

Ordinance No. 121679

Council Bill No. 115103

AN ORDINANCE relating to business licensing; adding exemptions for rental income and utility revenue taxed under SMC Chapter 5.48; providing for a two-tier business license fee structure; providing a grace period before assessing penalties to licensees that file annual business license renewals late; increasing the cost of annual and half-year business licenses and abolishing the surcharge on those licenses; adding Section 5.45.076; and amending Sections 5.30.20, 5.30.25, 5.30.030, 5.30.035, 5.30.040, 5.30.050, 5.30.060, 5.45.050, 5.45.070, 5.45.075, 5.45.076, 5.45.090, 5.55.030, 5.55.040, and 6.20.050, respectively, of the Seattle Municipal Code.

CF No. \_\_\_\_\_

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Date 1st Referred:	NOV 8 - 2004	To: (committee)	BUDGET
Date Re - Referred:		To: (committee)	
Date Re - Referred:		To: (committee)	
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Date Passed Over Veto:		Veto Sustained:	

# The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: \_\_\_\_\_

McIVER

Councilmember

## Committee Action:

11-12-04 Pass As Amended RM, JC, RC, DD, JD, JG, NL, TR, PS

11-22-04 Passed 9-0

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

(initial/date)

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Law Dept. Review

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**ORDINANCE**

121679

AN ORDINANCE relating to business licensing; adding exemptions for rental income and utility revenue taxed under SMC Chapter 5.48; providing for a two-tier business license fee structure; providing a grace period before assessing penalties to licensees that file annual business license renewals late; increasing the cost of annual and half-year business licenses and abolishing the surcharge on those licenses; adding Section 5.45.076; and amending Sections 5.30.20, 5.30.25, 5.30.030, 5.30.035, 5.30.040, 5.30.050, 5.30.060, 5.45.050, 5.45.070, 5.45.075, 5.45.076, 5.45.090, 5.55.030, 5.55.040, and 6.20.050, respectively, of the Seattle Municipal Code.

WHEREAS, in 2003, the Washington State Legislature passed Chapter 79, Session Laws of 2003, which established mandatory provisions of the Model Ordinance to be used by gross receipt business and occupation tax cities, codified in Chapter 35.102 RCW; and

WHEREAS, under Ch. 35.102 RCW, it is necessary that the City of Seattle adopt by ordinance the mandatory provisions of the Model Ordinance; and

WHEREAS, the City desires to give small businesses a reduction on their business licensing fee; and

WHEREAS, enforcement of the \$5 late penalty on annual business licenses costs more than the revenue it generates and the City desires to give licensees a grace period of one month before penalties are assessed; and

WHEREAS, the Seattle Municipal Code needs to be clarified for the licensing and taxing of trade show participants; NOW, THEREFORE,

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

**Section 1.** Section 5.30.020 of the Seattle Municipal Code is hereby amended as follows:

**5.30.020 Definitions, A--B.**

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H. "Business and occupation tax" or "gross receipts tax" means a tax imposed on or measured by the value of products, the gross income of the business, or the gross proceeds of sales, as the case may be, and that is the legal liability of the business.

**Section 2.** Section 5.30.025 of the Seattle Municipal Code is hereby amended as follows:

**5.30.025 Definitions, C--D.**

A. "Cash discount" means a deduction from the invoiced amount allowed by the seller if the ~~((bill))~~ invoice is paid within a certain time period or before a specified date.

B. "Cellular telephone service" is a voice or data telephone/telecommunications system based in whole or substantial part on wireless radio communications, whether or not the communications are subject to regulation by the Washington Utilities and Transportation Commission (WUTC). This includes cellular mobile service. Cellular mobile service includes other wireless radio communications services such as specialized mobile radio (SMR), personal communications services (PCS), and any other evolving wireless radio communications technology which accomplishes the same purpose as cellular mobile service.

C. "City" means the City of Seattle.

D. "Commercial or industrial use" means the following uses of products, including by-products, by the extractor or manufacturer thereof:

1. Any use as a consumer; and

2. ~~((Any use in t))~~ The manufacturing of ~~((products including))~~ articles, substances or commodities~~((; or))~~.

~~((3. Consigning, shipping or transferring extracted or manufactured products to~~

another either without consideration or in the performance of contracts.))

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**Section 3.** Section 5.30.030 of the Seattle Municipal Code is hereby amended as follows:

**5.30.030 Definitions, E--F.**

A. "Eligible gross receipts tax" means a tax which:

1. Is imposed on the act or privilege of engaging in business activities within SMC Section 5.45.050;
2. Is measured by the gross volume of business in terms of gross receipts, and is not an income tax or value added tax;
3. Is not, pursuant to law or custom, separately stated from the sales price;
4. Is not a sales or use tax, business license fee, franchise fee, royalty or severance tax measured by volume or weight, or concession charge, or payment for the use and enjoyment of property, property right or a privilege; and
5. Is a tax imposed by a local jurisdiction, whether within or without the State of Washington, and not by a Country, State, Province, or any other non-local jurisdiction above the county level.

B. "Engaging in business."

1. The term "engaging in business activity" means commencing, conducting, or continuing in business, and also the exercise of corporate or franchise powers, as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business.



1                   2. This section sets forth examples of activities that constitute engaging in  
2                   business in the City, and establishes safe harbors for certain of those activities so  
3                   that a person who meets the criteria may engage in de minimus business activities  
4                   in the City without having to register and obtain a business license or pay City  
5                   business and occupation ((license)) taxes. The activities listed in this section are  
6                   illustrative only and are not intended to narrow the definition of "engaging in  
7                   business" in subsection (1), above. If an activity is not listed, the issue of whether  
8                   it constitutes engaging in business in the City shall be determined by considering  
9                   all the facts and circumstances and applicable law.  
10

11                   3. Without being all inclusive, any one of the following activities conducted  
12                   within the City by a person, or its employee, agent, representative, independent  
13                   contractor, broker or another acting on its behalf constitutes engaging in business  
14                   and requires a person to register and obtain a business license:  
15

- 16                   a. Owning, renting, leasing, maintaining, or having the right to use, or  
17                   using, tangible personal property, intangible personal property, or real  
18                   property permanently or temporarily located in the City;  
19                   b. Owning, renting, leasing, using, or maintaining, an office, place of  
20                   business, or other establishment in the City;  
21                   c. Soliciting sales;  
22                   d. Making repairs or providing maintenance or service to real or tangible  
23                   personal property, including warranty work and property maintenance;  
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- e. Providing technical assistance or service, including quality control, product inspections, warranty work, or similar services on or in connection with tangible personal property sold by the person or on its behalf;
- f. Installing, constructing, or supervising installation or construction of, real or tangible personal property;
- g. Soliciting, negotiating, or approving franchise, license, or other similar agreements;
- h. Collecting current or delinquent accounts;
- i. Picking up and transporting tangible personal property, solid waste construction debris, or excavated materials;
- j. Providing disinfecting and pest control services, employment and labor pool services, home nursing care, janitorial services, appraising, landscape architectural services, security system services, surveying, and real estate services including the listing of homes and managing real property;
- k. Rendering professional services such as those provided by accountants, architects, attorneys, auctioneers, consultants, engineers, professional athletes, barbers, baseball clubs and other sports organizations, chemists, consultants, psychologists, court reporters, dentists, doctors, detectives, laboratory operators, teachers, veterinarians; ((~~or~~))
- l. Meeting with customers or potential customers, even when no sales or orders are solicited at the meetings((-));

1 m. Training or recruiting ((employees,)) agents, representatives,  
2 independent contractors, brokers or others domiciled or operating on a job  
3 in the City, acting on its behalf, or for customers or potential customers;

4 n. Investigating, resolving, or otherwise assisting in resolving customer  
5 complaints;

6 o. In-store stocking or manipulating products or goods, sold to and owned  
7 by a customer, regardless of where sale and delivery of the goods took  
8 place;

9 p. Delivering goods in vehicles owned, rented, leased, used, or maintained  
10 by the person who sold the goods or another acting on its behalf((-)); or  
11

12 q. Accepting or executing a contract with the City, irrespective of whether  
13 the goods or services are delivered within or without the City, or whether  
14 the person's office or place of business is within or without the City.  
15

16 4. If a person, or its employee, agent, representative, independent contractor,  
17 broker or another acting on the person's behalf, engages in no other activities in or  
18 with the City but the following, it need not register and obtain a business license  
19 and pay tax.  
20

21 a. Meeting with suppliers of goods and services as a customer;

22 b. Meeting with government representatives in their official capacity,  
23 other than those performing contracting or purchasing functions;  
24

25 c. Attending meetings, such as board meetings, retreats, seminars, and  
26





1 conferences, or other meetings wherein the person does not provide  
2 training in connection with tangible personal property sold by the person  
3 or on its behalf;

4 d. Renting tangible or intangible property as a customer when the property  
5 is not used in the City;

6 e. Attending, but not participating in, a "trade show". Persons  
7 participating at a trade show shall review the City's trade show ordinance,  
8 SMC Chapter 6.20;

9 f. Conducting advertising through the mail; or

10 g. Soliciting sales by phone from a location outside the City;

11  
12  
13 5. A seller located outside the City merely delivering goods into the City by  
14 means of common carrier is not required to register and obtain a business license  
15 provided that it engages in no other business activities in the City.

