

Ordinance No. 119611

Council Bill No. 112844

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The City of Seattle
Council Bill/Ordinance

AN ORDINANCE relating to business and occupation taxes, setting forth the exclusive process for appealing and seeking judicial review of a business and occupation tax assessment or denial of a request for a refund of business and occupation taxes paid, authorizing enforcement of a Hearing Examiner subpoena, and amending Section 5.44.120 SMC in accordance therewith.

10.5A

CF No. _____

Date Introduced: <u>AUG 09 1999</u>		
Date 1st Referred: <u>AUG 09 1999</u>	To: (committee)	<u>Finance & Budget Committee</u>
Date Re- Referred:	To: (committee)	
Date Re - Referred:	To: (committee)	
Date of Final Passage: <u>8/16/99</u>	Full Council Vote: <u>7-0</u>	
Date Presented to Mayor: <u>8/17/99</u>	Date Approved: <u>AUG 23 1999</u>	
Date Returned to City Clerk: <u>AUG 24 1999</u>	Date Published: <u>390</u>	T.O. <input checked="" type="checkbox"/> P.T. <input checked="" type="checkbox"/>
Date Voted by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

This file is complete and ready

Law Department

Law Dept. Review

The City of Seattle - Legislative Department

CHOE

Council Bill/Ordinance sponsored by: _____

Councilmember

Committee Action:

This file is complete and ready for presentation to Full Council. Committee: _____

(initial/date)

Law Department

ME

Law Dept. Review

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Review

City Clerk
Review

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ORDINANCE 119611

AN ORDINANCE relating to business and occupation taxes, setting forth the exclusive process for appealing and seeking judicial review of a business and occupation tax assessment or denial of a request for a refund of business and occupation taxes paid, authorizing enforcement of a Hearing Examiner subpoena, and amending Section 5.44.120 SMC in accordance therewith.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 5.44.120 of the Seattle Municipal Code is amended as follows:

5.44.120 Appeals and judicial review.

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

A. In order to appeal, a person aggrieved shall file a written appeal ("petition") with the Office of the Hearing Examiner within twenty (20) days from the date that the assessment or denial notice was mailed to the taxpayer, or within the period covered by any extension of said due date granted in writing by the Finance Director. The Finance Director may grant an extension of the appeal period only if the taxpayer, within the twenty (20) day period to appeal, makes written application showing good cause why an extension is necessary. A copy of the petition must be provided by the person filing it to the Finance Director and the City Attorney on or before the date the petition is filed with the Hearing Examiner. If no such petition is filed with the Hearing Examiner and provided to the Finance Director



1 and City Attorney within the twenty (20) day period, the assessment covered by the notice shall become
2 final and no refund request may be made for the audit period covered in that assessment.

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

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

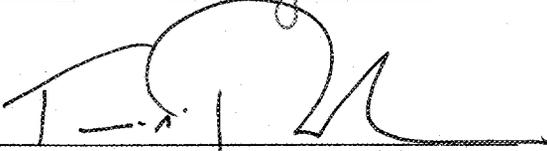
18 D. The Hearing Examiner may reverse or modify an action of the Director and ascertain the
19 correct amount of the tax, fee, interest, or penalty due if the Director's assessment or refund denial
20 violates the terms of this chapter. The decision of the Hearing Examiner shall be final and conclusive
21 unless the decision is reversed or remanded on judicial review. The taxpayer, any other person
22 beneficially interested, ~~((and/))~~ or the Finance Director ~~((may))~~ shall only ((seek)) obtain judicial
23 review of the decision of the Hearing Examiner by applying for a Writ of Review in the Superior Court
24



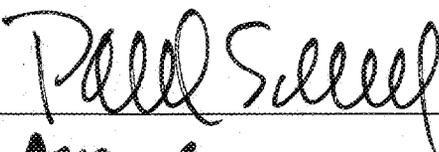
1 of Washington in and for King County in accordance with the procedure set forth in Chapter 7.16 RCW
2 and other applicable law and local court rules within fourteen (14) days from the date of the decision.

3 Section 2. This ordinance shall take effect and be in force thirty (30) days from and after its
4 approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after
5 presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

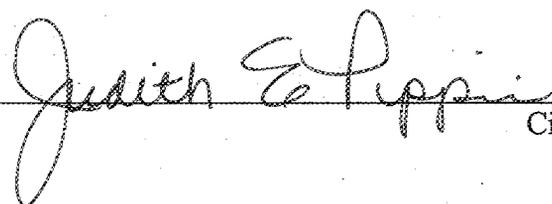
6 Passed by the City Council the 16th day of August, 1999, and signed by me in open
7 session in authentication of its passage this 16th day of August, 1999.

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9 
10 _____
President _____ of the City Council

11 Approved by me this 23rd day of August, 1999.

12
13 
14 _____ Mayor

14 Filed by me this 24 day of August, 1999.

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16 
17 _____ City Clerk

18 (Seal)

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ORDINANCE _____

AN ORDINANCE relating to business and occupation taxes, setting forth the exclusive process for appealing and seeking judicial review of a business and occupation tax assessment or denial of a request for a refund of business and occupation taxes paid, authorizing enforcement of a Hearing Examiner subpoena, and amending Section 5.44.120 SMC in accordance therewith.

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6 Passed by the City Council the ____ day of _____, 1999, and signed by me in open
7 session in authentication of its passage this ____ day of _____, 1999.

8
9 _____
10 President _____ of the City Council

11 Approved by me this ____ day of _____, 1999.

12
13 _____
14 Filed by me this ____ day of _____, 1999. Mayor

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16 _____
17 City Clerk

18 (Seal)
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STATE OF WASHINGTON - KING COUNTY

109422

City of Seattle, City Clerk

—ss.

No. **ORD IN FULL**

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 119611

was published on

08/26/99

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

H. Patterson

Subscribed and sworn to before me on

08/26/99

McLivaney

Notary Public for the State of Washington,
residing in Seattle

City of Seattle

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