

ORDINANCE No. 118314

COUNCIL BILL No. 111435

AN ORDINANCE relating to business licenses and business and occupation taxes; amending Seattle Municipal Code Sections 5.44.010, 020, 022, 024, 026, 028, 030, 040, 050, 052, 054, 056, 058, 060, 068, 070, 072, 074, 075, 076, 078, 080, 090, 100, 110, 130, 140, 150, 160, 180, 190, 200, 205, 210, 230, 240, 250, 260, 270, 280, 290, 300, and 310; repealing 5.44.170, because it has been reworded and renumbered as 5.44.030(D); repealing 5.44.220, because it has been reworded and renumbered as 5.44.080(C); repealing Sections 5.44.320, adding Sections 5.44.050, 070, 310, 320, 340, 350, and 380; renumbering certain sections, creating three subchapters, Subchapter I General Provisions, Subchapter II Business License, and Subchapter III Business License Tax.

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COMPTROLLER FILE No. _____

Introduced: SEP 23 1996	By: CHOE
Referred: SEP 23 1996	To: Finance & Budget Committee
Referred:	To:
Referred:	To:
Reported: OCT 7 1996	Second Reading: OCT 7 1996
Third Reading: OCT 7 1996	Signed: OCT 7 1996
Presented to Mayor: OCT 8 1996	Approved: OCT 17 1996
Returned to City Clerk: OCT 8 1996	Published: Full [Signature]
Vetoed by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained:

Law Department
oversize

The City of Seattle--Legis

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REPORT OF COMM

Honorable President:

Your Committee on _____

to which was referred the within Council Bill No. _____ report that we have considered the same and respectfully recom

Full Council vote 9-0

NO DISK

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passed 4-12 AS Amended

The City of Seattle--Legislative Department

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REPORT OF COMMITTEE

Date Reported
and Adopted

Honorable President:

Your Committee on _____

to which was referred the within Council Bill No. _____
report that we have considered the same and respectfully recommend that the same:

Full Council Vote 9-0

Committee Chair

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ORDINANCE 118314

1
2 AN ORDINANCE relating to business licenses and business and occupation taxes;
3 amending Seattle Municipal Code Sections 5.44.010, .020, .022, .024, .026, .028, .030,
4 .040, .050, .052, .054, .056, .058, .060, .068, .070, .072, .074, .075, .076, .078, .080, .082,
5 .100, .110, .130, .140, .150, .160, .180, .190, .200, .205, .210, .230, .240, .250, .260,
6 .270, .280, .290, .300, and .310; repealing 5.44.170, because it has been reworded and
7 renumbered as 5.44.030(D); repealing 5.44.220, because it has been reworded and
8 renumbered as 5.44.080(C); repealing Sections 5.44.320; adding Sections 5.44.050, .070,
9 .310, .320, .340, .350, and .480; renumbering certain sections; creating three
10 subchapters: Subchapter I General Provisions; Subchapter II Business License; and
11 Subchapter III Business License Tax.

7 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

8 Section 1. There is added a new Subchapter I General Provisions and Section 5.44.010
9 of the Seattle Municipal Code (Ordinance 72630, § 1) is amended to read as follows:

10 **Subchapter I General Provisions**

11 **5.44.010 Exercise of revenue license power.**

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

17 Section 2. Section 5.44.020 of the Seattle Municipal Code (Ordinance 72630, §§ 2(part),
18 2.1(part), 2.2(part), as last amended by Ordinance 113690 § 1(part)) is further amended to
19 read as follows:

20 **5.44.020 Definitions generally.**

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1 In construing the provisions of this chapter except when otherwise declared or clearly
2 apparent from the context, the definitions in Sections 5.44.022 through 5.44.028 apply.

3 Words in the singular number shall include the plural, and the plural shall include the
4 singular. Words in one (1) gender shall include all other genders. The definition of a word
5 or phrase in RCW 82.04.020 through 82.04.214 (~~(82.04.212)~~) shall apply to the same word
6 or phrase in this chapter unless its context or definition in this chapter indicates otherwise.

7 Section 3. Section 5.44.022 of the Seattle Municipal Code (Ordinance 72630, §§ 2(part),
8 2.1(part), 2.2(part), as last amended by Ordinance 117169 § 21) is further amended to read
9 as follows:

10 **5.44.022 Definitions, A - I.**

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

13 1. ~~((2.))~~ "Business" includes all activities engaged in with the object of gain, benefit
14 or advantage to the taxpayer, licensee, or to another person or class, directly or indirectly.

15 2. ~~((3.))~~ "Cash discount" means a deduction from the invoice price of goods or charge
16 for services which is allowed if the bill is paid on or before a specified date.

17 3. ~~((4-a.))~~ "City" means The City of Seattle.

18 ~~((b. "City Auditor" means the City Auditor of The City of Seattle.))~~

19 4. ~~((5.))~~ "Commercial use" means the following uses of products by the extractor or
20 manufacturer thereof:

- 21 a. Manufacturing of articles, substances or commodities from extracted products;
22 b. Leasing or renting of extracted or manufactured products;

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1 c. Consigning, shipping or transferring extracted or manufactured products to
2 another person, as defined in subsection 5.44.024(5), either without consideration or in the
3 performance of contracts; or

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

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

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

10 7. ((4.e.)) "Director" or "((City)) Finance Director" means the Finance Director of The
11 City of Seattle, or his or her functional successor.

12 8. ((7.)) "Engaging in business" means commencing, conducting or continuing in
13 business and includes any business activity, professional, trade, commercial activity or
14 occupation which is carried on, or based, within the City ((also the exercise of corporate or
15 franchise powers as well as liquidating a business when the liquidators thereof hold
16 themselves out to the public as conducting such business)). It includes any business activity
17 whether or not the business entity or person has a location within or without the City, or
18 within or without the State, whereby employees, representatives, brokers or agents solicit
19 sales, enter into contracts, deliver products or services, perform other business activities,
20 endeavor to maintain a share of the market within the City, or the business entity avails itself
21 of the benefits of an economic market in the City. Engaging in business includes the

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1 exercise of corporate or franchise powers as well as liquidating a business when the
2 liquidators thereof hold themselves out to the public as conducting such business.

3 9. ((8-)) "Extractor" has the meaning contained in RCW 82.04.100, as now existing or
4 hereafter amended.

5 10. ((9-))"Gross income of the business" has the meaning contained in RCW 82.04.980,
6 as now existing or hereafter amended.

7 11. ((10-))"Gross proceeds of sales" has the meaning contained in RCW 82.04.070, as
8 now existing or hereafter amended.

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

13 Section 4. Section 5.44.024 of the Seattle Municipal Code (Ordinance 72630, §§ 2(part),
14 2.1(part), 2.2(part), as last amended by Ordinance 117914 § 1) is further amended to read as
15 follows:

16 **5.44.024 Definitions, J - R.**

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

21 2. ((1-)) "Manufacturer" means every person, as defined in subsection 5.44.024(5),
22 who, either directly or by contracting with others for the necessary labor or mechanical
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1 services, manufactures for sale or commercial use from his or her own materials or
2 ingredients any articles, substance or commodities. When the owner of equipment or
3 facilities furnishes, or sells to the customer prior to manufacture, all or a portion of the
4 materials that become a part or ((of)) whole of the manufactured article, the Finance Director
5 shall prescribe equitable rules for determining tax liability.

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

9 4. ((2-)) "Nonprofit tax-exempt organization" means an organization, corporation, or
10 association which is currently recognized by the United States of America as exempt from
11 federal income taxation pursuant to Section 501(c)(1), ~~((of))~~ (3), (4), or (6) of the Internal
12 Revenue code of 1954, 26 U.S.C. §501, as now existing or hereafter amended.

13 5. ((3- The word "person")) "Person" means any individual, receiver, assignee, trustee in
14 bankruptcy, trust, estate, firm, ~~((of))~~ partnership(s), joint venture, ~~((club company,))~~
15 joint-stock company, ~~((business trust,))~~ corporation, association, society, limited liability
16 corporation, or any group of individuals acting as a unit, whether mutual, cooperative,
17 fraternal, nonprofit or otherwise, and includes the United States or any instrumentality
18 thereof, provided a valid tax or fee may be levied upon or collected therefrom under the
19 provisions of this chapter. The term includes all nonprofit tax-exempt organizations.

20 6. ((4-)) "Quarterly period" shall mean only the following periods: January - February
21 - March, April - May - June, July - August - September, October - November - December,

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1 ((and shall)) beginning with the first day of the first month and including ((include)) the last
2 day of the third month within said period.

3 Section 5. Section 5.44.026 of the Seattle Municipal Code (Ordinance 72630, §§ 2(part),
4 2.1(part), 2.2(part), as last amended by Ordinance 117801 § 1) is further amended to read as
5 follows:

6 **5.44.026 Definitions of "sale."**

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

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

15 3. ((2-)) "Sales at retail" or "retail sales".

16 a. "Sale at retail" or "retail sale" means every sale of tangible personal property
17 (including articles produced, fabricated, or imprinted) to all persons irrespective of the
18 nature of their business and including, among others, without limiting the scope hereof,
19 persons who install, repair, clean, alter, improve, construct, or decorate real or personal
20 property of or for consumers: provided that, "sale at retail" or "retail sale" does not include
21 ((other than)) a sale to a person who presents a resale certificate pursuant to ((under)) RCW
22 82.04.470 and who:

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

3 ii. ((b-)) Installs, repairs, cleans, alters, imprints, improves, constructs, or
4 decorates real or personal property of or for consumers, if such tangible personal property
5 becomes an ingredient or component of such real or personal property without intervening
6 use by such person; or

7 iii. ((e-)) Purchases for the purpose of consuming the property purchased in
8 producing for sale a new article of tangible personal property or substance, of which such
9 property becomes an ingredient or component or is a chemical used in processing, when the
10 primary purpose of such chemical is to create a chemical reaction directly through contact
11 with an ingredient of a new article being produced for sale; or

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

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

20 b. The term "sale at retail" or "retail sale" shall include every sale of tangible personal
21 property which is used or consumed or to be used or consumed in the performance of any
22 activity classified as a "sale at retail" or "retail sale" even though such property is resold or
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1 utilized as provided in paragraphs (i) through (v) ~~((a, b, c, d, or e))~~ of ~~((this))~~ subsection 3(a)
2 following such use. The term also means every sale of tangible personal property to persons
3 engaged in any business which is taxable under RCW 82.04.280~~((,))~~ (2) ~~((and (7)))~~ and
4 RCW 82.04.290.

5 ~~c. ((3-))~~ The term "sale at retail" or "retail sale" shall include the sale of or charge
6 made for tangible personal property consumed and/or for labor and services rendered in
7 respect to the following:

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

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

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

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

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

15 vi. ~~((f-))~~ The sale of and charge made for the furnishing of lodging and all
16 other services by a hotel, rooming house, tourist court, motel, trailer camp, bed and
17 breakfast, and the granting of any similar license to use real property, as distinguished from
18 the renting or leasing of real property, and it shall be presumed that the occupancy of real
19 property for a continuous period of one (1) month or more constitutes a rental or lease of real
20 property and not a mere license to use or enjoy the same~~((g-))~~;

21 d. ~~((g-))~~ The term "sale at retail" or "retail sale" shall include the sale of or charge
22 made for tangible real property, labor and services taxable under paragraphs (i) through (v)

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1 of subsection 3(a) (~~(a, b, c, d, e, and f of this subsection)~~) when such sales or charges are for
2 property, labor and services which are used or consumed in whole or in part by such
3 persons in the performance of any activity defined as a "sale at retail" or "retail sale" even
4 though such property, labor and services may be resold after such use or consumption.

5 Nothing contained in (~~this~~) subsections 3(c) and (d) shall be construed to modify
6 subsections 3(a) and (b) (~~(the first subsection)~~) of this section and nothing contained in
7 subsections 3(a) and (b) (~~(subsection 1)~~) of this section shall be construed to modify (~~this~~)
8 subsections 3(c) and (d).

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

13 i. (~~(a-)~~) Amusement and recreation services including but not limited to golf,
14 pool, billiards, skating, bowling, ski lifts, tows and others;

15 ii. (~~(b-)~~) Abstract, title insurance and escrow services;

16 iii. (~~(c-)~~) Credit bureau services;

17 iv. (~~(d-)~~) Automobile parking and storage garage services;

18 v. (~~(e-)~~) Landscape maintenance and horticultural services but excluding
19 horticultural services provided to farmers;

20 vi. (~~(f-)~~) Service charges associated with tickets to professional sporting
21 events;

22 vii. (~~(g-)~~) Guided tours and guided charters; and
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1 viii. ((h-)) The following personal services: physical fitness services, tanning
2 salon services, tattoo parlor services, steam bath services, Turkish bath services, escort
3 services, and dating services.