16 The City expressly intends that engaging in business include any activity sufficient to  
17 establish nexus for purposes of applying the tax under the law and the constitutions of the United  
18 States and the State of Washington.

19  
20 Nexus is presumed to continue as long as the taxpayer benefits from the activity that  
21 constituted the original nexus generating contact or subsequent contacts.

22  
23 C. "Extracting" means the activity engaged in by an extractor and is reportable under the  
24 extracting classification.

25 ~~((C))~~D. "Extractor" means every person who from the person's own land or from the land



1 of another under a right or license granted by lease or contract, either directly or by contracting  
2 with others for the necessary labor or mechanical services, for sale or for commercial or  
3 industrial use, mines, quarries, takes or produces coal, oil, natural gas, ore, stone, sand, gravel,  
4 clay, mineral or other natural resource product; or fells, cuts or takes timber, Christmas trees,  
5 other than plantation Christmas trees, or other natural products; or takes fish, or takes, cultivates,  
6 or raises shellfish, or other sea or inland water foods or products. "Extractor" does not include  
7 persons performing under contract the necessary labor or mechanical services for others; persons  
8 cultivating or raising fish entirely within confined rearing areas on the person's own land or on  
9 land in which the person has a present right of possession; or persons who fell, cut, or take  
10 plantation Christmas trees from the person's own land or from land in which the person has a  
11 present right of possession, or persons meeting the definition of farmer.  
12

14 E. "Extractor for Hire" means a person who performs under contract necessary labor or  
15 mechanical services for an extractor.

16 ((D))E. "Freight Broker" shall mean persons who sell, provide for, or arrange  
17 transportation by a motor carrier for compensation. Freight brokers do not themselves transport  
18 or contract to transport property from origin to destination.

20 **Section 4.** Section 5.30.035 of the Seattle Municipal Code is hereby amended as follows:

21 **5.30.035 Definitions, G--M.**

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24 D. "Gross income of the business" means the value proceeding or accruing by reason of  
25 the transaction of the business activity engaged in and includes gross proceeds of sales,  
26

1 compensation for the rendition of services, gains realized from trading in stocks, bonds or other  
2 evidences of indebtedness, interest, discount, rents, royalties, fees, commissions, dividends and  
3 other emoluments however designated, all without any deduction on account of the cost of  
4 tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs,  
5 taxes or any other expense whatsoever paid or accrued and without any deduction on account of  
6 losses.  
7

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9 H. "Manufacturer," "to manufacture."

10 1. "Manufacturer" means every person who, either directly or by contracting with  
11 others for the necessary labor or mechanical services, manufactures for sale or for  
12 commercial or industrial use from the person's own materials or ingredients any  
13 products. When the owner of equipment or facilities furnishes, or sells to the  
14 customer prior to manufacture, materials or ingredients equal to less than twenty  
15 percent (20%) of the total value of all materials or ingredients that become a part  
16 of the finished product, the owner of the equipment or facilities will be deemed to  
17 be a processor for hire and not a manufacturer. A business not located in this City  
18 that is the owner of materials or ingredients processed for it in this City by a  
19 processor for hire shall be deemed to be engaged in business as a manufacturer in  
20 this City.  
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24 2. "To manufacture" means all activities of a commercial or industrial nature  
25 wherein labor or skill is applied, by hand or machinery, to materials or ingredients  
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so that as a result thereof a new, different or useful product of tangible personal property is produced for sale or commercial or industrial use, and shall include:

- a. The production of special-made articles or custom-made articles;
- b. The production of dental appliances, devices, restorations, substitutes, or other dental laboratory products by a dental laboratory or dental technician;
- c. Crushing and/or blending of rock, sand, stone, gravel, or ore, and
- d. The producing of articles for sale, or for commercial or industrial use from raw materials or prepared materials by giving such materials, articles, and substances of trade or commerce new forms, qualities, properties or combinations including, but not limited to, such activities as making, fabricating, processing, refining, mixing, slaughtering, packing, aging, curing, mild curing, preserving, canning, and the preparing and freezing of fresh fruits and vegetables.

3. "To manufacture" shall not include the production of computer software if the computer software is delivered from the seller to the purchaser by means other than tangible storage media, including the delivery by use of a tangible storage media where the tangible storage media is not physically transferred to the purchaser.

I. "Motor Carrier" shall mean the carrier providing transportation for hire described in the definitions of "common carrier" and "contract carrier" as defined in RCW 81.80.010.



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Q. "Retailing" means the activity of engaging in making sales at retail and is reported under the retailing classification.

((Q))R. "Return" means any document a person is required by the City to file to satisfy or establish a tax or fee obligation that is administered or collected by the City and that has a statutorily defined due date.

((R))S. "Royalties" mean((s)) compensation for the use of intangible property, such as copyrights, patents, licenses, franchises, trademarks, tradenames and similar items.

((S))T. "Rubbish" has the meaning given in SMC Section 21.36.016.

**Section 6.** Section 5.30.050 of the Seattle Municipal Code is hereby amended as follows:

**5.30.050 Definitions, S.**

A. "Sale," "casual or isolated sale."

1. "Sale" means any transfer of the ownership of, title to, or possession of, property for a valuable consideration and includes any activity classified as a "sale at retail," ~~((or))~~ "retail sale," ~~((or))~~ "retail service." It includes renting or leasing, conditional sale contracts, leases with option to purchase, and any contract under which possession of the property is given to the purchaser but title is retained by the vendor as security for the payment of the purchase price. It also includes the furnishing of food, drink, or meals for compensation whether consumed upon the premises or not.

2. "Casual or isolated sale" means a sale made by a person who is not engaged in



the business of selling the type of property involved on a routine or continuous basis.

B. "Sale at retail," "retail sale."

1. "Sale at retail" or "retail sale" means every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons irrespective of the nature of their business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers, other than a sale to a person who presents a resale certificate under RCW 82.04.470 and who:

- a. Purchases for the purpose of resale as tangible personal property in the regular course of business without intervening use by such person; or
- b. Installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of or for consumers, if such tangible personal property becomes an ingredient or component of such real or personal property without intervening use by such person; or
- c. Purchases for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale; or

1 d. Purchases for the purpose of consuming the property purchased in  
2 producing ferrosilicon which is subsequently used in producing  
3 magnesium for sale, if the primary purpose of such property is to create a  
4 chemical reaction directly through contact with an ingredient of  
5 ferrosilicon; or

6 e. Purchases for the purpose of providing the property to consumers as  
7 part of competitive telephone service, as defined in RCW 82.04.065.  
8

9 The term shall include every sale of tangible personal property which is used or  
10 consumed or to be used or consumed in the performance of any activity classified  
11 as a "sale at retail" or "retail sale" even though such property is resold or utilized  
12 as provided in (a), (b), (c), (d), or (e) of this subsection following such use.  
13

14 2. "Sale at retail" or "retail sale" also means every sale of tangible personal  
15 property to persons engaged in any business activity which is taxable under  
16 ~~.050(1)(h)~~ SMC 5.45.050 G.  
17

18 3. "Sale at retail" or "retail sale" shall include the sale of or charge made for  
19 tangible personal property consumed and/or for labor and services rendered in  
20 respect to the following:

21 a. The installing, repairing, cleaning, altering, imprinting, or improving of  
22 tangible personal property of or for consumers, including charges made for  
23 the mere use of facilities in respect thereto, but excluding charges made for  
24 the use of coin-operated laundry facilities when such facilities are situated  
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1 in an apartment house, rooming house, or mobile home park for the  
2 exclusive use of the tenants thereof, and also excluding sales of laundry  
3 service to nonprofit health care facilities, and excluding services rendered  
4 in respect to live animals, birds and insects;

5 b. The constructing, repairing, decorating, or improving of new or existing  
6 buildings or other structures under, upon, or above real property of or for  
7 consumers, including the installing or attaching of any article of tangible  
8 personal property therein or thereto, whether or not such personal property  
9 becomes a part of the realty by virtue of installation, and shall also include  
10 the sale of services or charges made for the clearing of land and the  
11 moving of earth excepting the mere leveling of land used in commercial  
12 farming or agriculture;

13 c. The charge for labor and services rendered in respect to constructing,  
14 repairing, or improving any structure upon, above, or under any real  
15 property owned by an owner who conveys the property by title, possession,  
16 or any other means to the person performing such construction, repair, or  
17 improvement for the purpose of performing such construction, repair, or  
18 improvement and the property is then reconveyed by title, possession, or  
19 any other means to the original owner;

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

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

15 f. The sale of and charge made for the furnishing of lodging and all other  
16 services, except network telephone service and cable service, by a hotel,  
17 rooming house, tourist court, motel, trailer camp, and the granting of any  
18 similar license to use real property, as distinguished from the renting or  
19 leasing of real property, and it shall be presumed that the occupancy of real  
20 property for a continuous period of one month or more constitutes a rental  
21 or lease of real property and not a mere license to use or enjoy the same.  
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23 For the purposes of this subsection, it shall be presumed that the sale of  
24 and charge made for the furnishing of lodging for a continuous period of  
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one month or more to a person is a rental or lease of real property and not  
a mere license to enjoy the same;

g. The sale of or charge made for tangible personal property, labor and services to persons taxable under (a), (b), (c), (d), (e), and (f) of this subsection when such sales or charges are for property, labor and services which are used or consumed in whole or in part by such persons in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property, labor and services may be resold after such use or consumption.

