Sam Smith - KW

FOR CITY COUNCIL PRESIDENT USE ONLY

COMMITTEE(S) REFERRED TO: _____

PRESIDENT'S SIGNATURE

STATE OF WASHINGTON - KING COUNTY

8725
City of Seattle

—ss.

No.

Affidavit of Publication

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

ORD: 115756

was published on

08/30/91

The amount of the fee charged for the foregoing publication is the sum of \$ _____, which amount has been paid in full.

C. Trent

Subscribed and sworn to before me on

08/30/91

V. J. Buck

Notary Public for the State of Washington,
residing in Seattle

City of Seattle

ORDINANCE 115138

AN ORDINANCE amending Seattle Municipal Code Sections 5.48.030 and 5.48.050 to add definitions of recyclable material, recycled material and recovered materials and to exclude from the utility tax gross receipts from the lease or rental of containers used for collection.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Seattle Municipal Code Section 5.48.020 (Ordinance 62662, Section 2, as last amended by Ordinance 113690, Section 5) is further amended as follows:

5.48.020 Definitions.

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

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

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

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

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

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

F. "Competitive telephone service" means the providing by any person of telecommunications equipment or apparatus,

directory advertising and lease of telephone street directories, or service, other than toll service, related to that equipment or apparatus such as repair or maintenance service, if the equipment or apparatus is of a type which may be provided by persons not subject to regulation as telephone companies under Title 80 RCW, and for which a separate charge is made.

G. "Recyclable" means material (1) that is collected for recycling or reuse, such as papers, glass, plastics, used wood, sand, building debris, metals, yardwaste, used oil and tires and (2) that if not collected for recycling would otherwise be destined for disposal at a landfill or incineration.

H. "Recycled material" means material (1) that is in fact recycled, re-used, or reprocessed after collection and (2) if not recycled, re-used or reprocessed, would have been destined for disposal at a landfill or incineration.

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

Section 2. Subsection H of Seattle Municipal Code Section 5.48.050 (Ordinance 62662, Section 5, as last amended by Ordinance 115055, Section 1) is further amended as follows:

H. Upon everyone, including The City of Seattle, engaged in or carrying on the business of the collection of garbage, rubbish, trash, and other solid waste, including yardwaste and recyclables, and construction, demolition and landclearing wastes, a fee or tax equal to sixteen and nine-tenths percent (16.9%) of the total gross income from the business, less income derived from:

1. Collection and/or sale of ((recyclable)) recycled materials and/or recovered materials, including charges for the lease or rental of containers used in the collection of recycled/recovered materials;
2. Collection and/or sale after processing of yardwaste products, including charges for the lease or rental of containers used in the collection of yardwaste products;
3. Sale of wheeled containers used for collection of residential solid waste;
4. Collection and disposal of bulky items and white goods;
5. Grants and contracts from governmental agencies;
6. The city of Seattle for collecting or disposing of residential garbage and other solid waste; and
7. The portion of the City's solid waste collection receipts expended for collection of recyclable materials and yardwaste;

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

Income derived from (1) through ((7)) ((8)) shall be taxed under BMC 5.44. The rate of tax shall be reviewed by the City Council each time solid waste collection rates are changed.

Section 3. 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 10th day of August, 1991, and signed by me in open session in authentication of its passage this 13th day of August, 1991.