4 f. ((5-)) The term "sale at retail" shall also include the renting or leasing of tangible
5 personal property to consumers and the rental of equipment with an operator.

6 g. ((6-)) The term "sale at retail" shall also include the providing of competitive
7 telephone service, as defined in RCW 82.04.065, to consumers.

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

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

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1. ~~((9-))~~ The term "sale at retail" shall also include the sale of or charge made for labor and services rendered in respect to the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to Chapter 35.82 RCW, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation. The term shall include the sale of services or charges made for the clearing of land and the moving of earth of or for the United States, any instrumentality thereof, or a county or city housing authority.

4. ~~((10-))~~ "Sale at wholesale" means any sale of tangible personal property, or any sale of competitive telephone service as defined in RCW 82.04.065, which is not a sale at retail and also means any charge made for labor and services rendered for persons who are not consumers, in respect to real or personal property, if such charge is expressly defined as a retail sale by RCW 82.04.050 when rendered to or for consumers ((has the meaning contained in RCW 82.04.060, as now existing or hereafter amended)).

5. ~~((11-))~~ In construing the provisions of this chapter, "wholesale sale," "sale at wholesale," "retail sale," and "sale at retail" do not include the sale of precious metal bullion or monetized bullion.

a. In computing tax or fee under this chapter on the business of making precious metal bullion or monetized bullion, the tax or fee shall be imposed on the amounts received as commissions upon transactions for the accounts of customers over and above the amount paid to other dealers associated in such transactions, but no deduction or offset is

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1 allowed on account of salaries or commissions paid to salespersons (~~salesmen~~) or other
2 employees.

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

11 6. Notwithstanding any other definition of the term "sales at retail" or "retail sales"
12 contained in this chapter, the term shall specifically not include any network telephone
13 services, waste collecting, and other services taxed pursuant by Chapter 5.48 of the Seattle
14 Municipal Code.

15 Section 6. Section 5.44.028 of the Seattle Municipal Code (Ordinance 72630, §§ 2(part),
16 2.1(part), 2.2(part), as last amended by Ordinance 117801 § 2) is further amended to read as
17 follows:

18 **5.44.028 Definitions, S - Z.**

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

3 2. "Taxpayer" includes any person, as defined in SMC 5.44.024(5) ~~((2))~~, required to
4 have a business license under this Chapter ~~((hereunder))~~, or liable for any license or fee
5 under this Chapter ~~((hereunder))~~, or liable for any tax or ~~((license))~~ fee ~~((or tax))~~, or for the
6 collection of any tax or ~~((license))~~ fee under this Chapter ~~((or tax hereunder))~~, or who
7 engages in any business ~~((;))~~ or who performs any act ~~((;))~~ for which a tax or ~~((license))~~ fee
8 ~~((or tax))~~ is imposed by this chapter.

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

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

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

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

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

17 7. "Within the City" or "in the ((this)) City" includes but is not limited to all federal
18 areas lying within the boundaries of The City of Seattle.

19 Section 7 Section 5.44.040 of the Seattle Municipal Code (Ordinance 72630, § 3.2, as
20 last amended by Ordinance 111429 § 1) is renumbered 5.44.030 and further amended to read
21 as follows:
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5.44.030 ((5.44.040)) Tax and fees on business with the City -- Payment of City contracts.

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A. There is levied upon and there shall be collected from every person, a tax or fee upon the act or privilege of engaging in the business activity of accepting or executing a contract with the City involving the sale to the City of materials, supplies, equipment, improvements and contractual services. The tax or fee shall be collected whenever either the City or the contracting party executes the contract within the City, whether or not the contracting party has his or her office or place of business within or without the City, and regardless of the place of delivery of the materials, supplies or equipment, the place of the performance of the services or the location of the improvements. The tax shall be collected in the same manner and form, under the same exemptions and rules and regulations and at the same rates of tax as the tax imposed under Section 5.44.400 ((5.44.030)) but without any apportionment under Sections 5.44.420 ((5.44.070)) through 5.44.428 ((5.44.076)) inclusive, or except for an interstate carrier, without a deduction under Section 5.44.470(E) ((5.44.110-E)) for an interstate shipment. Such tax or fee shall not be levied when:

1. ~~((A-))~~ The business activity subject to tax by this section is ~~((also))~~ taxed under Section 5.44.400 ((5.44.030)) or 5.48.050 and gross receipts or gross income from transactions within the City are included in the measure of the tax due thereunder;

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

~~((C- The person is not engaging in business activities either within or without the City-))~~

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1 3. The person's only source of revenue consists of contracts with the City for
2 neighborhood planning purposes, sister city associations, or Arts Commission grants.

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

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

9 D. All persons are required to pay in full all taxes or fees due under this Chapter on
10 account of such contract, or otherwise, before accepting any warrant as payment for
11 performing any contract for the City. The Finance Director may withhold payment due a
12 City contractor pending satisfactory resolution of unpaid taxes and fees due the City under
13 this Title.

14 Section 8. Section 5.44.170 of the Seattle Municipal Code (Ordinance 72630, § 16, as
15 last amended by Ordinance 116368 § 158) is repealed because it has been reworded and
16 renumbered as 5.44.030(D).

17 ~~((5.44.170 Payment on City contract — License fees to be paid first.~~

18 ~~The City Finance Director shall, before issuing any warrant making any payment to any~~
19 ~~person performing any contract for the City, require such person to pay in full all license~~
20 ~~fees or taxes due under this chapter from such person on account of such contract, or~~
21 ~~otherwise-))~~

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1 Section 9. Section 5.44.140 of the Seattle Municipal Code (Ordinance 72630, § 13 as
2 last amended by Ordinance 118022 § 2) is renumbered 5.44.040 and further amended to read
3 as follows:

4 **5.44.040 ((5.44.140)) Due date ((When tax due)) -- Returns.**

5 A. The taxes or fees imposed by this chapter, except the fee ~~((Sixty five Dollars~~
6 ~~(\$65.00)))~~ required to accompany the application for a business license as prescribed by
7 Section 5.44.300 the license, and except the Ten Dollars (\$10.00) required to accompany the
8 application for an additional business location)), shall be due and payable in quarterly
9 installments unless assigned to an annual reporting basis. Payment shall be made on or
10 before the last day of the month after the end of the quarterly or annual period in which the
11 tax accrued. The payment shall be made as provided in Section 5.44.060 ((5.44.150)) and
12 shall be accompanied by a return, which consists of a form provided by the Finance Director
13 and completed by the taxpayer.

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

17 C. Any person who reasonably estimates that the value of products, gross proceeds of
18 sales, or gross income of the business, as the case may be, subject to tax after all allowable
19 deductions, will be less than ~~((not exceed))~~ Fifty Thousand Dollars (\$50,000.00) (the
20 "threshold amount") in the current calendar year may file a declaration so stating on a form
21 supplied by the Director at the same time he or she files his or her application for a business
22 license or a renewal. Any person whose declaration is accepted by the Finance Director
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1 shall be assigned to an annual reporting basis. Any person whose value of products, gross
2 proceeds of sales, or gross income of the business, subject to tax after all allowable
3 deductions, does not exceed the threshold amount in the current calendar year, shall file a
4 return, declare no tax due on their annual return, and submit the return to the Finance
5 Department. The gross receipts and deduction amounts shall be entered on the tax return
6 even though no tax may be due. Quarterly, or annual returns as authorized, must be filed
7 regardless of whether or not any tax is owed. Returns not received on or before the due date
8 will be subject to late charges pursuant to SMC Section 5.44.090 ((5.44.180)).

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

13 Section 10. There is added a new Section 5.44.050 to Chapter 5.44 of the Seattle
14 Municipal Code as follows:

15 **5.44.050 Computation of time.**

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

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1 Section 11. Section 5.44.150 of the Seattle Municipal Code (Ordinance 72630, § 14,
2 as last amended by Ordinance 117169 § 32) is renumbered 5.44.060 and further amended to
3 read as follows:

4 **5.44.060 ((5.44.150) Payments due under this chapter ((of license fee)).**

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

12 The Finance Director is authorized, but not required to mail to taxpayers ~~((forms for~~
13 ~~applications for license and))~~ forms for returns, but failure of the taxpayer to receive any
14 such forms shall not excuse the taxpayer from ~~((making application for and securing the~~
15 ~~license required, making))~~ filing returns ~~((;))~~ and making payment of the ~~((license fee or))~~
16 taxes or fees, when and as due under this chapter.

17 Section 12. This is added a new Section 5.44.070 to chapter 5.44 of the Seattle
18 Municipal Code as follows:

19 **5.44.070 Payment of tax or fees by NSF check.**

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

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

9 Section 13. Section 5.44.160 of the Seattle Municipal Code (Ordinance 72630, § 15,
10 as last amended by Ordinance 117801 § 7) is renumbered 5.44.080 and further amended to
11 read as follows:

12 **5.44.080 ((5.44.160)) Books and records to be kept five years -- Failure to make**
13 **return or provide records.**

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

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1 B. In the case of any such person who does not keep the necessary books and records
2 within the City for examination it shall be sufficient if such person produces within the City
3 such books and records as may be required by the Director or bears the cost of examination
4 by the Director's agent at the place where such books and records are kept; provided that the
5 person electing to bear such cost shall pay in advance to the Director the estimated amount
6 thereof including round-trip fare, lodging, meals and incidental expenses, subject to
7 adjustment upon completion of the examination.

8 C. If any taxpayer fails, neglects or refuses to make his or her return as and when
9 required in this chapter, or refuses to provide or make available records as requested by the
10 Department, the Finance Director is authorized to determine the amount of the tax or fees
11 payable by obtaining facts and information upon which to base his or her estimate of the tax
12 or fees due. Such assessment shall be deemed prima facie correct and shall be the amount of
13 tax owing the City by the taxpayer. The taxpayer shall be notified by mail by the Director of
14 the amount of tax so determined, together with any penalty, interest, and fees due: the total
15 of such amounts shall thereupon become immediately due and payable.

16 Section 14. Section 5.44.220 of the Seattle Municipal Code (Ordinance 72630, § 12,
17 as last amended by Ordinance 117801 § 10) is repealed because it has been reworded and
18 renumbered as 5.44.080(C):

19 ~~((5.44.220 Failure to make return or provide records.~~

20 ~~If any taxpayer fails, neglects or refuses to make his or her return as and when required~~
21 ~~in this chapter, or refuses to provide or make available records as requested by the~~
22 ~~Department pursuant to Section 5.44.160, the Finance Director is authorized to determine~~

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1 the amount of the tax payable by obtaining facts and information upon which to base his or
2 her estimate of the tax, and by mail to notify such taxpayer of the amount so determined.
3 The amount so fixed shall thereupon become the tax and be immediately due and payable
4 and subject to interest and penalties as set forth in this chapter.)

5 Section 15. Section 5.44.180 of the Seattle Municipal Code (Ordinance 72630, § 17,
6 as last amended by Ordinance 118022 § 3) is renumbered 5.44.090 and further amended to
7 read as follows:

8 **5.44.090 ((5.44.180)) Payments -- Extension -- Penalties ((Late penalty)).**

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

12 B. Failure to make payment or return by the due date--If any tax return, or payment of
13 any tax, is not received by the ((City)) Finance Director on or before the last day of the
14 month following the end of the quarterly or annual period in which the tax accrued (the due
15 date), pursuant to SMC Section 5.44.040(A) ((5.44.140(A))), there shall be assessed a
16 penalty of five percent (5%) of the amount due with a minimum penalty of Ten ((Five))
17 Dollars ((10.00)) ((5.00)); and if the return and/or tax is not received within thirty (30)
18 days from the due date, there shall be assessed a total penalty of ten percent (10%) of the
19 amount due with a minimum penalty of Twenty ((Fifteen)) Dollars (\$20.00) ((15.00));
20 and if the return and/or tax is not received within sixty (60) days from the due date, there
21 shall be assessed a total penalty of twenty percent (20%) of the amount due, with a minimum
22 penalty of Forty ((Twenty-five)) Dollars (\$40.00) ((25.00)).

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1 C. ~~((5.44.210 (C-)))~~ Interest and penalty on late payment--If the Finance Director finds
2 that the ~~((fee or))~~ tax, fee, or penalty paid is less than the amount due, the Director shall mail
3 the taxpayer a notice showing the balance due and shall add thereto interest on such balance
4 at the rate of ten percent (10%) per year from the date of underpayment until paid, and the
5 taxpayer shall, within twenty (20) days from the notice date, pay the amount shown thereon
6 as the balance due plus such interest. If payment of any ~~((fee or))~~ tax, fee, ~~((or))~~ penalty, or
7 interest assessed by the Finance Director is not received by the Department within the
8 twenty (20) days, or any extension thereof, the Director shall add a penalty of ten percent
9 (10%) of the amount of the additional tax or assessment found due. No penalty so added
10 shall be less than Twenty ((Five)) Dollars (\$20.00) (((\$5.00))).