Nothing contained in this subsection B 3 shall be construed to modify subsection 1 of this subsection B, and nothing contained in subsection B 1 shall be construed to modify this subsection B 3.

4. "Sale at retail" or "retail sale" shall also include the providing of competitive telephone service to consumers.

5. "Sale at retail" or "retail sale" shall also include the sale of canned software other than a sale to a person who presents a resale certificate under RCW 82.04.470, regardless of the method of delivery to the end user, but shall not include custom software or the customization of canned software.

6. "Sale at retail" or "retail sale" shall also include the sale of or charge made for labor and services rendered in respect to the building, repairing, or improving of any street, place, road, highway, easement, right of way, mass public

1 transportation terminal or parking facility, bridge, tunnel, or trestle which is  
2 owned by a municipal corporation or political subdivision of the state, the State of  
3 Washington, or by the United States and which is used or to be used primarily for  
4 foot or vehicular traffic including mass transportation vehicles of any kind.

5 (Public road construction).

6  
7 7. "Sale at retail" or "retail sale" shall also include the sale of or charge made for  
8 labor and services rendered in respect to the constructing, repairing, decorating, or  
9 improving of new or existing buildings or other structures under, upon, or above  
10 real property of or for the United States, any instrumentality thereof, or a county  
11 or city housing authority created pursuant to chapter 35.82 RCW, including the  
12 installing, or attaching of any article of tangible personal property therein or  
13 thereto, whether or not such personal property becomes a part of the realty by  
14 virtue of installation (government contracting).

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16 8. "Sale at retail" or "retail sale" shall not include the sale of services or charges  
17 made for the clearing of land and the moving of earth of or for the United States,  
18 any instrumentality thereof, or a county or city housing authority. Nor shall the  
19 term include the sale of services or charges made for cleaning up for the United  
20 States, or its instrumentalities, radioactive waste and other byproducts of weapons  
21 production and nuclear research and development. (This is reported under the  
22 service or other classification).

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24 9. "Sale at retail" or "retail sale" shall not include the sale of or charge made for  
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labor and services rendered for environmental remedial action as defined in RCW

82.04.2635(2) (This is reported under the service or other classification).

C. "Sale at wholesale," "wholesale sale." "Sale at wholesale" or "wholesale sale" means any sale of tangible personal property which is not a retail sale, and any charge made for labor and services rendered for persons who are not consumers, in respect to real or personal property and retail services, if such charge is expressly defined as a retail sale or retail service when rendered to or for consumers. Sale at wholesale also includes the sale of network telephone service to a telecommunications company as defined in RCW 80.04.010 for the purpose of resale, as contemplated by RCW 35.21.715.

Notwithstanding the above, "sale at wholesale" or "wholesale sale" shall specifically not include a distribution cooperative's or its distribution affiliate's sales of merchandise to a customer-owner of the distribution cooperative for the customer-owner's resale at retail. A distribution cooperative or a distribution affiliate is taxed on such sales pursuant to Section 5.45.050 G of the Seattle Municipal Code.

D. "Services." A definition of "services" will be adopted when the term is defined in RCW 82.04.

~~((D))~~E. "Software," "prewritten software," ~~("canned software,")~~ "custom software," "customization of canned software," "master copies," "retained rights."

1. "Prewritten software," or "((C))canned software" means computer software, including prewritten upgrades, that is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two

1 or more prewritten computer software programs or prewritten portions thereof  
2 does not cause the combination to be other than prewritten computer software.  
3 Prewritten computer software includes software designed and developed by the  
4 author or other creator to the specifications of a specific purchaser when it is sold  
5 to a person other than such purchaser. Where a person modifies or enhances  
6 computer software of which such persons is not the author or creator, the person  
7 shall be deemed to be the author or creator only of the person's modifications or  
8 enhancements. Prewritten computer software or a prewritten portion thereof that  
9 is modified or enhanced to any degree, where such modification or enhancement  
10 is designed and developed to the specifications of a specific purchaser, remains  
11 prewritten computer software; however, where there is a reasonable, separately  
12 stated charge or an invoice or other statement of the price given to the purchaser  
13 for the modification or enhancement, the modification or enhancement shall not  
14 constitute prewritten computer software. ((software that is created for sale to  
15 more than one (1) person. For purposes of this chapter, canned software is  
16 deemed to be tangible personal property regardless of the method of delivery—  
17 tangible media (i.e. disk or installed on hardware) or intangible (i.e. electronically  
18 over telecommunications paths).))

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22 2. "Custom software" means software created for a single person.

23  
24 3. "Customization of canned software" means any alteration, modification, or  
25 development of applications using or incorporating canned software to specific  
26

1 individualized requirements of a single person. Customization of canned software  
2 includes individualized configuration of software to work with other software and  
3 computer hardware but does not include routine installation. Customization of  
4 canned software does not change the underlying character or taxability of the  
5 original canned software.

6  
7 4. "Master copies" of software means copies of software from which a software  
8 developer, author, inventor, publisher, licensor, sublicensor, or distributor makes  
9 copies for sale or license. The software encoded on a master copy and the media  
10 upon which the software resides are both ingredients of the master copy.

11  
12 5. "Retained rights" means any and all rights, including intellectual property  
13 rights such as those rights arising from copyrights, patents, and trade secret laws,  
14 that are owned or are held under contract or license by a software developer,  
15 author, inventor, publisher, licensor, sublicensor, or distributor.

16  
17 6. "Software" means any information, program, or routine, or any set of one (1) or  
18 more programs, routines, or collections of information used, or intended for use,  
19 to convey information that causes one (1) or more computers or pieces of  
20 computer-related peripheral equipment, or any combination thereof, to perform a  
21 task or set of tasks. "Software" includes the associated documentation, materials,  
22 or ingredients regardless of the media upon which that documentation is provided,  
23 that describes the code and its use, operation, and maintenance and that typically  
24 is delivered with the code to the consumer. All software is classified as either  
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28

canned or custom.

((F))F. "Solid waste" has the meaning given in SMC Section 21.36.016.

((F))G. "Successor" means any person to whom a taxpayer quitting, selling out, exchanging or disposing of a business sells or otherwise conveys, directly or indirectly, in bulk and not in the ordinary course of the taxpayer's business, any part of the materials, supplies, merchandise, inventory, fixtures or equipment of the taxpayer. Any person obligated to fulfill the terms of a contract shall be deemed a successor to any contractor defaulting in the performance of any contract as to which such person is a surety or guarantor.

**Section 7.** Section 5.30.060 of the Seattle Municipal Code is hereby amended as follows:

**5.30.060 Definitions, T--Z.**

\*\*\*

F. "Value proceeding or accruing" means the consideration, whether money, credits, rights, or other property expressed in terms of money, a person is entitled to receive or accrue or which is actually received or accrued. The term shall be applied, in each case, on a cash receipts or accrual basis according to which method of accounting is regularly employed in keeping the books of the taxpayer. The value proceeding or accruing from sales on the installment plan under conditional contracts of sale shall be reported as of the dates when the payments become due.

G. "Value of products, how determined."

1. The value of products, including by-products, extracted or manufactured, shall be determined by the gross proceeds derived from the sale thereof, whether such



1 sale is at wholesale or at retail, to which shall be added all subsidies and bonuses  
2 received from the purchaser or from any other person with respect to the  
3 extraction, manufacture or sale of such products or by-products by the seller.

4 2. Where such products, including by-products, are extracted or manufactured for  
5 commercial or industrial use, and where such products, including by-products, are  
6 shipped, transported or transferred out of the City, or to another person, without  
7 prior sale or are sold under circumstances such that the gross proceeds from the  
8 sale are not indicative of the true value or the subject matter of the sale, the value  
9 shall correspond as nearly as possible to the gross proceeds from sales in this state  
10 of similar products of like quality and character, and in similar quantities by other  
11 taxpayers, plus the amount of subsidies or bonuses ordinarily payable by the  
12 purchaser or by any third person with respect to the extraction, manufacture or  
13 sale of such products. In the absence of sales of similar products as a guide to  
14 value, such value may be determined upon a cost basis. In such cases, there shall  
15 be included every item of cost attributable to the particular article or article  
16 extracted or manufactured, including direct and indirect overhead costs. The  
17 Director of Finance may prescribe uniform and equitable rules for the purpose of  
18 ascertaining such values.

19 3. Notwithstanding subsection 2 above, the value of a product manufactured or  
20 produced for purposes of serving as a prototype for the development of a new or  
21 improved product shall correspond to:

a. the retail selling price of such new or improved product when first offered for sale; or

b. the value of materials incorporated into the prototype in cases in which the new or improved product is not offered for sale.

H. "Wholesaling" means engaging in the activity of making sales at wholesale, and is reported under the wholesaling classification.

((H))I. "Yardwaste" has the meaning given in SMC Section 21.36.016.

**Section 8.** Section 5.45.050 of the Seattle Municipal Code is hereby amended as follows:

**5.45.050 Imposition of the tax--Tax or fee levied.**

Except as provided in SMC 5.55.040(D)(1), there is hereby levied upon and shall be collected from every person a tax for the act or privilege of engaging in business activities within the City, whether the person's office or place of business be within or without the City. The tax shall be in amounts to be determined by application of rates against gross proceeds of sale, gross income of business, or value of products, including by-products, as the case may be, as follows:

A. Upon every person engaging within the City in business as an extractor; as to such persons the amount of the tax with respect to such business shall be equal to the value of the products, including by-products, extracted within the City for sale or for commercial or industrial use, multiplied by the rate of two hundred fifteen one-thousandths of one percent (.00215). The measure of the tax is the value of the products, including by-products, so extracted, regardless of the place of sale or the fact that deliveries may be made to points outside the City.

B. Upon every person engaging within the City in business as a manufacturer, except

persons taxable under subsection D of this Section; as to such persons the amount of the tax with respect to such business shall be equal to the value of the products, including by-products, manufactured or processed within the City, multiplied by the rate of two hundred fifteen one-thousandths of one percent (.00215). The measure of the tax is the value of the products, including by-products, so manufactured or processed, regardless of the place of sale or the fact that deliveries may be made to points outside the City.

C. Upon every person engaging within the City in the business of making sales of retail services, or making sales at wholesale or retail, except persons taxable under subsection D of this section; as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of such sales of the business without regard to the place of delivery of articles, commodities or merchandise sold, multiplied by the rate of two hundred fifteen one-thousandths of one percent (.00215).

D. Upon every person engaging within the City in the business of:

1. Buying wheat, oats, corn, barley and rye, but not including any manufactured or processed products thereof, and selling the same at wholesale, the tax imposed shall be equal to the gross proceeds of such sales of the business without regard to the place of delivery of articles, commodities or merchandise sold, multiplied by the rate of two hundred fifteen ten-thousandths of one percent (.000215); or
2. Manufacturing wheat into flour; the tax imposed shall be equal to the value of the flour manufactured, multiplied by the rate of two hundred fifteen ten-thousandths of one percent (.000215).

E. Upon every person engaging within the City in the business of:

1. printing;
2. both printing and publishing newspapers, magazines, periodicals, books, music, and other printed items;
3. publishing newspapers, magazines and periodicals;
4. extracting for hire;
- ~~((4))~~5. processing for hire; or
- ~~((5))~~6. conducting a tour operator business; as to such persons, the amount of tax on such business shall be equal to the gross income of the business multiplied by the rate of two hundred fifteen one-thousandths of one percent (.00215).

F. Upon every motor carrier engaging within the City in the business of transporting freight for hire, as to such persons, the amount of the tax with respect to such business shall be equal to the gross income from the transport of freight picked up in the City multiplied by the rate of four hundred fifteen one-thousandths of one percent (.00415). The business of transporting freight for hire includes the business of leasing or renting motor vehicles operated by the lessor, or by a person under the control of the lessor, to transport freight for hire.

G. Upon every other person engaging within the City in any business activity other than or in addition to those enumerated in the above subsections; as to such persons, the amount of tax on account of such activities shall be equal to the gross income of the business multiplied by the rate of four hundred fifteen one-thousandths of one percent (.00415). This subsection includes, among others, and without limiting the scope hereof (whether or not title to material used in the

1 performance of such business passes to another by accession, merger or other than by outright  
2 sale), persons engaged in the business of developing, or producing custom software or of  
3 customizing canned software, producing royalties or commissions, persons engaged in the  
4 business of freight brokering, and persons engaged in the business of rendering any type of  
5 service which does not constitute a sale at retail, ~~((or))~~ a sale at wholesale, or a retail service.

7 **Section 9.** Section 5.45.070 of the Seattle Municipal Code is hereby amended as follows:

8 **5.45.070 Multiple activities credit when activities take place in one or more cities**  
9 **with eligible gross receipt taxes.**

10 A. Persons who engage in business activities that are within the purview of two (2) or  
11 more subsections of SMC Section 5.45.050 shall be taxable under each applicable subsection.

12 B. Notwithstanding anything to the contrary herein, ~~((f))~~ if imposition of the City's tax  
13 would place an undue burden upon interstate commerce or violate constitutional requirements, a  
14 taxpayer shall be allowed a credit to the extent necessary to preserve the validity of the City's tax,  
15 and still apply the City tax to as much of the taxpayer's activities as may be subject to the City's  
16 taxing authority.

17 \*\*\*

18  
19  
20 **Section 10.** Section 5.45.075 of the Seattle Municipal Code is hereby amended as  
21 follows:

22 **5.45.075 Deductions to prevent multiple taxation of transactions involving more**  
23 **than one city with an eligible gross receipts tax.**

24 A. Amounts subject to an eligible gross receipts tax in another city that also maintains

nexus over the same activity. A taxpayer that is subject to an eligible gross receipts tax on the same activity in more than one jurisdiction may be entitled to a deduction as follows:

1. A taxpayer that has paid an eligible gross receipts tax with respect to a sale of goods or services, to a jurisdiction in which the goods are delivered or the services are provided, may deduct an amount equal to the gross receipts used to measure that tax from the measure of the tax owed to the City.

2. Notwithstanding the above, a person who is subject to an eligible gross receipts tax in more than one jurisdiction on the gross income derived from intangibles such as royalties, trademarks, patents, or goodwill shall assign those gross receipts to the ~~((may deduct from the measure of the tax on those amounts the gross income used in measuring the eligible gross receipts tax paid to the other))~~ jurisdiction where the person is domiciled ~~(its~~ headquarters is located).

3. A taxpayer that has paid an eligible gross receipts tax on the privilege of accepting or executing a contract with another city may deduct an amount equal to the contract price used to measure the tax due to the other city from the measure of the tax owed to the City.

B. Person manufacturing products within and without the City. A person manufacturing products within the City using products manufactured by the same person outside the City may deduct from the measure of the manufacturing tax the value of products manufactured outside the City and included in the measure of an eligible gross receipts tax paid to the other jurisdiction with respect to manufacturing such products.

**5.45.076 Assignment of gross income derived from intangibles.**

### 5.45.090 Exemptions.

V. Amounts Derived From Manufacturing, Selling or Distributing Motor Vehicle Fuel.



1 This chapter shall not apply to the manufacturing, selling or distributing motor vehicle fuel, as  
2 the term "motor vehicle fuel" is defined in RCW 82.36.010 and exempted under RCW  
3 82.36.440, provided that any fuel not subjected to the state fuel excise tax, or any other  
4 applicable deduction or exemption, will be taxable under this chapter.

5 W. Amounts Derived From Liquor, and the Sale or Distribution of Liquor. This chapter  
6 shall not apply to liquor as defined in RCW 66.04.010 and exempted in RCW 66.08.120.

7 X. Casual and Isolated Sales. This chapter shall not apply to the gross proceeds derived  
8 from casual or isolated sales.

9 Y. Health Maintenance Organization, Health Care Service Contractor, Certified Health  
10 Plan. Beginning on January 1, 2000, this chapter does not apply to any health maintenance  
11 organization, health care service contractor, or certified health plan in respect to premiums or  
12 prepayments that are taxable under RCW 48.14.0201. This exemption is limited to premiums  
13 and payments for health benefit plans offered by health care service contractors under RCW  
14 Chapter 48.44 and health maintenance organizations under RCW chapter 48.46 and does not  
15 apply to health care services directly delivered by the employees of a health maintenance  
16 organization under RCW Chapter 48.46.

17 Z. Accommodation Sales. This chapter shall not apply to sales for resale by persons  
18 regularly engaged in the business of making retail sales of the type of property so sold to other  
19 persons similarly engaged in the business of selling such property where:

- 20 1. The amount paid by the buyer does not exceed the amount paid by the seller to  
21 his vendor in the acquisition of the article; and  
22

1           2. The sale is made as an accommodation to the buyer to enable the buyer ((him))  
2           to fill a bona fide existing order of a customer or is made within fourteen (14)  
3           days to reimburse in kind a previous accommodation sale by the buyer to the  
4           seller.