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

15 E. Penalty for disregarding specific written instructions--If the Director finds that all or
16 any part of a deficiency resulted from the disregard of specific written instructions as to
17 reporting of tax or fee liabilities, the Director shall add a penalty of twenty percent (20%) of
18 the additional tax or fee found due because of the failure to follow the instructions. A
19 taxpayer will be deemed to disregard specific written instruction when the Director has
20 informed the taxpayer in writing of the taxpayer's tax obligations and the taxpayer fails to
21 act in accordance with those instructions unless the Department has not issued final
22 instructions because the matter is under appeal pursuant to this Chapter. The Director shall
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1 not assess the penalty under this section upon any taxpayer who, in the Director's opinion,
2 has made a good faith effort to comply with the specific written instructions provided by the
3 Department to that taxpayer. Specific written instructions may be given as a part of a tax
4 assessment, audit, determination, letter of instruction or closing agreement, provided that
5 such specific written instructions shall apply only to the taxpayer addressed or referenced on
6 such documents. Any specific written instructions by the Department shall be clearly
7 identified as such and shall inform the taxpayer that failure to follow the instructions may
8 subject the taxpayer to the penalties imposed by this subsection. No penalty so added shall
9 be less than Twenty Dollars (\$20.00).

10 Section 16. Section 5.44.210 of the Seattle Municipal Code (Ordinance 72630, § 20,
11 as last amended by Ordinance 117801 § 9) is renumber 5.44.100 and further amended to
12 read as follows:

13 **5.44.100 ((5.44.210)) Over or under payment of tax or fee.**

14 A. in the event of overpayment of any tax or fee due under this chapter, the Finance
15 Director or his or her authorized agent upon written application by the taxpayer for a refund
16 or credit within two (2) years after the due date of such overpayment, may offset the amount
17 of such overpayment against the taxpayer's existing tax liability under this chapter and
18 refund any balance to such taxpayer or credit such balance to taxes which may accrue under
19 this chapter. No refund or credit may be allowed with respect to any payments made to the
20 City more than two (2) years before the date of such application; provided, that where a
21 taxpayer under audit or investigation by the City makes application for a credit of an
22 overpayment made more than two (2) years before the date of such application, the amount

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1 of the credit otherwise allowable for the portion of the assessment period preceding the two
2 (2) year period may be offset against any existing tax deficiency which accrued under this
3 chapter in the same calendar year as the overpayment.

4 Refund of overpayments as authorized in this section shall be paid from the Refund
5 Account of the General Fund.

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

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

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

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

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

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

Section 17. Section 5.44.190 of the Seattle Municipal Code (Ordinance 72630, § 18, as last amended by Ordinance 98817 § 5) is renumbered 5.44.110 and further amended to read as follows:

5.44.110 ((5.44.190)) Quitting, selling ((Sale)) or transferring of business.

~~((Upon the sale or transfer during any quarterly period of a business on account of which a license fee or tax is required, the purchaser or transferee shall, if the fee or tax has not been paid in full for the quarterly period, be responsible for the payment of the fee or tax for that portion of the quarterly period during which he carries on such business.))~~

Whenever any taxpayer quits business, or sells out, exchanges, or otherwise disposes of his or her business or stock of goods, any tax or fee payable hereunder shall become immediately due and payable, and such taxpayer shall, within twenty (20) days thereafter, make a return and pay the tax or fee due; and any person who becomes a successor shall become liable for the full amount of the tax or fee and withhold from the purchase price a sum sufficient to pay any amount due from the taxpayer until such time as the taxpayer shall produce a receipt from the Department showing payment of any amounts due for taxes or fees or a certificate that none is due, and if such tax or fee are not paid by the taxpayer

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1 within twenty (20) days from the date of such sale, exchange, or disposal, the successor shall
2 become liable for the payment of the full amount of taxes and fees, and the payment thereof
3 by such successor shall, to the extent thereof, be deemed a payment upon the purchase price,
4 and if such payment is greater in amount than the purchase price the amount of the
5 difference shall become a debt due such successor from the taxpayer. No successor shall be
6 liable for any tax or fee due from the person from whom he or she has acquired a business or
7 stock of goods if he or she gave written notice to the Director of such acquisition and no
8 assessment is issued by the Department within six (6) months of such notice against the
9 former operator of the business and a copy thereof mailed to such successor.

10 Section 18. Section 5.44.230 of the Seattle Municipal Code (Ordinance 72630, § 22,
11 as last amended by Ordinance 117801 § 11) is renumbered 5.44.120 and further amended to
12 read as follows:

13 **5.44.120 ((5.44.230)) Appeals and judicial review.**

14 A. Any person aggrieved by the amount of the ((fee or)) tax, fee, interest, or penalty
15 assessed by the Finance Director under the provisions of this chapter, may file a written
16 appeal ("petition") with the Office of the Hearing Examiner within twenty (20) days from
17 the date that the assessment notice was mailed to the taxpayer, or within the period covered
18 by any extension of said due date granted in writing by the Finance Director. The Finance
19 Director ((s)) may ((in his or her discretion,)) grant an extension of the appeal period only if
20 the taxpayer, within the twenty (20) day period to appeal, makes written application showing
21 good cause why an extension is necessary. A copy of the petition must be provided by the
22 taxpayer to the Finance Director and the City Attorney on or before the date the petition is

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1 filed with the Hearing Examiner. If no such petition is filed with the Hearing Examiner and
2 provided to the Finance Director and City Attorney within the twenty (20) day period, the
3 assessment covered by the notice shall become final and no refund request maybe made for
4 the audit period covered in this assessment.

5 B. The petition shall set forth the reasons why the assessment should be reversed or
6 modified and the amount of the tax, fee, interest, or penalties which the taxpayer believes to
7 be due. The Hearing Examiner shall fix the time and place of the hearing and notify the
8 taxpayer thereof by mail. The hearing shall be conducted in accordance with the procedures
9 for hearing contested cases in the Seattle Administrative Code (Chapter 3.02 of the Seattle
10 Municipal Code).

11 C. The Finance Director's assessment appealed from shall be regarded as prima facie
12 correct. The Hearing Examiner may, by subpoena, require the attendance of any person at
13 the hearing, and may also require him or her to produce pertinent books and records. Any
14 person served with such a subpoena shall appear at the time and place therein stated and
15 produce the books and records required, if any, and shall testify truthfully under oath
16 administered by the Hearing Examiner as to any matter required of him or her pertinent to
17 the appeal; and it shall be unlawful for him or her to fail or refuse to do so.

18 D. The Hearing Examiner may reverse or modify an action of the Director and ascertain
19 the correct amount of the tax, fee, interest, or penalty (~~(or tax)~~) due if the Director's
20 assessment violates the terms of this chapter or is contrary to law. The decision of the
21 Hearing Examiner shall be final. The taxpayer and/or the Department of Finance may seek
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1 review of the decision of the Hearing Examiner to the Superior Court of Washington in and
2 for King County within fourteen (14) days from the date of the decision.

3 Section 19. Section 5.44.240 of the Seattle Municipal Code (Ordinance 72630, § 23,
4 as last amended by Ordinance 117169 § 40) is renumbered 5.44.130 and further amended to
5 read as follows:

6 **5.44.130 ((5.44.240)) Director to make rules.**

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

11 Section 20. Section 5.44.250 of the Seattle Municipal Code (Ordinance 72630, § 24,
12 as last amended by Ordinance 117169 § 41) is renumbered 5.44.140 and further amended to
13 read as follows:

14 **5.44.140 ((5.44.250)) Mailing of notices.**

15 Any notice required by this chapter to be mailed to any taxpayer or licensee shall be sent
16 by ordinary mail, addressed to the address of the taxpayer or licensee as shown by the
17 records of the Finance Director, or if no such address is shown, to such address as the
18 Director is able to ascertain by reasonable effort. Failure of the taxpayer or licensee to
19 receive any such mailed notice shall not release the taxpayer or licensee from any tax, fee,
20 interest, or any penalties thereon, nor shall such failure operate to extend any time limit set
21 by the provisions of this chapter.

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1 Section 21. Section 5.44.260 of the Seattle Municipal Code (Ordinance 72630, § 25)
2 is renumbered 5.44.150 and amended to read as follows:

3 **5.44.150 ((5.44.260)) Unlawful actions ((False returns or statements)).**

4 It shall be unlawful for any person liable for ~~((to))~~ tax or fee under this chapter to fail or
5 refuse ~~((to secure the license,))~~ to make the returns as and when required, or to pay the fee or
6 tax when due, or for any person to make any false or fraudulent application or return or any
7 false statement or representation in, or in connection with, any such application or return, or
8 to aid or abet another in any attempt to evade payment of the fee or tax, or any part thereof,
9 or for any person to fail to appear and/or testify in response to subpoena issued pur uant
10 hereto, or to testify falsely upon any investigation of the correctness of a return, or upon the
11 hearing of any appeal, or in any manner to hinder or delay the City or any of its officers in
12 carrying out the provisions of this chapter. Remedial action by the City may include fines as
13 provided for in Section 5.44.190.

14 Section 22. Section 5.44.270 of the Seattle Municipal Code (Ordinance 72630, § 26)
15 is renumbered 5.44.160 and amended to read as follows:

16 **5.44.160 ((5.44.270)) Tax or ((License)) fee additional to others.**

17 The ~~((license fee and))~~ taxes or fees levied in this chapter shall be additional to any
18 license fee or tax imposed or levied under any law or any other ordinance of the City except
19 as herein otherwise expressly provided.

20 Section 23. Section 5.44.280 of the Seattle Municipal Code (Ordinance 72630, § 27,
21 as last amended by Ordinance 81150 § 7) is renumbered 5.44.170 and further amended to
22 read as follows:

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5.44.170 ((5.44.280)) Collection of delinquent tax or fee ((or tax)) – Tax and fees
constitute debt.

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

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

Section 24. Section 5.44.290 of the Seattle Municipal Code (Ordinance 72630, § 28, as last amended by Ordinance 86164 § 1) is renumbered 5.44.180 and further amended to read as follows:

5.44.180 ((5.44.290)) Application to City's business activities.

Whenever the City through any department, ((or)) division, or employee association ((shall)) engages in any business activity which if engaged in by any person would under this chapter require a business license and the payment of ((a license fee or)) any tax or fee by such person, the City department, ((or)) division, or employee association engaging in such business activity shall ((at the same time and in the same manner as persons are required under this chapter)) make application and file returns and from the funds of such

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1 department, ~~((or))~~ division, or employee association pay any ~~((the license fees or))~~ taxes or
2 fees imposed by this chapter ~~((; provided, that this section shall not apply to the public~~
3 transportation system of such City)).

4 Section 25. Section 5.44.310 of the Seattle Municipal Code (Ordinance 72630, § 30,
5 as last amended by Ordinance 117169 § 43) is renumbered 5.44.190 and further amended to
6 read as follows:

7 **5.44.190 ((5.44.310)) Violation -- Penalty.**

8 A. A ~~((Any))~~ person who violates or fails ~~((violating or failing))~~ to comply with any
9 provision ~~((of the provisions))~~ of this chapter or any ~~((lawful))~~ rule, ~~((or))~~ regulation or order
10 of the ~~((adopted by the Finance))~~ Director is guilty of a misdemeanor subject to the
11 provisions of Chapter 12A.02 and 12A.04 of the Seattle Municipal Code, except that
12 absolute liability shall be imposed for such a violation or failure to comply and none of the
13 mental states described in Section 12A.04.030 of the Seattle Municipal Code need be
14 proved. A corporation which violates or fails to comply with any provision of this chapter
15 or any rule, regulation or order of the Director shall be punished by a fine of not more than
16 One Thousand (\$1,000) Dollars. Each day of violation or failure to comply is a separate
17 offense. ~~((pursuant thereto, upon conviction thereof, shall be punished by a fine in any sum~~
18 not to exceed Three Hundred Dollars (\$300.00) or by imprisonment in the City Jail for a
19 term not exceeding ninety (90) days, or by both such fine and imprisonment.))

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

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

6 Section 26. Section 5.44.200 of the Seattle Municipal Code (Ordinance 72630, § 19,
7 as last amended by Ordinance 118022 § 4) is further amended to read as follows:

8 **5.44.200 Returns confidential -- Exceptions.**

9 A. As required by the Public Disclosure Act, in RCW 42.17.260 and RCW 42.17.310,
10 the returns made to the Finance Director pursuant to this chapter and any facts or
11 information disclosed in any examination of books and records made pursuant to Section
12 5.44.080 ~~((5.44.160))~~, shall be subject to the inspection of any person but only to the extent
13 that such disclosure does not violate the personal privacy of any taxpayer or give unfair
14 competitive disadvantage to the taxpayer in his or her business or occupation or is not used
15 for commercial purposes.