5           Provided, that where the seller holds himself or herself out as being regularly  
6           engaged in the business of making sales at wholesale of such property, such sales  
7           shall be included in his principal business activity, and not exempt from tax.  
8

9           AA. Real Estate Brokers and Associated Brokers, Agents, or Salesmen. This chapter  
10          does not apply to that portion of a real estate commission assigned to another brokerage office  
11          pursuant to the division of revenue between the originating brokerage office and a cooperating  
12          brokerage office on a particular transaction. Each brokerage office shall pay the tax upon its  
13          respective revenue share of the transaction. Furthermore, where a brokerage office has paid the  
14          business license tax on the gross commission earned by that brokerage office, associate brokers,  
15          salesmen or agents within the same office shall not be required to pay the tax upon their share of  
16          the commission from the same transaction.  
17  
18

19          BB. Taxes Collected as Trust Funds. This chapter shall not apply to amounts collected  
20          by the taxpayer from third parties to satisfy third party obligations to pay taxes such as the retail  
21          sales tax, use tax, and admission tax.  
22

23          CC. Public Utilities. This chapter shall not apply to any person in respect to a  
24          business activity with respect to which a utilities tax liability is specifically imposed pursuant to a  
25          SMC Chapter 5.48.  
26  
27  
28



**Section 13.** Effective for licenses to engage in business in 2005 and in subsequent years,  
Section 5.55.030 of the Seattle Municipal Code is hereby amended as follows:

**5.55.030 License requirements.**

A. No person, unless specifically exempted, shall engage in any business activity,  
profession, trade or occupation in the City without having first obtained and being the holder of a  
valid and subsisting license to do so, to be known as a "business license." The fee for the  
business license shall be ~~((Seventy-five))~~ Ninety Dollars (\$((75))90.00) for persons with  
worldwide gross income of the business and value of products of more than Twenty Thousand  
Dollars (\$20,000) in the current calendar year that engage ((engaging)) in any business activity,  
profession, trade or occupation in the City prior to July 1st and ~~((Thirty-seven))~~ Forty-five  
Dollars ((and Fifty Cents)) (\$((37.50))45.00) for persons beginning their activity on or after July  
1st. The business license fee for persons with worldwide gross income of the business and value  
of products of Twenty Thousand Dollars (\$20,000) or less in the current calendar year will be  
Forty-five Dollars (\$45) if prior to July 1<sup>st</sup> and Twenty Two Dollars and Fifty Cents (\$22.50) for  
persons beginning their activity on or after July 1<sup>st</sup>. ~~((Effective January 1, 2003 a surcharge of~~  
~~Five Dollars (\$5) will be added to the fee for a business license for persons engaging in any~~  
~~business activity, profession, trade or occupation in the City prior to July 1st and a surcharge of~~  
~~Two Dollars and Fifty Cents (\$2.50) will be added to the fee for a business licenses for persons~~  
~~beginning their activity after June 30<sup>th</sup>)).~~ The fee shall accompany the application for the license.

The business license shall expire at the end of the calendar year for which it is issued.  
The business license shall be personal and nontransferable except as provided in subsection G,

1 below. Applications for the business license shall be made to the Director of ((f))Finance on  
2 forms provided by the Director. Each business license shall be numbered, shall show the name,  
3 place and character of the business of the licensee, and such other information as the Director  
4 deems necessary, and shall at all times be conspicuously posted in the place of business for  
5 which it is issued.

6  
7 If the licensee changes the place of business, the licensee shall return the business license  
8 to the Director and a new license shall be issued for the new place of business free of charge.

9 B. When business is transacted at two (2) or more separate places by one (1) taxpayer, a  
10 separate business license for each place at which business is transacted with the public shall be  
11 required. A Ten Dollar (\$10.00) license fee shall be imposed and accompany each application  
12 for the business license required for each additional business location.

13  
14 C. No person to whom a business license has been issued pursuant to this chapter shall  
15 suffer or allow any other person for whom a separate license is required to operate under or  
16 display his or her license; nor shall such other person operate under or display such license.

17  
18 D. As provided in SMC Section 6.20.040, a participant at an event, identified in the list  
19 supplied by the promoter or organizer, shall be exempt from the ((minimum)) business license  
20 fee established by subsection A, above, or the fee for a separate business location established by  
21 subsection B, above, on account of business activities at the licensed event for the duration of the  
22 event license; provided however, that such participant is not otherwise engaging in business in  
23 the City as such term is defined in SMC Section 5.30.030 B2.

24  
25 E. Any business license may be renewed by the payment for the ensuing year of the  
26

license fee herein prescribed on or before the date of the expiration of such license. Any licensee who fails to make payment on or prior to the expiration date of said business license shall be subject to penalties in the following amounts:

~~((1. Five Dollars (\$5) if not received on or before the due date;))~~

((2))1. Ten Dollars (\$10) if not received on or before the last day of the month following the due date.

((3))2. Twenty Dollars (\$20) if not received on or before the last day of the second month following the due date.

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

F. Licenses for amusement devices will be in addition to this business license and will be assessed pursuant to SMC Section 5.32.170. It is unlawful for any person to own any amusement device, which is available for use by the public, without having first obtained an amusement device license issued in accordance with the provisions of this chapter and SMC Chapter 5.32. The license shall be attached to the amusement device at all times when in use or play or available for use or play so that it is readily visible. The amusement device license will be prorated semi-annually in the same manner as the business license; however, the amusement device license expires annually on November 30th.

1 G. A business license or amusement device license cannot be assigned or transferred,  
2 except that a license may be transferred:

- 3 1. To the surviving or new corporation, whenever the licensed corporation is  
4 merged or consolidated pursuant to RCW Chapter 23B.11, as now or hereafter  
5 amended;
- 6 2. To the surviving partner, or to a new partnership which consists exclusively of  
7 the surviving partners, whenever one (1) partner of a licensed partnership dies;
- 8 3. To the surviving spouse, whenever one (1) spouse of a licensed marital  
9 community dies;
- 10 4. To any one (1) or more former partners, whenever a licensed partnership is  
11 dissolved and one (1) or more of the former partners of the licensed partnership  
12 continue the operation of the business as an individual proprietorship or  
13 partnership without the addition of any new partner, and all of the other former  
14 partners consent in writing to the transfer of the license, which written consent  
15 shall be filed with the application for such transfer;
- 16 5. To one (1) spouse, whenever a licensed marital community is dissolved and the  
17 other spouse consents in writing to the transfer of the license, which written  
18 consent shall be filed with the application for such transfer;
- 19 6. In case of the death of any licensee before the expiration of his or her license,  
20 his or her administrator or executor, duly appointed as such by order of court, may  
21 continue to act under said license for the unexpired term thereof upon filing with  
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28



the City proof of such appointment.

As used in this subsection, SMC 5.55.030 G, the term "partnership" includes joint venture, and the term "partner" includes a co-venturer.

**Section 14.** Section 5.55.040 of the Seattle Municipal Code is hereby amended as follows:

**5.55.040 When due and payable--Reporting periods--Monthly, quarterly, and annual returns--Threshold provisions--Computing time periods--Failure to file returns.**

A. Other than any annual license fee or registration fee assessed under this chapter, the tax imposed by SMC Chapters 5.32 (Amusement Devices), 5.40 (Admission Taxes), 5.45 (Business License Tax), 5.48 (Utility Tax), and 5.52 (Gambling Tax), shall be due and payable in quarterly installments. At the Director's discretion, businesses may be assigned to a monthly or annual reporting period depending on the tax amount owing or type of tax. Taxes imposed by SMC Section 5.52.030(A)(2) and (B)(2) for punchboards and pulltabs shall be due and payable in monthly installments. Tax payments are due on or before the last day of the next month following the end of the assigned reporting period covered by the return.

B. Taxes shall be paid as provided in this chapter and accompanied by a return on forms as prescribed by the Director. The return shall be signed by the taxpayer personally or by a responsible officer or agent of the taxpayer. The individual signing the return shall swear or affirm that the information in the return is true and complete.

C. Tax returns must be filed and returned by the due date whether or not any tax is owed.



Returns not received on or before the due date are subject to penalties and interest in accordance with this chapter.

D. 1. For purposes of the tax imposed by SMC Chapter 5.45, any person whose ~~((value of products,))~~ gross proceeds of sales, ~~((or))~~ gross income of the business, and value of products, including by-products, as the case may be, from all activities conducted within the City subject to tax after all allowable deductions, is less than Fifty Thousand Dollars (\$50,000) in the current calendar year, shall file a return, declare no tax due on their return, and submit the return to the Director.

The gross receipts and deduction amounts shall be entered on the tax return even though no tax may be due.

2. Any person who reasonably estimates that the ~~((value of products,))~~ gross proceeds of sales, ~~((or))~~ gross income of the business, and value of products, including by-products, as the case may be, from all activities conducted within the City subject to tax after all allowable deductions, will be less than Fifty Thousand Dollars (\$50,000) in the current calendar year may file a declaration so stating on a form supplied by the Director at the same time he or she files his or her application for a business license or a renewal. The Director may assign any person who files such declaration to an annual reporting basis.

E. A taxpayer who commences to engage in business activity shall file a return and pay the tax or fee for the portion of the reporting period during which he or she is engaged in business activity subject to the conditions set forth in subsection D, above.



1 F. Except as otherwise specifically provided by any other provision of this chapter, in  
2 computing any period of days prescribed by this chapter the day of the act or event from which  
3 the designated period of time runs shall not be included. The last day of the period shall be  
4 included unless it is a Saturday, Sunday, or City or Federal legal holiday, in which case the last  
5 day of such period shall be the next succeeding day which is neither a Saturday, Sunday, or City  
6 or Federal legal holiday.

7  
8 G. If any taxpayer fails, neglects or refuses to make his or her return as and when  
9 required in this chapter, the Director is authorized to determine the amount of the tax or fees  
10 payable by obtaining facts and information upon which to base his or her estimate of the tax or  
11 fees due. Such assessment shall be deemed prima facie correct and shall be the amount of tax  
12 owed to the City by the taxpayer. The Director shall notify the taxpayer by mail of the amount of  
13 tax so determined, together with any penalty, interest, and fees due; the total of such amounts  
14 shall thereupon become immediately due and payable.  
15

16  
17  
18 **Section 15.** Section 6.20.050 of the Seattle Municipal Code is hereby amended as  
19 follows:

20 **6.20.050 Relation to annual City business license.**

21 A. A ~~((participant at a trade show))~~ person whose business location is located outside the  
22 City, and who (a) has been identified in a listing supplied to the City by the trade show's  
23 promoter or organizer under Section 6.20.030, and (b) limits ~~((his or her))~~ their business  
24 activities in Seattle to a trade show ancillary to a convention, shall be exempt from paying the  
25  
26  
27  
28

1 ((~~minimum~~)) business license fee required by Section 5.55.030 A on account of ((~~his or her~~))  
2 their business activities at the trade show, or in the event that the participant already has a City  
3 business license, from securing a license for a separate business location at the trade show under  
4 Section 5.55.030 B, each for the duration of the trade show license.

5 B. Notwithstanding subsection A above, a((A)) participant at a trade show remains  
6 subject to the other provisions of Chapters 5.45 or 5.48, as the case may be. If the gross proceeds  
7 of sales, value of products, or gross income of the participant on account of his or her business  
8 activities at the trade show or elsewhere in Seattle is equal to or exceeds the taxable threshold  
9 pursuant to SMC Subsection 5.55.040 D in the tax year, the participant shall ((~~file~~)) obtain a  
10 business license and pay the City's business license tax as contemplated by Chapter 5.45.  
11

12 C. Registration of a participant at a trade show of collectibles for hobbyists sponsored by  
13 an association of such collectors or an incorporated association of dealers in such collectibles  
14 substitutes for applying for a "used goods dealers" license with respect to transactions at the trade  
15 show in that line of collectibles, but not of other objects. The trade show license shall be in lieu  
16 of the license and fees required by Sections 6.288.030 and 6.204.080. The participants are  
17 subject to Section 6.288.050 (unlawful acts) and Sections 6.288.070 through 6.288.110, inclusive  
18 (recordkeeping, reporting to police, police holds, and inspection).  
19

20  
21 **Section 16.** Any act by the Director of Executive Administration or any officer, agent, or  
22 employee authorized to act on the Director's behalf, pursuant to the authority and prior to the  
23 effective date of this ordinance, for the purpose of issuing business licenses, including but not  
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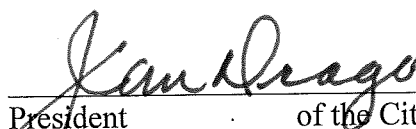


1 limited to issuing business licenses for 2005 at the new rates established in this ordinance, is  
2 hereby ratified and confirmed.

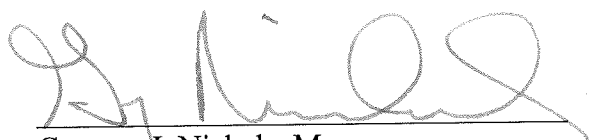
3 **Section 17.** Sections 1 through 12 and Sections 14 and 15 shall take effect and be in  
4 force on January 1, 2005.

5 **Section 18.** This ordinance shall take effect and be in force thirty (30) days from and  
6 after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10)  
7 days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.  
8

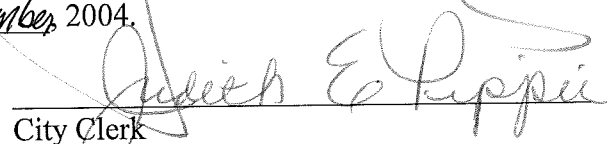
9 Passed by the City Council the 22<sup>nd</sup> day of November, 2004, and signed by me in open  
10 session in authentication of its passage this 22<sup>nd</sup> day of November, 2004.

11  
12   
13 President \_\_\_\_\_ of the City Council

14 Approved by me this 30<sup>th</sup> day of November, 2004.

15  
16   
17 Gregory J. Nickels, Mayor

18 Filed by me this 30<sup>th</sup> day of November, 2004.

19  
20   
City Clerk

21 (Seal)



# City of Seattle

Gregory J. Nickels, Mayor

## Office of the Mayor

November 5, 2004

Honorable Jan Drago  
President  
Seattle City Council  
City Hall, 2<sup>nd</sup> Floor

Dear Council President Drago:

The attached proposed Council Bill would amend various provisions of the City's business and occupation (B&O) tax code to comply with the State of Washington's Model Ordinance governing B&O taxes, as codified in RCW Chapter 35.102. It is mandatory for cities that collect B&O taxes to adopt the State's definitions and other related provisions by December 31, 2004, or they could lose their B&O tax-collection authority. The City of Seattle receives approximately \$130 million in revenue per year from B&O taxes.

In addition to the adoption of the State's Model Ordinance provisions, the attached legislation would add exemptions for certain types of rental income and utility revenue, thereby giving small businesses a reduction on their business licensing fees. A one-month grace period would be granted to licensees who file their annual business license renewals late, delaying the assessment of the current \$5 late penalty fee. The proposed legislation also clarifies business license requirements and B&O tax rules for trade show activities, and abolishes the business license surcharge authorized by Ordinance 120966. Finally, the legislation increases the costs of annual and half-year business licenses for businesses grossing more than \$20,000 worldwide. New lower license fees would be established for businesses with worldwide gross revenues of \$20,000 or less.

Thank you for your consideration of this legislation. Should you have any questions in this regard, please contact Ken Nakatsu, Director of Executive Administration, at 684-0505, or Mel McDonald, Director of the Revenue and Consumer Affairs Division, at 233-0071.

Sincerely,

A handwritten signature in dark ink, appearing to read "Greg Nickels", written over a large, stylized, light-colored scribble or watermark.

GREG NICKELS  
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

600 Fourth Avenue, 7<sup>th</sup> Floor, P.O. Box 94749, Seattle, WA 98124-4749

Tel: (206) 684-4000, TDD: (206) 684-8811 Fax: (206) 684-5360, E:mail: [mayors.office@seattle.gov](mailto:mayors.office@seattle.gov)

An equal employment opportunity, affirmative action employer. Accommodations for people with disabilities provided upon request.



**FISCAL NOTE FOR NON-CAPITAL PROJECTS**

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Executive Administration	Mel McDonald/3-0071	Tyler Running Deer/4-8075

**Legislation Title:**

AN ORDINANCE relating to business licensing; adding exemptions for rental income and utility revenue taxed under SMC Chapter 5.48; providing for a two-tier business license fee structure; providing a grace period before assessing penalties to licensees that file annual business license renewals late; increasing the cost of annual and half-year business licenses and abolishing the surcharge on those licenses; adding Section 5.45.076; and amending Sections 5.30.20, 5.30.25, 5.30.030, 5.30.035, 5.30.040, 5.30.050, 5.30.060, 5.45.050, 5.45.070, 5.45.075, 5.45.076, 5.45.090, 5.55.030, 5.55.040, and 6.20.050, respectively, of the Seattle Municipal Code.

• **Summary of the Legislation:**

Sections 1 through 12 of the proposed legislation would amend various provisions of the City's business and occupation (B&O) tax code to comply with the State of Washington's Model Ordinance governing B&O taxes, codified in chapter 35.102 RCW. Adoption of the State's definitions and other provisions is mandatory for cities that collect B&O taxes. The City must adopt the state provisions by December 31, 2004 or it may lose its tax-collection authority. Revenues from B&O taxes amount to \$130 million annually for the City. The majority of these changes are slight wording changes to clarify definitions and do not represent a material change in position or interpretation.

In addition to adoption of state Model Ordinance provisions, the proposed legislation would add exemptions for certain types of rental income and utility revenue. These revisions codify existing procedures and do not constitute new policy. The City would grant a one-month grace period to licensees who file their annual business licenses renewals late. The proposed legislation clarifies business license requirements and B&O tax rules for trade show activities.

Section 13 of the Council Bill proposes abolishing the business license surcharge authorized by Ordinance 120966, and increasing the costs of annual and half year business licenses would be increased for businesses grossing more than \$20,000 worldwide. New lower license fees, covering only administrative costs, would be established for businesses with worldwide gross revenues of \$20,000 or less.

- **Background:** (Include brief description of the purpose and context of legislation and include record of previous legislation and funding history, if applicable):

In 2001, the City of Seattle drafted and subsequently adopted a model tax ordinance with a view towards promoting uniformity and consistency among the various cities in Washington who maintain a business and occupations tax code. In 2003 the Washington State Legislature passed the Municipal Business and Occupations Tax Statute codified in Chapter 35.102 of the Revised Code of Washington. This legislation was enacted to respond to the concerns of Washington businesses regarding multiple taxation and lack of uniformity among various jurisdictions.

Cities that maintains a business and occupations tax code are required to adopt the mandatory provisions of chapter 35.102 RCW by no later than December 31, 2004. Failure to do so could result in the City losing its right to impose taxes on business activities in Seattle. The City's annual revenues from business and occupation taxes amount to \$130 million.

- Please check one of the following:

☐ **This legislation does not have any financial implications.** (Stop here and delete the remainder of this document prior to saving and printing.)

☒ **This legislation has financial implications.** (Please complete all relevant sections that follow.)

**Appropriations:** This table should reflect appropriations that are a direct result of this legislation. In the event that the project/ programs associated with this ordinance have appropriations that were, or will be, received because of previous or future legislation or budget actions, please provide details in the Notes section below.

Fund Name and Number	Department	Budget Control Level*	2004 Appropriation	2005 Anticipated Appropriation
N/A				
<b>TOTAL</b>				

\*See budget book to obtain the appropriate Budget Control Level for your department.