16 B. Authority provided in this chapter to disclose information shall not be construed as
17 authority to give, sell or provide access to lists of individuals for commercial purposes,
18 provided that lists of applicants for professional licenses and of professional licensees shall
19 be made available to professional organizations recognized by their professional examining
20 board upon payment of a reasonable fee therefor. Provided, such returns and information
21 may be subject to inspection, for official purposes only, by the Mayor, City Attorney,
22 Finance Director or his or her authorized agent, the City Auditor or his or her ~~((his/her))~~

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1 authorized agent, Chief of Police or his or her authorized agent, members of the City
2 Council, or their authorized agents, the Director of the Office of Management and Planning
3 or his or her authorized agent; and the Executive Director of the Seattle Ethics and Elections
4 Commission or his or her authorized agent, and when in the course of City duties presented
5 to the Commission, to its members; provided that nothing in this section shall prohibit the
6 Executive Director of the Seattle Ethics and Elections Commission from giving such facts or
7 information in evidence in any hearing conducted by the Commission; and provided further
8 that nothing in this section shall prohibit the Finance Director or any member or employee
9 of the Department of Finance from:

10 1. Giving such facts or information in evidence in any court action involving the
11 taxes (~~(tax)~~) or (~~(license-fee)~~) fees imposed by this chapter or a violation of the provisions
12 hereof or involving another City or state department and the taxpayer; or

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

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

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

5 Section 27. Section 5.44.205 of the Seattle Municipal Code (Ordinance 111430, § 3,
6 as last amended by Ordinance 117169 § 3c) is renumbered 5.44.210 and further amended to
7 read as follows:

8 **5.44.210 ((5.44.205)) Fees for copies and research.**

9 The Finance Director may charge a fee:

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

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

15 C. For the bulk sale of City forms and printed brochures and other publications in an
16 amount equal to the cost of preparing, reproducing and distributing them as determined by
17 the Director by rule adopted pursuant to the Administrative Code, Sections 3.02.030 through
18 3.02.070.

19 Section 28. There is added a new Subchapter II Business License and Section 5.44.130
20 of the Seattle Municipal Code (Ordinance 72630, § 12, as last amended by Ordinance
21 117438 § 1) is renumbered 5.44.300 and further amended to read as follows:

22 **Subchapter II Business License**

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5.44.300 ((5.44.130)) Business license required.

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

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The license shall be personal and nontransferable. Applications for the business license
shall be made to the Finance Director on forms provided by the Director. Each license shall
be numbered, shall show the name, place and character of the business of the licensee, and
such other information as the Director deems necessary, and shall at all times be
conspicuously posted in the place of business for which it is issued. ~~((Any person whose~~
~~gross proceeds of sale, value of products, or gross income of business, as the case may be~~
~~after all allowable deductions, does not exceed Fifty Thousand Dollars (\$50,000.00) in the~~
~~tax year shall be exempt from the tax imposed by Section 5.44.030 subject to the~~
~~requirements of Section 5.44.140.))~~

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

3 B. ~~((The license shall be personal and nontransferable.))~~ Where ~~((In case))~~ business is
4 transacted at two (2) or more separate places by one (1) taxpayer, a separate license for each
5 place at which business is transacted with the public shall be required. A Ten-Dollar
6 (\$10.00) license fee shall be imposed and accompany each application for the license
7 required for each additional business location. ~~((Each license shall be numbered, shall show~~
8 ~~the name, place and character of the business of the taxpayer, and such other information as~~
9 ~~the Finance Director deems necessary, and shall at all times be conspicuously posted in the~~
10 ~~place of business for which it is issued.~~

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

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

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

21 E. The business license shall be issued for a calendar year and shall expire on December
22 31; no portion of the fee may be prorated.

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1 Section 29. There is added a new Section 5.44.310 to Chapter 5.44 of the Seattle
2 Municipal Code as follows:

3 **5.44.310 Renewal of license.**

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

- 8 A. One to 30 days after the expiration date, inclusive; a penalty of Five Dollars (\$5.00).
9 B. 31 to 60 days after the expiration date, inclusive; a penalty of Ten Dollars (\$10.00).
10 C. More than 60 days after the expiration date; a penalty of Twenty Dollars (\$20.00).

11 All licenses issued subsequent to the initial license period shall be deemed renewal
12 licenses if there has been a discontinuance of the licensee's operations or activities.
13 Nonpayment of business license fees and taxes when due by the licensee during the term of
14 any license shall constitute grounds for revocation or suspension of said license.

15 Section 30. There is added a new Section 5.44.320 to Chapter 5.44 of the Seattle
16 Municipal Code as follows:

17 **5.44.320 License -- Not transferable or assignable -- Exceptions.**

- 18 A. A license is not assignable or transferable, except that a license may be transferred:
19 1. To the surviving or new corporation, whenever the licensed corporation is merged
20 or consolidated pursuant to RCW Chapter 23B.11, as now or hereafter amended;
21 2. To the surviving partner, or to a new partnership which consists exclusively of the
22 surviving partners, whenever one (1) partner of a licensed partnership dies;
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1 notify such licensee in writing by certified mail of the suspension or revocation of his or her
2 license and the grounds therefor. Any license issued under this subchapter may be
3 suspended or revoked based on one or more of the following grounds:

- 4 1. The license was procured by fraud or false representation of fact.
- 5 2. The licensee has failed to comply with any provisions of this subchapter.
- 6 3. The licensee has failed to comply with any provisions of this Chapter.
- 7 4. The licensee is in default in any payment of any license fee or tax under this

8 Chapter or Title 6.

9 B. Any licensee may, within twenty (20) days from the date that the suspension or
10 revocation notice was mailed to the licensee, appeal from such suspension or revocation by
11 filing a written notice of appeal ("petition") setting forth the grounds therefor with the Office
12 of the Hearing Examiner. A copy of the petition must be provided by the licensee to the
13 Finance Director and the City Attorney on or before the date the petition is filed with the
14 Hearing Examiner. The hearing shall be conducted in accordance with the procedures for
15 hearing contested cases in the Seattle Administrative Code (Chapter 3.02 of the Seattle
16 Municipal Code). The Hearing Examiner shall set a date for hearing said appeal and notify
17 the licensee by mail of the time and place of the hearing. After the hearing thereon the
18 Hearing Examiner shall, after appropriate findings of fact, and conclusions of law, affirm,
19 modify, or overrule the suspension or revocation and reinstate the license, and may impose
20 any terms upon the continuance of the license which the Hearing Examiner may seem
21 advisable.

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1 It shall be unlawful for any person liable for fees under this subchapter to fail or refuse to
2 secure the license, or to pay the license fee when due, or for any person to make any false or
3 fraudulent application or any false statement or representation in, or in connection with, any
4 such application, or to aid or abet another in any attempt to evade payment of the license fee,
5 or any part thereof, or for any person to fail to appear and/or testify in response to subpoena
6 issued pursuant hereto, or to testify falsely upon any investigation of the correctness of a
7 license application, or upon the hearing of any appeal, or in any manner to hinder or delay
8 the City or any of its officers in carrying out the provisions of this subchapter.

9 Section 33. There is added a new Section 5.44.350 to Chapter 5.44 of the Seattle
10 Municipal Code as follows:

11 **5.44.350 License not obtained.**

12 License fees shall be collected for the application year only; except in the case of a
13 person found to be engaged in business in the City without a license. Demands for any
14 license fees or penalties due as a result of failure to obtain and maintain a license as provided
15 for under this subchapter may be made by the Director within ten (10) years after the close
16 of the calendar year in which the same accrued.

17 Section 34. There is added a new Subchapter III Business License Tax and Section
18 5.44.030 of the Seattle Municipal Code (Ordinance 72630, § 3, as last amended by
19 Ordinance 117801 § 3) is renumbered 5.44.400 and further amended to read as follows:

20 **Subchapter III Business License Tax**

21 **5.44.400 ((5.44.030)) Tax or fee levied.**

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1 There is levied upon and shall be collected from and paid as hereinafter provided by
2 every person on account and for the privilege of engaging in business activities within the
3 City, whether his or her office or place of business is within or without the City, a business
4 and ~~((license fee or))~~ occupation tax or fee, sometimes herein referred to as the "tax." The
5 tax, except as hereinafter provided, shall be in amounts to be determined by application of
6 rates given against value of products, gross proceeds of sale, or gross income of business as
7 the case may be, ~~((for the three calendar months next preceding the beginning of each~~
8 ~~quarterly period))~~ as follows:

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

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

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

5 D. Upon every person engaging within the ((this)) City in the business of:

6 1. Buying ((buying)) wheat, oats, corn, barley and rye, but not including any
7 manufactured or processed products thereof, and selling the same at wholesale, the tax
8 imposed shall be equal to the gross proceeds derived from such sales multiplied by the rate
9 of two hundred fifteen (215) ten-thousandths of one percent (1%); or ((-))

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

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

20 F. Upon every other person engaging within the ((this)) City in any business activity
21 other than or in addition to those enumerated in subsections A, B, C, D, and E above; as to
22 such persons the amount of tax on account of such activities shall be equal to the gross
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1 income of the business multiplied by the rate of four hundred fifteen (415) one-thousandths
2 of one percent (1%). This subsection includes, among others, and without limiting the scope
3 hereof (whether or not title to material used in the performance of such business passes to
4 another by accession, confusion or other than by outright sale), persons engaged in the
5 business of rendering any type of service which does not constitute a sale at retail or a sale at
6 wholesale. This subsection also includes, as authorized by RCW Chapter 82.14A, subject to
7 and in accordance with the definitions, deductions and exemptions set forth in RCW Chapter
8 82.04 insofar as the same may be applicable, national banks, state banks, trust companies,
9 mutual savings banks, building and loan associations, savings and loan associations, loan
10 companies, and other banking, loan, security or financial institutions.

11 Section 35. Section 5.44.050 of the Seattle Municipal Code (Ordinance 72630, § 4, as
12 last amended by Ordinance 113611 § 1(part)) is renumbered 5.44.410 and further amended
13 to read as follows:

14 **5.44.410 ((5.44.050)) Persons taxable as to each activity -- Principles to reduce**
15 **multiple taxation.**

16 A. Persons ((s)) who engage in activities that are within the purview of two or more
17 subsections of Section 5.44.400 ((5.44.030,)) shall be taxable under each applicable
18 subsection.

19 B. Sections 5.44.412 ((5.44.052)) through 5.44.416 ((5.44.056)) allow a series of
20 exclusions and deductions in order to reduce overlapping gross receipts taxation upon
21 taxpayers engaging in activities within two (2) or more subsections of Section 5.44.400
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1 (~~5.44.030~~) and to follow the precedent of Chapter 3, Laws of 1987, 2nd Ex. Sess. (RCW
2 82.04.440, as amended). The exclusions and deductions reflect these basic principles:

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

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

12 3. Where wholesaling/retailing activity within subsections C and D(1) of Section
13 5.44.400 (~~5.44.030~~) occurs in two (2) or more jurisdictions with gross receipts taxation,
14 Section 5.44.422 (~~5.44.072~~) applies to allocate transactions; where activity within
15 subsections A, B, D(2), or E of Section 5.44.400 occurs in a contiguous location within two
16 (2) or more jurisdictions, Section 5.44.420 (~~5.44.070~~) applies to apportion the taxpayer's
17 gross value of products (~~when extracting/manufacturing activity within subsections A, B or~~
18 ~~D occurs on a contiguous location within two (2) or more jurisdictions~~);

19 4. No deduction is allowed on account of payment of Washington State taxes;
20 payment of dissimilar taxes or fees; liability for taxes on engaging in service activity; or
21 taxes paid by another taxpayer; and
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1 5. If imposition of the City's tax would place an undue burde:: upon interstate
2 commerce or violate constitutional requirements, a taxpayer shall be allowed a deduction to
3 the extent necessary to preserve the validity of the City's tax and still apply the City tax to as
4 much of the taxpayer's activities as may be subject to the City's taxing authority (SMC
5 Section 5.44.473(E) (~~((SMC Section 5.44.110 E))~~)).

6 C. The term "eligible gross receipts tax" is used in Sections 5.44.412 (~~((5.44.052))~~)
7 through 5.44.418 (~~((5.44.058))~~) as follows:

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

10 2. With respect to political subdivisions of the State of Washington, the term means
11 a business and occupation tax imposed and paid to (~~((to))~~) another Washington city that
12 measures the amount of the payment due by gross receipts and that, in accord with
13 subsection 5.44.410(B)(2) (~~((B2))~~), applies to a later stage in the taxpayer's
14 manufacturing/selling process than the taxpayer's business activity in Seattle;

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

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

21 b. The amount of the tax is measured by the gross volume of business, in terms
22 of gross receipts or in other terms, and in (~~((the determination of which the deductions~~

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1 ~~allowed would not constitute the tax~~) determining what constitutes gross receipts, any
2 deductions allowed against such gross receipts would not result in an income tax or value
3 added tax;

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

6 d. The tax is not a sales or use tax, franchise fee, royalty or severance tax
7 measured by volume or weight, or concession charge, or payment for the use and enjoyment
8 of property, property right or a privilege.