**Notes:** None.

**Anticipated Revenue/Reimbursement: Resulting From This Legislation:** *This table should reflect revenues/reimbursements that are a direct result of this legislation. In the event that the issues/projects associated with this ordinance/resolution have revenues or reimbursements that were, or will be, received because of previous or future legislation or budget actions, please provide details in the Notes section below the table.*

<b>Fund Name and Number</b>	<b>Department</b>	<b>Revenue Source</b>	<b>2004 Revenue</b>	<b>2005 Revenue</b>
General Fund 00100	DEA	Business License Penalty <sup>1</sup>	\$0	(27,000)
General Fund 00100	DEA	Business Licenses (Annual Worldwide Gross of more than \$20,000) <sup>2</sup>	410,000	436,125
General Funds 00100	DEA	Business Licenses (Annual Worldwide Gross of \$20,000 or less) <sup>3</sup>	(490,000)	(509,250)
<b>TOTAL</b>			<b>(80,000)</b>	<b>(100,125)</b>

**Notes:** The proposed legislation imposes a new lower business license fee for businesses with annual worldwide gross revenues of \$20,000 or less. This will result in a net revenue loss for those fees, which is partly offset by an increase in the business license fee for businesses with annual worldwide gross revenues of more than \$20,000.

<sup>1</sup> Revenue estimates based on an average of 5,400 penalties per year at \$5.00 per penalty.

<sup>2</sup> The 2004 revenue is generated only from December 2004 and is based upon 41,000 annual licenses. The 2005 revenue is based upon approximately 45,000 business licenses, of which approximately 2,775 are half-year licenses. For these businesses, there is a net revenue increase of \$10 per annual license (totaling \$422,250) and \$5 per half-year license (totaling \$13,875).

<sup>3</sup> The 2005 revenue is based upon approximately 15,000 business licenses, of which approximately 900 are half-year licenses. For these businesses, there is a net revenue decrease of \$35 per annual license (totaling \$493,500) and \$17.50 per half-year license (totaling \$15,750). The revenue from the lower license fees for these small businesses is no more than the costs of administration.



**Total Regular Positions Created Or Abrogated Through This Legislation, Including FTE**

**Impact:** This table should only reflect the actual number of positions created by this legislation. In the event that positions have been, or will be, created as a result of previous or future legislation or budget actions, please provide details in the Notes section below the table.

Position Title and Department*	Fund Name	Fund Number	Part-Time/Full Time	2004 Positions	2004 FTE	2005 Positions**	2005 FTE**
N/A							
<b>TOTAL</b>							

\* List each position separately

\*\* 2005 positions and FTE are total 2005 position changes resulting from this legislation, not incremental changes. Therefore, under 2005, please be sure to include any continuing positions from 2004

**Notes:** No positions created.

- **Do positions sunset in the future?** (If yes, identify sunset date): Not applicable

**Spending/Cash Flow:** This table should be completed only in those cases where part or all of the funds authorized by this legislation will be spent in a different year than when they were appropriated (e.g., as in the case of certain grants and capital projects). Details surrounding spending that will occur in future years should be provided in the Notes section below the table.

Fund Name and Number	Department	Budget Control Level*	2004 Expenditures	2005 Anticipated Expenditures
<b>TOTAL</b>				

\* See budget book to obtain the appropriate Budget Control Level for your department.

**Notes:**

- **What is the financial cost of not implementing the legislation?** (Estimate the costs to the City of not implementing the legislation, including estimated costs to maintain or expand an existing facility or the cost avoidance due to replacement of an existing facility, potential conflicts with regulatory requirements, or other potential costs if the legislation is not implemented.)

Pursuant to RCW 35.102.140, all cities are required to comply with all requirements of the Municipal Business and Occupation Tax statute by December 31, 2004. If the City fails to adopt the Model Ordinance, it could lose its right to impose a tax on the privilege of

engaging in business activities in Seattle. If the City is unable to impose and collect this tax, it stands to lose approximately \$130 Million dollars annually in revenue.

- **What are the possible alternatives to the legislation that could achieve the same or similar objectives?** *(Include any potential alternatives to the proposed legislation, such as reducing fee-supported activities, identifying outside funding sources for fee-supported activities, etc.)*

None. Pursuant to RCW 35.102.140, all cities are required to comply with all requirements of the Municipal Business and Occupation Tax statute by December 31, 2004. If the City fails to comply with the statute, it could lose its right to impose a tax on the privilege of engaging in business activities in Seattle.

- **Is the legislation subject to public hearing requirements:** *(If yes, what public hearings have been held to date, and/or what plans are in place to hold a public hearing(s) in the future.)*

None.

- **Other Issues** *(including long-term implications of the legislation):*

None.

**Please list attachments to the fiscal note below:** None.

## ORDINANCE \_\_\_\_\_

AN ORDINANCE relating to business licensing; adding exemptions for rental income and utility revenue taxed under SMC Chapter 5.48; providing for a two-tier business license fee structure; providing a grace period before assessing penalties to licensees that file annual business license renewals late; increasing the cost of annual and half-year business licenses and abolishing the surcharge on those licenses; adding Section 5.45.076; and amending Sections 5.30.20, 5.30.25, 5.30.030, 5.30.035, 5.30.040, 5.30.050, 5.30.060, 5.45.050, 5.45.070, 5.45.075, 5.45.076, 5.45.090, 5.55.030, 5.55.040, and 6.20.050, respectively, of the Seattle Municipal Code.

WHEREAS, in 2003, the Washington State Legislature passed Chapter 79, Session Laws of 2003, which established mandatory provisions of the Model Ordinance to be used by gross receipt business and occupation tax cities, codified in Chapter 35.102 RCW; and

WHEREAS, under Ch. 35.102 RCW, it is necessary that the City of Seattle adopt by ordinance the mandatory provisions of the Model Ordinance; and

WHEREAS, the City desires to give small businesses a reduction on their business licensing fee; and

WHEREAS, enforcement of the \$5 late penalty on annual business licenses costs more than the revenue it generates and the City desires to give licensees a grace period of one month before penalties are assessed; and

WHEREAS, the Seattle Municipal Code needs to be clarified for the licensing and taxing of trade show participants; NOW, THEREFORE,

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

**Section 1.** Section 5.30.020 of the Seattle Municipal Code is hereby amended as follows:

**5.30.020 Definitions, A--B.**

\*\*\*

1        H. "Business and occupation tax" or "gross receipts tax" means a tax imposed on or  
2 measured by the value of products, the gross income of the business, on the gross proceeds of  
3 sales, as the case may be, and that is the legal liability of the business.

4        **Section 2.** Section 5.30.025 of the Seattle Municipal Code is hereby amended as follows:

5        **5.30.025 Definitions, C--D.**

6        A. "Cash discount" means a deduction from the invoiced amount allowed by the seller if  
7 the ((bill)) invoice is paid within a certain time period or before a specified date.

8        B. "Cellular telephone service" is a voice or data telephone/telecommunications system  
9 based in whole or substantial part on wireless radio communications, whether or not the  
10 communications are subject to regulation by the Washington Utilities and Transportation  
11 Commission (WUTC). This includes cellular mobile service. Cellular mobile service includes  
12 other wireless radio communications services such as specialized mobile radio (SMR), personal  
13 communications services (PCS), and any other evolving wireless radio communications  
14 technology which accomplishes the same purpose as cellular mobile service.  
15

16        C. "City" means the City of Seattle.

17        D. "Commercial or industrial use" means the following uses of products, including by-  
18 products, by the extractor or manufacturer thereof:  
19

20            1. Any use as a consumer; and

21            2. ~~((Any use in t))~~The manufacturing of ~~((products including))~~ articles,  
22 substances or commodities~~((; or))~~.  
23

24            ~~((3. Consigning, shipping or transferring extracted or manufactured products to~~  
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~~another either without consideration or in the performance of contracts.))~~

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**Section 3.** Section 5.30.030 of the Seattle Municipal Code is hereby amended as follows:

**5.30.030 Definitions, E--F.**

A. "Eligible gross receipts tax" means a tax which:

1. Is imposed on the act or privilege of engaging in business activities within SMC Section 5.45.050;
2. Is measured by the gross volume of business in terms of gross receipts, and is not an income tax or value added tax;
3. Is not, pursuant to law or custom, separately stated from the sales price;
4. Is not a sales or use tax, business license fee, franchise fee, royalty or severance tax measured by volume or weight, or concession charge, or payment for the use and enjoyment of property, property right or a privilege; and
5. Is a tax imposed by a local jurisdiction, whether within or without the State of Washington, and not by a Country, State, Province, or any other non-local jurisdiction above the county level.

B. "Engaging in business."

1. The term "engaging in business activity" means commencing, conducting, or continuing in business, and also the exercise of corporate or franchise powers, as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business.