9 D. If it is determined by a court of competent jurisdiction, in a judgement not subject to
10 review, that sections 5.44.412, 5.44.414, and /or 5.44.416 of the Seattle Municipal Code
11 results in an unconstitutional discrimination against interstate or foreign commerce, and that
12 relief is appropriate for any tax reporting periods, it is the intent of the city council that the
13 credit provisions contained in RCW 82.04.440 (1) through (4), and in accordance with SMC
14 5.44.410 (A) and (C) and SMC 5.44.418, be applied to such reporting periods and that relief
15 for such periods be limited to the granting of such credits. It is further the intent of the city
16 council that such credits shall be applicable only under the conditions provided in RCW
17 82.04.440 (1) through (4), SMC 5.44.410 (A) and (C), and SMC 5.44.418. The amount of
18 credit shall not exceed the tax liability arising under this chapter in respect to extracting,
19 manufacturing, wholesaling, and retailing. It is the intent of this act to preserve the integrity
20 of Seattle's business and occupation tax system and impose only that financial burden upon
21 the city necessary to establish parity in taxation between taxpayers engaging in business
22 within the city.

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1 Section 36. Section 5.44.052 of the Seattle Municipal Code (Ordinance 72630, § 4
2 (part), as last amended by Ordinance 113611 § 1(part)) is renumbered 5.44.412 and further
3 amended to read as follows:

4 **5.44.412 ((5.44.052)) Deduction for multiple activity sales at wholesale or retail for**
5 **interstate manufacturing/extracting.**

6 A person may deduct from the measure of the tax under subsection ((C of Section
7 ~~5.44.030~~) 5.44.400(C) (making sales at wholesale or retail), the value of products extracted
8 or manufactured outside Washington if and to the extent the products were subject to an
9 eligible gross receipts tax, as described in Section 5.44.410(C), elsewhere on manufacturing
10 or extracting activity. The deduction for any transaction shall not exceed the amount of the
11 transaction reported as part of the gross proceeds of sales under ((said)) subsection
12 5.44.400(C) ((C)).

13 Section 37. Section 5.44.054 of the Seattle Municipal Code (Ordinance 72630, §
14 4(part), as last amended by Ordinance 113611 § 1(part)) is renumbered 5.44.414 and further
15 amended to read as follows:

16 **5.44.414 ((5.44.054)) Multiple activity exclusion from manufacturing for**
17 **Seattle-taxed selling and deduction for other taxed activity.**

18 A. Exclusion of Seattle-taxed Selling. A person taxable under subsection C of Section
19 5.44.400 ((5.44.030)) (making sales at wholesale or retail) on products sold within the City
20 ((Seattle)) for delivery within the state may exclude from the measure of the tax under
21 subsections A, B and/or D(2) of Section 5.44.400 (extracting, manufacturing and/or milling
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1 wheat, respectively) those amounts the taxpayer used in measuring the tax payable under
2 subsection C of Section 5.44.400 (retailing/wholesaling).

3 B. Deduction for Activity Taxed Elsewhere. A person taxable under subsection B
4 (engaging in manufacturing) or D(2) (milling wheat) of Section 5.44.400 (~~(5.44.030)~~) may
5 deduct from the measure of the tax:

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

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

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

15 C. The amount of any deduction of any transaction shall not exceed the value of the
16 product manufactured in Seattle and reported as subject to tax under subsection B or D(2) of
17 Section 5.44.400.

18 Section 38. Section 5.44.056 of the Seattle Municipal Code (Ordinance 72630, §
19 4(part), as last amended by Ordinance 113611 § 1(part)) is renumbered 5.44.416 and further
20 amended to read as follows:

21 **5.44.416 (~~(5.44.056)~~) Multiple activity exclusion from extracting for Seattle-taxed**
22 **selling and manufacturing -- Deduction for other taxed activity.**

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1 A. Exclusion for Seattle-taxed Activity. A person taxable under subsections A
2 (extracting), B (engaging in manufacturing), or D (milling wheat) of Section 5.44.400 may
3 exclude from the measure of the tax under subsection A (extracting) those amounts the
4 taxpayer used in measuring the tax payable under subsections A or ~~((;)) B ((~~or D~~)) ,
5 respectively, with respect to extracting the ingredients of the products manufactured or sold
6 in Seattle.~~

7 B. Deduction of Activity Taxed Elsewhere. A person taxable under subsection
8 5.44.400(A) (engaging in extracting) ~~((of Section 5.44.030))~~ may deduct from the measure
9 of the tax:

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

12 2. ~~((3.))~~ The value of products extracted in Seattle and manufacturing outside
13 Seattle and subjected to an eligible gross receipts tax elsewhere on manufacturing.

14 C. The amount of any deduction on any transaction shall not exceed the value of the
15 product so extracted in Seattle and reported as subject to tax under subsection ~~((A))~~
16 5.44.400(A).

17 Section 39. Section 5.44.058 of the Seattle Municipal Code (Ordinance 113611, § 2) is
18 renumbered 5.44.418 and further amended to read as follows:

19 **5.44.418 ((5.44.058)) Multiple activity exclusion -- Determination; documentation.**

20 A. A determination by a court, the State of Washington Department of Revenue, or the
21 Washington Attorney General that an out-of-state or foreign tax qualifies for a credit upon
22 the Washington business and occupation tax under RCW 82.04.440(5) shall establish that
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1 the tax is an "eligible gross receipts tax" for purposes of Sections 5.44.412 ~~((5.44.052))~~
2 through 5.44.418 ~~((5.44.058))~~. Unless the taxpayer proves otherwise, a determination by a
3 court of the State of Washington that such a tax does not qualify for a credit under RCW
4 82.04.440(5) shall render the amounts of the transactions ineligible for a deduction under
5 such sections.

6 B. To make a deduction authorized by Sections 5.44.412 ~~((5.44.052))~~ through 5.44.418
7 ~~((5.44.058))~~, inclusive, a taxpayer must be able to document that the amount deducted was
8 used in computing the amount of an eligible gross receipts tax and that the taxpayer paid the
9 tax due thereon.

10 Section 40. Section 5.44.070 of the Seattle Municipal Code (Ordinance 72630, § 6, as
11 last amended by Ordinance 117169 § 25) is renumbered 5.44.420 and further amended to
12 read as follows:

13 **5.44.420 ~~((5.44.070))~~ Persons in extracting/manufacturing both within and without**
14 **the City.**

15 A person who is subject to tax under subsections 5.44.400 A, B, D(2), or E ~~((5.44.030 A~~
16 ~~or B))~~ and maintains an office, plant, warehouse or other business establishment which is
17 partly within and partly outside of the City, shall be taxable on the value of products, gross
18 proceeds of sales, or gross income of the business attributable to business activity within the
19 City, ascertained either: (1) by a fair and equitable formula agreed upon by the Finance
20 Director and the taxpayer after a consideration of the facts; (2) by a segregation of business
21 within and business without ~~((outside))~~ the City, shown and supported by accounting records
22 satisfactory to the Director; or, (3) in the absence thereof, by an apportionment to the City of

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1 that part of the total value of products, gross proceeds of sales, or gross income of the
2 business derived from business both within and without ((outside)) the City in the proportion
3 that the cost of doing business within the City bears to the cost of doing business both within
4 and without ((outside of)) the City.

5 Section 41. Section 5.44.072 of the Seattle Municipal Code (Ordinance 110476, § 2,
6 as last amended by Ordinance 113690 § 2) is renumbered 5.44.422 and further amended to
7 read as follows:

8 **5.44.422 ((5.44.072)) Persons in wholesaling/retailing both within and without the**
9 **City.**

10 A. No place of business within the City—A person ((Person)) who is subject to tax
11 under subsections C ((,)) or D(1) ((, and E)) of Section 5.44.400 ((5.44.030)) and has no
12 office, store or other place of business within the ((this)) City, shall allocate to the City
13 ((Seattle)) the gross proceeds of all sales in which the taxpayer's business activity within the
14 City ((Seattle)) is either a determining element in the transaction or, under the facts and
15 circumstances, a significant factor in making or holding the market here. Mere delivery of
16 goods, without accompanying efforts to maintain an economic market, shall not constitute a
17 determining element in affecting a transaction.

18 B. Place of business within the City—A person who is subject to tax under subsections
19 C or D(1) of Section 5.44.400 and has ((Conversely, a taxpayer, who engages in the business
20 of making sales at wholesale or retail using)) an office, store, or other outlet within the City
21 and maintains no equivalent facility elsewhere in Washington, may deduct the gross
22 proceeds of sales, which (1) are used by another Washington city in levying and collecting a

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1 tax or ((a)) license fee ((or tax)) measured by gross receipts and (2) reflect business activity
2 conducted in the taxing city that is either a determining element in a transaction or a
3 significant factor in making or holding the taxpayer's market there. Delivery of goods to a
4 location outside the City, without accompanying efforts to maintain an economic market,
5 shall not constitute a determining element in affecting a transaction.

6 C. Place of business both within and without the City--A person ((;)) who engages in
7 the business of making sales at wholesale or retail using an office, store or other outlet
8 within the ((this)) City and maintains another equivalent facility elsewhere in Washington,
9 may allocate the gross proceeds of sales to the office, store or outlet in Washington where
10 the predominant selling activity occurs.

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

16 Section 42. Section 5.44.074 of the Seattle Municipal Code (Ordinance 110476, § 3)
17 is renumbered 5.44.424 and amended to read as follows:

18 **5.44.424 ((5.44.074)) Allocation principles -- Motor carriers of freight for hire.**

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

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

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

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

15 4. Such a taxpayer, who maintain no office or terminal with The City of Seattle and
16 engages in no solicitation or business activity within the City, shall allocate all gross receipts
17 to the municipality where the office or terminal is located irrespective of the place of pickup
18 or delivery.

19 5. ((D-)) Gross receipts of such a taxpayer that are not attributable to transportation
20 services, such as investment income, truck repair, and rental of equipment, shall be allocated
21 to the office or terminal conducting such activities; and
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1 6. ~~((E-))~~ No allocation of the gross receipts of such a taxpayer shall be made on the
2 account of the use of City streets or highways when no pickup or delivery occurs there.

3 B. The word "terminal" means a location at which any three of the following four occur:
4 dispatching takes place, from which trucks operate or are serviced, personnel report and
5 receive assignments, and orders are regularly received from the public.

6 C. Gross receipts of such a taxpayer that are attributable to transportation services shall
7 be reported under subsection 5.44.400(F).

8 Section 43. Section 5.44.075 of the Seattle Municipal Code (Ordinance 111427, § 1,
9 as last amended by Ordinance 117169 § 26) is renumbered 5.44.426 and further amended to
10 read as follows:

11 5.44.426 ((5.44.075)) Allocation principles -- Property maintenance services.

12 The following principles apply in measuring the amount of tax or fee due under
13 subsection 5.44.400(F) from persons who are engaged in the business of providing property
14 management, building maintenance, grounds maintenance, security guarding, and other like
15 continuous maintenance services, which consist almost entirely in labor or services
16 performed on the premises served, itself:

17 A. If the taxpayer maintains no office or place of business within the City ((Seattle)), the
18 tax shall be measured by the gross income of the business derived from services performed
19 on property located within the city limits ((Seattle));

20 B. If the taxpayer maintains an office or place of business within the City ((Seattle)),
21 and none elsewhere, the tax shall be measured by the gross income of the business from
22 services, both within the City ((Seattle)) and elsewhere; provided, the taxpayer may deduct
23

1 the amount of gross receipts derived from services performed in another city that has levied
2 and collected a gross receipts tax on those receipts; ((less a deduction for the taxpayer's
3 gross income derived from services performed on property within another city, levies a tax
4 on gross receipts and considers that income in calculating the amount of business and
5 occupation taxes due there; and))

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

18 Section 44. Section 5.44.076 of the Seattle Municipal Code (Ordinance 72630, § 6, as
19 last amended by Ordinance 117801 § 4) is renumbered 5.44.428 and further amended to read
20 as follows:

21 **5.44.428 ((5.44.076)) Persons rendering services both within and without the City.**
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1 Unless Section 5.44.424 (~~(5.44.074)~~) or Section 5.44.426 (~~(5.44.075)~~) applies, a person
2 who is subject to tax under subsection 5.44.400(F) (~~(5.44.030-F)~~) and engages in ~~((the))~~
3 business ~~((of rendering services))~~ both within and without the City, and maintains an office
4 or place of business within the City and not elsewhere, shall be taxable on the gross income
5 from the business without regard to the place where the services are rendered; and such a
6 person who has an office or place of business within the City and also elsewhere shall, for
7 the purpose of computing tax liability under this chapter, allocate to the City that portion of
8 the taxpayer's gross income which is derived from services and/or business activity rendered
9 by, generated from or attributable to an office and/or place of business located within the
10 City. Where such allocation cannot be made by accounting methods satisfactory to the
11 Finance Director, the taxpayer shall apportion to the City that portion of his or her total
12 gross income which the cost of doing business within the City bears to the total cost of doing
13 business both within and without the City.

14 Section 45. Section 5.44.078 of the Seattle Municipal Code (Ordinance 110476, § 5,
15 as last amended by Ordinance 117169 § 2F) is renumbered 5.44.430 further amended to read
16 as follows:

17 **5.44.430 (~~(5.44.078)~~) Ancillary allocation authority of Director.**

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

20 A. Agree with one (1) or more Washington cities for a joint audit of a taxpayer, and for
21 the reciprocal application of common principles or policies, consistent with Sections
22 5.44.420 (~~(5.44.070)~~) through 5.44.428 (~~(5.44.076)~~) for the allocation or apportionment of
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1 the gross proceeds of sales, gross receipts, or gross income with respect to any taxpayer or
2 any line of commerce; and

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

9 Section 46. Section 5.44.060 of the Seattle Municipal Code Ordinance 72630, § 5, as
10 last amended by Ordinance 117169 § 24) is renumbered 5.44.440 and further amended to
11 read as follows:

12 **5.44.440 ((5.44.060)) Determination of value of products.**

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

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

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

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

9 Section 47. Section 5.44.080 of the Seattle Municipal Code (Ordinance 72630, § 8, as
10 last amended by Ordinance 117169 § 29) is renumbered 5.44.442 and further amended to
11 read as follows:

12 **5.44.442 ((~~5.44.080~~)) Sales by consignee, bailee, factor or auctioneer.**

13 A. Every consignee, bailee, factor or auctioneer having either actual or constructive
14 possession of tangible personal property or having possession of the documents of title
15 thereto, with power to sell such tangible personal property in his or her or its own name and
16 actually so selling shall be deemed the seller of such tangible personal property within the
17 meaning of this chapter; and further, the consignor, bailor, principal or other shall be deemed
18 a seller of such property to the consignee, bailee, factor or auctioneer.

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

3 Section 48. Section 5.44.068 of the Seattle Municipal Code (Ordinance 114850, § 2)
4 is renumbered 5.44.444 and amended to read as follows:

5 **5.44.444 ((5.44.068)) Persons engaged in telephone business -- Resale of network**
6 **telephone services.**

7 A person engaging in or carrying on a telephone business, as defined in subsection ((E of
8 Section)) 5.48.020(A)(21), shall be subject to tax under subsection ((C of Section 5.44.030))
9 5.44.400(C) with respect to income from charges to a telecommunications company as
10 defined in RCW 80.04.010 for network telephone service that the purchaser buys for the
11 purpose of resale, as contemplated by RCW 35.21.715.

12 Section 49. Section 5.44.090 of the Seattle Municipal Code (Ordinance 72630, §
13 9, as last amended by Ordinance 117914 § 2) is renumbered 5.44.450 and further amended
14 to read as follows:

15 **5.44.450 ((5.44.090)) Exemptions -- Designated.**

16 The provisions of this subchapter ((chapter)) shall not apply to:

17 A. Any person in respect to a business activity with respect to which tax liability is
18 specifically imposed under the provisions of SMC Chapter 5.48 (Business Utilities Tax) or
19 SMC subsection 5.52.030(B) ((5.52.010-B)) (Bona fide Charitable or Nonprofit organization
20 gambling activity ((tax))), as amended;

21 B. Any person who is an insurer ((in respect to insurance business)) upon which a tax
22 based on gross premiums is paid to the state pursuant to RCW 48.14.020; provided that the

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1 provisions of this subsection shall not exempt any person engaging in the business of
2 insurance as a broker as defined in RCW 48.17.020 or as a solicitor as defined in RCW
3 48.17.030; and provided further, that the provisions of this subsection shall not exempt any
4 bonding company from tax with respect to gross income derived from the completion of any
5 contract as to which it is a surety, or as to any liability as successor to the liability of the
6 defaulting contractor;

7 C. Any person who sells, delivers, or peddles any fruits, vegetables, berries, eggs, or
8 any farm produce or edibles raised, gathered, produced, or manufactured by such person
9 according to the provisions of RCW 36.71.090 and any sales by farmers of agricultural
10 products at wholesale according to the provisions of RCW 82.04.330;

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

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

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

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

20 H. The gross income received by the United States or any instrumentality thereof, by the
21 state, or any municipal subdivision thereof, or by any religious society, religious association
22 or religious corporation, through the operation of any hospital, clinic, resort or other
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1 institution devoted exclusively to the care or healing of human beings; provided, that no
2 exemption is granted where the income therefrom inures to the benefit of any physician,
3 surgeon, stockholder or individual by virtue of ownership or control of such hospital, clinic,
4 resort or other institution;

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

9 J. The business of manufacturing, selling, or distributing motor vehicle fuel, as the term
10 "motor vehicle fuel" is defined in RCW 82.36.010 and exempt under RCW 82.36.440;

11 K. Liquor as ~~((that term is))~~ defined in RCW 66.04.010(15) ~~((46))~~ and exempt in
12 RCW 60.08.120;

13 L. Any nonprofit tax-exempt organization in respect to the operation of "sheltered
14 workshops," as such term is defined in RCW 82.04.385; and ~~((:))~~

15 M. Any credit union chartered by the State of Washington or the government of the
16 United States as defined in RCW 31.12 and exempt in RCW 82.04.405.

17 Section 50. Section 5.44.100 of the Seattle Municipal Code (Ordinance 72630, § 9.1,
18 as last amended by Ordinance 85026 § 1) is renumbered 5.44.460 and further amended to
19 read as follows:

20 **5.44.460 ((5.44.100)) Exemptions -- Accommodation sales ((Sales for resale)).**

21 This subchapter shall not apply to sales for resale by persons regularly engaged in the
22 business of making sales of the type of property so sold to other persons similarly engaged

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1 in the business of selling such property where: (A) the amount paid by the buyer does not
2 exceed the amount paid by the seller to his vendor in the acquisition of the article, and (B)
3 the sale is made as an accommodation to the buyer to enable him to fill a bona fide existing
4 order of a customer or is made within fourteen (14) days to reimburse in kind a previous
5 accommodation sale by the buyer to the seller; provided, that where the seller holds himself
6 out as being regularly engaged in the business of making sales at wholesale of such property,
7 such sales shall be incidental to his principal business activity.

8 Section 51. Section 5.44.110 of the Seattle Municipal Code (Ordinance 72630, § 10,
9 as last amended by Ordinance 118022 § 1) is renumbered 5.44.470 and further amended to
10 read as follows:

11 **5.44.470 ((5.44.110)) Deductions allowed in computing tax or ((license)) fees.**

12 In computing the ~~((license fee or))~~ tax or fee due in this subchapter, there may be
13 deducted from the measure of tax the following items:

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

16 B. Amounts derived from bona fide initiation fees, dues, contributions, donations,
17 tuition fees, charges made for operation of privately operated kindergartens, charges made
18 for operation of childcare service providers for provision of childcare services for school-age
19 children either before or after regular school hours, and endowment funds. However, if dues
20 are in exchange for any significant amount of goods or services rendered by the recipient
21 thereof to members without any additional charge to the member, or if the dues are
22 graduated upon the amounts of goods or services rendered, the value of such goods or
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1 services shall not be considered as a deduction hereunder. The provisions of this subsection
2 shall not be construed to exempt any person, association or society from tax liability upon
3 selling tangible personal property or upon providing facilities or services for which a special
4 charge is made to members or others;

5 C. The amount of cash discount actually taken by the purchaser. This deduction is not
6 allowed in arriving at the taxable amount under the extractive and/or manufacturing
7 classifications with respect to articles produced or manufactured, the reported values of
8 which, for the purposes of this tax, have been computed according to the provisions of
9 Section 5.44.440 ((5.44.060));

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

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

16 F. Amounts received from the United States or any instrumentality thereof or from the
17 State of Washington or any municipal corporation or political subdivision thereof as
18 compensation for, or to support, health or social welfare services rendered by a health or
19 social welfare organization or by a municipal corporation or political subdivision, except
20 deductions are not allowed under this section for amounts that are received under an
21 employee benefit plan. The terms "health or social welfare services" and "health or social
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welfare organization," have the meanings contained in RCW 82.04.431, enacted as Chapter
196, Laws of 1979, 1st Ex. Sess. Section 6, as now existing or hereafter amended;

G. Amounts excluded by allocation or apportionment pursuant to Sections 5.44.420
~~((5.44.070))~~ through 5.44.430 ~~((5.44.078))~~ inclusive; provided, no allocation or
apportionment by Sections 5.44.422 ~~((5.44.072))~~ through 5.44.428 ~~((5.44.076))~~ inclusive
shall reduce taxes payable with respect to extracting or manufacturing under subsections ~~((A~~
~~and B of Section 5.44.030))~~ 5.44.400 (A), (B), (D)(2) or (E);

H. With respect to any nonprofit ~~((;))~~ tax-exempt organization, as defined in SMC
subsection ~~((Section))~~ 5.40.010(C) ~~((C and))~~ which has registered and been granted an
exemption from the collection of admission tax as provided in SMC Sections 5.40.080 and
~~((through))~~ 5.40.085, revenues from admission charges, ~~((as defined in SMC Section~~
~~5.40.010, to an opera, concert, dance recital, or like musical entertainment, a play, puppet~~
~~show or dramatic reading, an exhibition of painting, sculpture, or artistic or historical objects~~
~~or a museum, historic vessel or science center;))~~ when admission taxes do not apply under
SMC Chapter 5.40 ~~((Section 5.40.020))~~;

~~((Amounts received by artistic or cultural organizations which represent income~~
~~derived from business activities conducted by the organizations, if the artistic or cultural~~
~~organization is registered as provided in SMC Sections 5.40.080 through 5.40.085. The term~~
~~"artistic or cultural organization" has the meanings contained in RCW 82.04.4328, as now~~
~~existing or hereafter amended;))~~

I ~~((;))~~ Amounts received by nonprofit tax-exempt organizations in respect to (1)
presenting individual and community credit education programs including credit and debt

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1 counseling; (2) obtaining creditor cooperation allowing a debtor to repay debt in an orderly
2 manner; (3) establishing and administering negotiated repayment programs for debtors; or
3 (4) providing advice or assistance to a debtor with regard to subsection (1), (2), or (3) of this
4 subsection;

5 J. ((K-)) Amounts received by nonprofit tax-exempt organizations which represent
6 income derived from the provision of child care resource and referral services; and ((-))

7 K. Amounts received by nonprofit tax-exempt organizations which represent income
8 derived from the provision of adult day care; where care is provided for persons over the age
9 of eighteen (18) years for periods of less than twenty-four (24) hours.

10 Section 52. There is added a new Section 5.44.480 to chapter 5.44 of the Seattle
11 Municipal Code as follows:

12 **5.44.480 Tax or fees not to be passed on.**

13 It is not the intention of this subchapter that the taxes or fees herein levied upon persons
14 engaging in business be construed as taxes or fees upon the purchasers or customer, but that
15 such taxes or fees shall be levied upon, and collectible from, the person engaging in the
16 business activities herein designated and that such taxes or fees shall constitute a part of the
17 cost of doing business of such persons.

18 Section 53. Section 5.44.320 of the Seattle Municipal Code (Ordinance 115259, § 1)
19 is repealed in its entirety:

20 **((5.44.320 Refund if ordered under National Can decision.**

21 If a Washington appellate court or the Superior Court in a case not appealed, should
22 determine that the decision of the United States Supreme Court in Tyler Pipe Industries,

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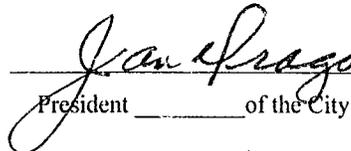
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Norma J Bush/njb
9/23/96
Ver. 2

1 ~~Inc. v. Washington State Department of Revenue, 483 U.S. 232 (1987), applies~~
2 ~~retroactively and that a refund is required of City business and occupation taxes paid for the~~
3 ~~period before June 23, 1987, then as to those taxpayers with pending lawsuits, the~~
4 ~~deductions allowed by Sections 5.44.050 through 5.44.058 shall apply in measuring the~~
5 ~~amount of refund due within the applicable limitations period. This section shall apply only~~
6 ~~to the extent that such a court judgment orders a refund to be paid to the taxpayer for the~~
7 ~~back period as necessary to remedy taxes unconstitutionally collected.)~~

8 Section 54. The provisions of this ordinance are declared to be separate and severable.
9 The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this
10 ordinance, or the invalidity of the application thereof to any person or circumstance shall not
11 affect the validity of the remainder of this ordinance, or the validity of its application to
12 other persons or circumstances.

13 Section 55. This ordinance shall take effect and be in force thirty (30) days from and
14 after its approval by the Mayor, but if not approved and returned by the Mayor within ten
15 (10) days after presentation, it shall take effect as provided by Municipal Code Section
16 1.04.020.

17 PASSED by the City Council of the City of Seattle this 7 day of October,
18 1996, and signed by me in open session in authentication of its passage this 7 day of
19 October, 1996.

20 
21 President _____ of the City Council

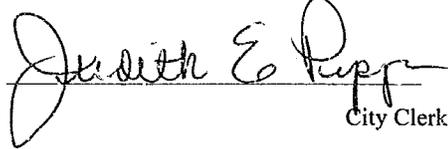
22 Approved by me this 17 day of October, 1996.

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Mayor

Filed by me this 18 day of October, 1996.


City Clerk

(Seal)

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1 Section 29. There is added a new Section 5.44.310 to Chapter 5.44 of the Seattle
2 Municipal Code as follows:

3 **5.44.310 Renewal of license.**

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

- 8 A. One to 30 days after the expiration date, inclusive; a penalty of Five Dollars (\$5.00).
9 B. 31 to 60 days after the expiration date, inclusive; a penalty of Ten Dollars (\$10.00).
10 C. More than 61 days after the expiration date; a penalty of Twenty Dollars (\$20.00).

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

15 Section 30. There is added a new Section 5.44.320 to Chapter 5.44 of the Seattle
16 Municipal Code as follows:

17 **5.44.320 License -- Not transferable or assignable -- Exceptions.**

- 18 A. A license is not assignable or transferable, except that a license may be transferred:
19 1. To the surviving or new corporation, whenever the licensed corporation is merged
20 or consolidated pursuant to RCW Chapter 23B.11, as now or hereafter amended;
21 2. To the surviving partner, or to a new partnership which consists exclusively of the
22 surviving partners, whenever one (1) partner of a licensed partnership dies;

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1 It shall be unlawful for any person liable for fees under this subchapter to fail or refuse to
2 secure the license, or to pay the license fee when due, or for any person to make any false or
3 fraudulent application or any false statement or representation in, or in connection with, any
4 such application, or to aid or abet another in any attempt to evade payment of the license fee,
5 or any part thereof, or for any person to fail to appear and/or testify in response to subpoena
6 issued pursuant hereto, or to testify falsely upon any investigation of the correctness of a
7 license application, or upon the hearing of any appeal, or in any manner to hinder or delay
8 the City or any of its officers in carrying out the provisions of this subchapter.

9 Section 33. There is added a new Section 5.44.350 to Chapter 5.44 of the Seattle
10 Municipal Code as follows:

11 **5.32.350 License not obtained.**

12 License fees shall be collected for the application year only; except in the case of a
13 person found to be engaged in business in the City without a license. Demands for any
14 license fees or penalties due as a result of failure to obtain and maintain a license as provided
15 for under this subchapter may be made by the Director within ten (10) years after the close
16 of the calendar year in which the same accrued.

17 Section 34. There is added a new Subchapter III Business License Tax and Section
18 5.44.030 of the Seattle Municipal Code (Ordinance 72630, § 3, as last amended by
19 Ordinance 187801 § 3) is renumbered 5.44.400 and further amended to read as follows:

20 **Subchapter III Business License Tax**

21 **5.44.400 ((5.44.030)) Tax or fee levied.**

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City of Seattle
Department
of Finance

Dwight D. Dively
Director of Finance

Norman B. Rice
Mayor

September 9, 1996

The Honorable Jan Drago
President, Seattle City Council
600 Fourth Avenue, 11th Floor
Seattle, Washington 98104

Via: Mayor's Office

Attention: Tom Tierney, Director, Office of Management and Planning

Subject: Revisions to SMC Chapter 5.44: Business and Occupation Tax

Dear Councilmember Drago:

The attached ordinance amends Chapter 5 of the Seattle Municipal Code. It continues the ongoing efforts of the Finance and Law Departments to clarify the City's tax code.

This ordinance is part of a set of four ordinances that make related changes to SMC Chapter 5. The attached ordinance covers Chapter 5.44, which provides the legal basis for the City's business license and Business & Occupation (B&O) tax. The other three ordinances cover Chapter 5.32 (general revenue license provisions), Chapter 5.48 (utility taxes), and Chapter 5.52 (gambling taxes). Since many of the proposed changes are inter-related, we request that all four ordinances be considered together.

Summary

The attached ordinance extensively rewrites Chapter 5.44, Business and Occupation Tax. The rewrite has five purposes:

1. To remove arcane, confusing language and correct out-of-date references.
2. To divide the Chapter into three Subchapters to improve clarity. The three subchapters are "General Provisions", "Business License", and "Business License Tax." Organizing the Chapter in this way reduces duplication and clarifies which provisions apply to the business license and which apply to the B&O tax.
3. To increase the incentive to obtain licenses, file returns, and make payments in a timely manner by updating old penalties that are inconsistent with recent Council actions to encourage prompt collection of debts.
4. To clarify the business license and B&O tax requirements for doing business with the City.
5. To make several small policy changes, which are discussed in detail below.

The Seattle Business and Occupation Tax is intended to be an easy tax to administer, which any taxpayer should be able to report without the assistance of a paid tax preparer. However, almost 300 changes have been made in an incremental fashion since 1943, which has resulted in a code that is sometimes difficult to understand. The proposed

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revisions are intended to produce a code which can be understood by the average layperson. Sections have been combined or relocated to make the code more logical and easier to follow. Clearer, more specific language has been used to state the intent of the tax policy. A number of references to sections, subsections, and the Revised Code of Washington have also been corrected.

While this revision is not intended to increase revenue, it will establish policy for the City. Changes made to the following sections are probably of the greatest significance: 5.44.090 "Payments - Extension - Penalties"; 5.44.100 "Over or under payment of tax or fee"; 5.44.110 "Quitting, selling, or transferring of business"; 5.44.190 "Violation - Penalty"; and 5.44.470 "Deductions allowed in computing tax or fees."

Section Review

The following list outlines the nature and purpose of the changes proposed for each section of Chapter 5.44. The list is in the order the sections are presented in the ordinance, which corresponds to the proposed new numbering of sections. Thus, the order presented below does not follow the existing Municipal Code.

Subchapter I - General Provisions

5.44.010 Exercise of revenue license power.

New language has been added reiterating that it is the responsibility of the taxpayer to comply with the tax code.

5.44.020 Definitions generally.

A reference to the RCW has been updated to include definitions added in 1994. No substantive change results from this modification.

5.44.022 Definitions, A-I.

Definitions for "bimonthly period" and "City Auditor" have been removed since these terms do not occur in the code. Definitions for "consumer" and "department" have been added since both terms are used extensively in 5.44. A definition for "insurer" has been added. Several other definitions have been clarified or expanded, especially "engaging in business". No substantive changes result from these modifications.

5.44.024 Definitions, J-R.

Definition for "licensee" and "newspaper" have been added and the definition of "person" has been updated to explicitly include limited liability corporations and nonprofit, tax-exempt organizations. The definition of nonprofit, tax-exemption organizations has been updated to correspond with federal law. No substantive change results from these new definitions.

5.44.026 Definitions of "sale".

This has always been a confusing section because of the difference between sales at retail and sales at wholesale. Old subsection 2 started with a definition of retail but immediately provided five examples of wholesale and ended with another definition of retail. Subsection 10 gave the RCW reference for wholesale sales. To resolve this confusion, paragraphs have been reordered and renumbered, and cross-references have been corrected. A new subsection 6 has been added to specifically exclude from retail sales activity currently taxed under Chapter 5.48, the utility B&O tax. No substantive changes result from these new definitions, but the code will be much clearer.

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5.44.028 Definitions, S-Z.

No changes were made to this section except to correct references.

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

This section indicates that persons doing business with the City are liable for paying B&O tax on the value of City contracts, with very limited exceptions. No substantive changes were made to the tax liability or exceptions outlined in subsection A. Subsections B, C, and D were added. Subsection B indicates that all persons doing business with the City must have a business license. Subsection C clarifies that the tax liability applies not just on contracts with the City itself, but also to contracts with governments created by the City, such as the Retirement System and PDAs. Subsection D was moved from Section 5.44.170, and places responsibility on the contractor to pay taxes before receiving payment under a City contract.

5.44.040 Date due - Returns.

The business license fee has been moved to section 5.44.300. Additionally, there has been some confusion as to whether tax is paid on \$50,000 or \$50,001; the proposed ordinance clarifies this by adding that the B&O tax exemption applies if income "will be less than Fifty Thousand Dollars".

5.44.050 Computation of time.

A number of sections specify that an action should be taken in a certain number of days, but no method for counting days is prescribed. This new section will eliminate the confusion involved in determining the day the event should occur.

5.44.060 Payments due under this chapter.

Minor changes have been made to this section, primarily the removal of reference to the business license requirement.

5.44.070 Payment of tax or fees by NSF check.

Chapter 5.44 has lacked a penalty for paying taxes or business license fees by an NSF check. The proposed ordinance adds a \$20 penalty for NSF checks.

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

This section combines old sections 5.44.160 and 5.44.220 and makes minor changes to the language to clarify intent.

5.44.090 Payments -- Extension -- Penalties.

Extensive changes have been made to this section. These changes are in keeping with the City's intent to ensure prompt collection of funds due to the City.

1. The minimum penalty for each late period was initially established in 1976 when the penalty section was created; the minimum amount due has not been increased since then. The ordinance increases the first late period penalty from \$5 to \$10; the second late period penalty from \$15 to \$20; and the last late period penalty from \$25 to \$40.
2. The old subsection C of 5.44.210 related to interest and penalties on late audit and assessment payments is moved here to increase clarity. Minimum penalties for late payments are increased from \$5 to \$20.

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3. Subsection D has been added to provide sanctions against those businesses that are repeatedly not filing and paying taxes. Very few accounts are taken to the point of issuing a citation or criminal complaint, but this provides an additional enforcement tool in such circumstances. This is consistent with existing Finance Department authority in other sections of the Municipal Code.
4. Subsection E has been added to deal with taxpayers that consistently refuse to follow written instructions. During or immediately after an audit, a taxpayer generally is provided with specific instructions on how to file correctly. In very rare instances, the taxpayer does not agree with the filing instructions and does not/will not comply.
5. Subsection F has been added to limit the total amount of penalty which can be levied.

5.44.100 Over or under payment of tax or fee.

Several changes were made to this section:

1. Subsection C was moved to 5.44.090.
2. The old subsection D (now subsection C) was revised to increase clarity. As the subsection currently reads, the City does not have a statute of limitations on the collection of taxes from businesses that are not registered (licensed) with the City. The ordinance proposes to limit the collection of taxes to 10 years plus the current year. Thus, an unlicensed business "discovered" in 1997 would be required to report and pay on 1986 through 1997.
3. The new subsection D provides the Finance Director with the explicit authority to agree upon a reasonable settlement with a taxpayer.

5.44.110 Quitting, selling, or transferring of business.

All existing language on the sale or transfer of a business would be deleted. Instead, language would be added clarifying the tax responsibilities of the seller and purchaser of a business. The seller would have to file a final taxpayer return and the purchaser would need to ascertain whether the business owes the City any tax or fee. Upon notification, the City has six months in which to act; after six months, the City has no recourse to collect taxes owed if notice was provided.

5.44.120 Appeals and Judicial Review.

This section would be clarified to indicate that appeals to the Hearing Examiner can be made for taxes, fees, interest, and penalties. In addition, a statement has been added to indicate that the appeals process takes precedence over a refund request. In other words, the taxpayer has the opportunity to present factual information during the audit and to appeal issues of law during the appeal to the Hearing Examiner. If an audit is not appealed, no subsequent refund request for audit results would be allowed.

5.44.130 Director to make rules.

Minor grammatical changes have been made.

5.44.140 Mailing of notices.

References to licensees, fees, and interest have been added.

5.44.150 Unlawful actions.

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Minor editorial changes have been made.

5.44.160 Tax or fee additional to others.

Minor grammatical changes have been made.

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

Statements have been added that unpaid taxes and fees are a debt to the City and are a lien against assets.

5.44.180 Application to City's business activities.

This section indicates that the City must pay license fees and taxes when it conducts activities that would be taxable if done by a non-City entity. Employee associations have been added to this section.

5.44.190 Violation -- Penalty.

The Law Department has drafted new language for this section that clarifies the City's ability to enforce Chapter 5.44 through court action.

5.44.200 Returns confidential -- Exceptions.

Minor grammatical changes have been made to this section.

5.44.210 Fees for copies and research.

No changes have been made to this section.

Subchapter II - Business License

5.44.300 Business license required.

The requirement to obtain and maintain a business license was in old Section 5.44.130. This new section incorporates all of the requirements of 5.44.130; subsections A and B have been rearranged slightly to read better. Subsections C and D are unchanged. Subsection E has been added to clearly indicate that the business license is an annual license issued on a calendar year basis and cannot be prorated.

5.44.310 Renewal of license.

This section has been added to clarify the process by which business licenses are renewed. In addition, it specifies penalties for late renewal of licenses.

5.44.320 License -- Not transferable or assignable -- Exceptions.

Generally, a City business license is issued to a particular firm and cannot be sold, assigned or transferred. This section has been added to clarify when a business license can be assigned or transferred. This does not reflect a significant change in past practice.

5.44.330 Suspension or revocation of license.

Section 5.44.300 has provided for the revocation of a business license since 1943; however, the section did not provide clearly stated conditions that would result in revocation. The new section identifies actions

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or non-actions that will result in revocation, and also establishes procedures for revocation and appeal. Subsection B outlines steps to be taken by the licensee to appeal a suspension or revocation to the Hearing Examiner; the licensee could retain his/her license pending a hearing. Finally, subsection C indicates that no portion of the fee for a revoked license is refundable.

5.44.340 Unlawful acts.

This section mirrors old section 5.44.260. References to taxes have been changed to fees.

5.44.350 License not obtained.

This is a new section. Previously, the Code has been silent as to whether a person was liable for a license fee for years when business was carried on in the City but no license was obtained. This section would allow the Department to collect up to ten years of fees for years not previously paid. The ten year period is consistent with the provisions of Section 5.44.100.

Subtitle III - Business License Tax

This subtitle includes provisions related to the City's B&O tax.

5.44.400 Tax or fee levied.

Minor grammatical changes have been made to this section.

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

Minor changes were made to correct references to other code sections and to clarify the meaning of some subsections.

The principles established in SMC 5.44.050 through 5.44.058 (recodified herein as sections 5.44.410 through 5.44.418) were added to Seattle's business and occupation tax code in 1987 after the United States Supreme Court declared Washington State's multiple activities tax deduction unconstitutional. Since Seattle's multiple activities tax deduction mirrored that of the state's, the City corrected the same deficiencies in its tax code by adding the aforementioned code provisions. The state corrected its tax code by developing a series of credits which eliminates the chances of multiple taxation. The City used a series of deductions to accomplish the same task. An appeal has now been filed on behalf of a large taxpayer engaged in business within Seattle that claims that the City's scheme of providing deductions to eliminate possible multiple taxation is unconstitutional. The Washington State Supreme Court has already declared the state's credit scheme to be constitutional in American National Can vs. Department of Revenue (1990). If Seattle's deduction provisions are declared unconstitutional the language added in subsection SMC 5.44.410 (D) (recodified from SMC 5.44.050) states the City's intention to establish and operate under a credit system similar to that established by the state. The City's business and occupation tax code would then be corrected to read similar to the state's code. As stated in the ordinance language, it is the intent of this act to preserve the integrity of Seattle's business and occupation tax system and impose only that financial burden upon the City necessary to establish parity in taxation between taxpayers engaging in business within the City. This change would result in a difference in how certain businesses report their revenue, but would not result in a change in their taxes.

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

No changes were made except to clarify references to other code sections.

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

No changes were made except to clarify references to other code sections.

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

No changes were made except to clarify references to other code sections and to clarify the taxable basis under subsection C.

5.44.418 Multiple activity exclusion -- Determination; documentation.

No changes were made except to clarify references to other code sections.

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

No changes were made except to clarify references to other code sections.

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

This section has attempted to explain taxable wholesaling and retailing activity both within and outside the City in one long, confusing paragraph. To clarify the circumstances when activity would be taxable, the paragraph has been split into three subsections: A) no place of business within the City; B) place of business solely within the City; and C) places of business both within and outside the City. While there is no substantive change in tax liability, the proposed rewrite should eliminate most of the confusion previously created by this section.

5.44.424 Allocation principles -- Motor carriers of freight for hire.

A subsection has been added to clarify that transportation services is taxable under the service classification. A definition of a terminal has been added since "terminal" is used extensively in the section. This definition is consistent with State law.

5.44.426 Allocation principles -- Property services.

Property management has been explicitly added to the types of services covered by this section. Arcane, confusing language has been clarified.

5.44.428 Persons rendering services both within and without the City.

No changes were made except to clarify references to other code sections and to clarify phrasing.

5.44.430 Ancillary allocation authority of Director.

No changes were made except to clarify references to other code sections.

5.44.440 Determination of value of products.

Only minor grammatical changes were made.

5.44.442 Sales by consignee, bailee, factor or auctioneer.

Only minor grammatical changes were made.

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5.44.444 Persons engaged in telephone business -- Resale of network telephone services.

No changes were made except to clarify references to other code sections.

5.44.450 Exemptions -- Designated.

Several changes were made to clarify references to other code sections or to previously defined terms. The exemption for credit unions chartered under State law has been added. The definition of an "Insurer" has been added at 5.44.022 to clarify its use in this section.

This ordinance amendment clarifies the exemption contained in SMC 5.44.090(B), which this ordinance would recodify as SMC 5.44.450(B), which grants an exemption from gross income for persons engaged in "insurance business" who pay tax based upon gross premiums to the State.

In 1947, the State of Washington enacted a preemption clause for "insurers" from local business and occupation taxes. The 1947 legislation, which is now codified as RCW 48.14.020(4), states that "the state does hereby preempt the field of imposing excise or privilege taxes upon insurers or their agents, other than title insurers, and no county, city, town or other municipal subdivision shall have the right to impose any such taxes upon such insurers or their agents." Since prior to 1947, "insurers" have been required to pay a two percent (2%) premiums tax to the State and in so doing, under RCW 82.04.320, persons in the "insurance business" were exempt from paying State business and occupation taxes.

Ordinance 72695 (and later amended by Ordinance 81150) exempting those engaged in the "insurance business," was patterned after state law (which is now codified as RCW 82.04.320). The phrase was meant to include only those persons engaging in commercial insurance business as listed in RCW 48.11, which itemizes the insuring powers covered by Title 48, the state's insurance code.

In 1993, the State Legislature passed the Washington Health System Reform Act of 1993. To increase revenues, the Legislature imposed for the first time, a two percent (2%) premiums tax on health care providers, including HCSC's and HMO's under RCW 48.14.0201, (not RCW 48.14.020). After passage of the Health System Reform Act, the Legislature also exempted HCSC's and HMO's from the state business and occupation tax under RCW 82.04.322. However, the Legislature did not provide a preemption clause in RCW 48.14.0201 nor did the state add health care providers as taxpayers preempted from municipal excise taxes under RCW 48.14.020(4).

Historically, both the state and the City have always considered HCSC's and HMO's to be separate and different from "insurers," and the preemption language contained in RCW 48.14.020(4) applied only to "insurers" engaged in the commercial insurance business.

However, in a court action against the City by a HCSC, the HCSC claims that it is an "insurer" and that the State's preemption applies to it. The Department therefore proposes to amend SMC 5.44.090(B) (being recodified as SMC 5.44.450(B)), and to add the Department's historical definition of an "insurer" to clarify that the exemption for an insurance business has always been intended to apply to persons engaged in commercial insurance business as listed in RCW 48.11 and who paid a state premiums tax under RCW 48.14.020.

The state and City's historical interpretation that the exemption from municipal business and occupation taxes applies only to commercial insurers had always seemed clear. Because of the recent misunderstanding indicated in the suit from the HCSC however, this amendment is to clarify who is an insurer, and that only those paying the state premiums tax under RCW 48.14.020 are exempt from Seattle's business and occupation tax.

5.44.460 Exemptions -- Accommodation sales.

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No changes were made except to the title.

5.44.470 Deductions allowed in computing tax or fees.

Several changes have been made to correct references to other code sections. In addition, three policy changes have been proposed:

1. Subsection H provides a B&O tax deduction for a nonprofit, tax-exempt organization for the amount of revenue which would have been subject to admission taxes, if an exemption from the collection of admission taxes has been granted to the organization. The subsection has been amended to remove references to types of events and to clarify qualification for the deduction. No substantive change results from this rewording; it merely clarifies a confusing section.
2. Subsection I currently provides a B&O tax deduction for all amounts received by an artistic or cultural organization if the organization is exempt from admissions tax. This subsection is badly written as it stands. In addition, it allows organizations that are exempt from admissions taxes to compete in other lines of business (such as retail sales) without being subject to B&O tax. In the interest of fairness, the proposed ordinance therefore eliminates this deduction. The effect of the proposed changes to subsections H and I would be that any organization exempt from admissions tax would still be able to avoid B&O tax on any admissions charges. However, the organization would have to pay B&O tax on non-admissions revenues, such as retail sales.
3. New subsection K has been added to provide a deduction to nonprofit, tax-exempt adult day-care organizations.

5.44.480 Tax or fees not to be passed on.

This is a new section that clarifies the nature of the B&O tax: the tax is to be borne by the business, not the consumer.

Finally, the existing section 5.44.320 is repealed since it is no longer needed.

Thank you for your consideration of the proposed changes. Questions regarding this ordinance can be directed to Mel McDonald at 233-0071 or Norma Bush at 233-0010.

Sincerely,



Dwight Dively
Finance Director

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE
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AN ORDINANCE relating to occupational utility taxes; amending Seattle Municipal Code Sections 5.48.010, .020, .030, .050, .055, .060, .070, .072, .080, .090, .100, .110, .120, .140, .150, .160, .170, .200, and .210; adding Sections 5.48.095, .135, and .220; repealing Section 5.48.130, because it has been reworded and renumbered as 5.48.150; repealing 5.48.190 because it has been renumbered as 5.48.030(D) and (E); and repealing 5.48.250 because it has been renumbered as 5.48.070(D).

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Change*

AN ORDINANCE relating to business licenses and business and occupation taxes; amending Seattle Municipal Code Sections 5.44.010, .020, .022, .024, .026, .028, .030, .040, .050, .052, .054, .056, .058, .060, .068, .070, .072, .074, .075, .076, .078, .080, .090, .100, .110, .130, .140, .150, .160, .180, .190, .200, .205, .210, .230, .240, .250, .260, .270, .280, .290, .300, and .310; repealing 5.44.170, because it has been reworded and renumbered as 5.44.030(D); repealing 5.44.220, because it has been reworded and renumbered as 5.44.080(C); repealing Sections 5.44.320; adding Sections 5.44.050, .070, .310, .320, .340, .350, and .480; renumbering certain sections; creating three subchapters: Subchapter I General Provisions; Subchapter II Business License; and Subchapter III Business License Tax.

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City of Seattle

Executive Department—Office of Management and Planning

Thomas M. Tierney, Director
Norman B. Rice, Mayor

September 10, 1996

The Honorable Mark Sidran
City Attorney
City of Seattle

Dear Mr. Sidran:

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

REQUESTING DEPARTMENT: Finance

SUBJECT: AN ORDINANCE relating to business licenses and business and occupation taxes; amending Seattle Municipal Code Sections 5.44.010,.020,.022,.024,.026,.028,.030,.040,.050,.052,.054,.056,.058,.060,.068,.070,.072,.074,.075,.076,.078,.080,.090,.100,.110,.130,.140,.150,.160,.180,.190,.200,.205,.210,.230,.240,.250,.260,.270,.280,.290,.300, and .310; repealing Sections 5.44.170,.220, and .320; adding Sections 5.44.050,.070,.310,.320,.340,.350, and .480; renumbering certain sections; creating three subchapters: Subchapter I General Provisions; Subchapter II Business License; and Subchapter III Business License Tax.

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

After reviewing this request and any necessary redrafting of the enclosed legislation, return the legislation to OMP. Any specific questions regarding the legislation can be directed to Leda Young at 233-7268.

Sincerely,

Norman B. Rice
Mayor

by



for TOM TIERNEY
Director

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Enclosure

Accommodations for people with disabilities provided on request. An equal employment opportunity - affirmative action employer.
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September 10 1996

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STATE OF WASHINGTON - KING COUNTY

73476
City of Seattle, City Clerk

—ss.

No. ORDINANCE IN

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

CT:ORD 118314

was published on

10/24/96

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

Subscribed and sworn to before me on

10/24/96

Notary Public for the State of Washington,
residing in Seattle

Affidavit of Publication

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