1           2. This section sets forth examples of activities that constitute engaging in  
2           business in the City, and establishes safe harbors for certain of those activities so  
3           that a person who meets the criteria may engage in de minimus business activities  
4           in the City without having to register and obtain a business license or pay City  
5           business and occupation ((license)) taxes. The activities listed in this section are  
6           illustrative only and are not intended to narrow the definition of "engaging in  
7           business" in subsection (1), above. If an activity is not listed, the issue of whether  
8           it constitutes engaging in business in the City shall be determined by considering  
9           all the facts and circumstances and applicable law.  
10

11           3. Without being all inclusive, any one of the following activities conducted  
12           within the City by a person, or its employee, agent, representative, independent  
13           contractor, broker or another acting on its behalf constitutes engaging in business  
14           and requires a person to register and obtain a business license:  
15

- 16           a. Owning, renting, leasing, maintaining, or having the right to use, or  
17           using, tangible personal property, intangible personal property, or real  
18           property permanently or temporarily located in the City;  
19           b. Owning, renting, leasing, using, or maintaining, an office, place of  
20           business, or other establishment in the City;  
21           c. Soliciting sales;  
22           d. Making repairs or providing maintenance or service to real or tangible  
23           personal property, including warranty work and property maintenance;  
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- e. Providing technical assistance or service, including quality control, product inspections, warranty work, or similar services on or in connection with tangible personal property sold by the person or on its behalf;
- f. Installing, constructing, or supervising installation or construction of, real or tangible personal property;
- g. Soliciting, negotiating, or approving franchise, license, or other similar agreements;
- h. Collecting current or delinquent accounts;
- i. Picking up and transporting tangible personal property, solid waste construction debris, or excavated materials;
- j. Providing disinfecting and pest control services, employment and labor pool services, home nursing care, janitorial services, appraising, landscape architectural services, security system services, surveying, and real estate services including the listing of homes and managing real property;
- k. Rendering professional services such as those provided by accountants, architects, attorneys, auctioneers, consultants, engineers, professional athletes, barbers, baseball clubs and other sports organizations, chemists, consultants, psychologists, court reporters, dentists, doctors, detectives, laboratory operators, teachers, veterinarians; ((or))
- l. Meeting with customers or potential customers, even when no sales or orders are solicited at the meetings((or));

1 m. Training or recruiting ((employees,)) agents, representatives,  
2 independent contractors, brokers or others domiciled or operating on a job  
3 in the City, acting on its behalf, or for customers or potential customers;

4 n. Investigating, resolving, or otherwise assisting in resolving customer  
5 complaints;

6 o. In-store stocking or manipulating products or goods, sold to and owned  
7 by a customer, regardless of where sale and delivery of the goods took  
8 place;

9 p. Delivering goods in vehicles owned, rented, leased, used, or maintained  
10 by the person who sold the goods or another acting on its behalf(( )); or  
11

12 q. Accepting or executing a contract with the City, irrespective of whether  
13 the goods or services are delivered within or without the City, or whether  
14 the person's office or place of business is within or without the City.  
15

16 4. If a person, or its employee, agent, representative, independent contractor,  
17 broker or another acting on the person's behalf, engages in no other activities in or  
18 with the City but the following, it need not register and obtain a business license  
19 and pay tax:  
20

21 a. Meeting with suppliers of goods and services as a customer;

22 b. Meeting with government representatives in their official capacity,  
23 other than those performing contracting or purchasing functions;  
24

25 c. Attending meetings, such as board meetings, retreats, seminars, and  
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1 conferences, or other meetings wherein the person does not provide  
2 training in connection with tangible personal property sold by the person  
3 or on its behalf;

4 d. Renting tangible or intangible property as a customer when the property  
5 is not used in the City;

6 e. Attending, but not participating in, a "trade show". Persons  
7 participating at a trade show shall review the City's trade show ordinance,  
8 SMC Chapter 6.20;

9 f. Conducting advertising through the mail; or

10 g. Soliciting sales by phone from a location outside the City;

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12  
13 5. A seller located outside the City merely delivering goods into the City by  
14 means of common carrier is not required to register and obtain a business license  
15 provided that it engages in no other business activities in the City.

16 The City expressly intends that engaging in business include any activity sufficient to  
17 establish nexus for purposes of applying the tax under the law and the constitutions of the United  
18 States and the State of Washington.

19  
20 Nexus is presumed to continue as long as the taxpayer benefits from the activity that  
21 constituted the original nexus generating contact or subsequent contacts.

22 C. "Extracting" means the activity engaged in by an extractor and is reportable under the  
23 extracting classification.

24  
25 ((C))D. "Extractor" means every person who from the person's own land or from the land

1 of another under a right or license granted by lease or contract, either directly or by contracting  
2 with others for the necessary labor or mechanical services, for sale or for commercial or  
3 industrial use, mines, quarries, takes or produces coal, oil, natural gas, ore, stone, sand, gravel,  
4 clay, mineral or other natural resource product; or fells, cuts or takes timber, Christmas trees,  
5 other than plantation Christmas trees, or other natural products; or takes fish, or takes, cultivates,  
6 or raises shellfish, or other sea or inland water foods or products. "Extractor" does not include  
7 persons performing under contract the necessary labor or mechanical services for others; persons  
8 cultivating or raising fish entirely within confined rearing areas on the person's own land or on  
9 land in which the person has a present right of possession; or persons who fell, cut, or take  
10 plantation Christmas trees from the person's own land or from land in which the person has a  
11 present right of possession, or persons meeting the definition of farmer.  
12

13  
14 E. "Extractor for Hire" means a person who performs under contract necessary labor or  
15 mechanical services for an extractor.  
16

17 ((D))E. "Freight Broker" shall mean persons who sell, provide for, or arrange  
18 transportation by a motor carrier for compensation. Freight brokers do not themselves transport  
19 or contract to transport property from origin to destination.

20 **Section 4.** Section 5.30.035 of the Seattle Municipal Code is hereby amended as follows:

21 **5.30.035 Definitions, G--M.**  
22

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24 D. "Gross income of the business" means the value proceeding or accruing by reason of  
25 the transaction of the business activity engaged in and includes gross proceeds of sales,  
26

1 compensation for the rendition of services, gains realized from trading in stocks, bonds or other  
2 evidences of indebtedness, interest, discount, rents, royalties, fees, commissions, dividends and  
3 other emoluments however designated, all without any deduction on account of the cost of  
4 tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs,  
5 taxes or any other expense whatsoever paid or accrued and without any deduction on account of  
6 losses.  
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9 H. "Manufacturer," "to manufacture."

10 1. "Manufacturer" means every person who, either directly or by contracting with  
11 others for the necessary labor or mechanical services, manufactures for sale or for  
12 commercial or industrial use from the person's own materials or ingredients any  
13 products. When the owner of equipment or facilities furnishes, or sells to the  
14 customer prior to manufacture, materials or ingredients equal to less than twenty  
15 percent (20%) of the total value of all materials or ingredients that become a part  
16 of the finished product, the owner of the equipment or facilities will be deemed to  
17 be a processor for hire and not a manufacturer. A business not located in this City  
18 that is the owner of materials or ingredients processed for it in this City by a  
19 processor for hire shall be deemed to be engaged in business as a manufacturer in  
20 this City.  
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23

24 2. "To manufacture" means all activities of a commercial or industrial nature  
25 wherein labor or skill is applied, by hand or machinery, to materials or ingredients  
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1 so that as a result thereof a new, different or useful product of tangible personal  
2 property is produced for sale or commercial or industrial use, and shall include:

- 3 a. The production of special-made articles or custom-made articles;  
4 b. The production of dental appliances, devices, restorations, substitutes,  
5 or other dental laboratory products by a dental laboratory or dental  
6 technician;  
7 c. Crushing and/or blending of rock, sand, stone, gravel, or ore, and  
8 d. The producing of articles for sale, or for commercial or industrial use  
9 from raw materials or prepared materials by giving such materials, articles,  
10 and substances of trade or commerce new forms, qualities, properties or  
11 combinations including, but not limited to, such activities as making,  
12 fabricating, processing, refining, mixing, slaughtering, packing, aging,  
13 curing, mild curing, preserving, canning, and the preparing and freezing of  
14 fresh fruits and vegetables.  
15

16  
17 3. "To manufacture" shall not include the production of computer software if the  
18 computer software is delivered from the seller to the purchaser by means other  
19 than tangible storage media, including the delivery by use of a tangible storage  
20 media where the tangible storage media is not physically transferred to the  
21 purchaser.  
22

23  
24 I. "Motor Carrier" shall mean the carrier providing transportation for hire described in the  
25 definitions of "common carrier" and "contract carrier" as defined in RCW 81.80.010.  
26

**Section 5.** Section 5.30.040 of the Seattle Municipal Code is hereby amended as follows:

**5.30.040 Definitions, N--R.**

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D. "Office," "place of business." "Office" or "place of business" means a fixed location or permanent facility where the regular business of the person is conducted and which is either owned by the person or over which the person exercises legal dominion and control. The regular business of the person is presumed conducted at a location:

1. Whose address the person uses as its business mailing address;
2. Where the place of primary use is shown on a telephone billing or a location ((C))containing a telephone line listed in a public telephone directory or other similar publication under the business name;
3. Where the person holds itself out to the general public as conducting its regular business through signage or other means; and
4. Where the person is required to obtain any appropriate state and local business license or registration unless exempted by law from such requirement.

A vehicle such as a pick-up, van, truck, boat or other motor vehicle is not an office or place of business. A post office box is not an office or place of business.

If a person has an office or place of business, the person's home is not an office or place of business unless it meets the criteria for office or place of business above((C)). If a person has no office or place of business, the person's home or apartment within the City will be deemed the place of business.

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2 Q. "Retailing" means the activity of engaging in making sales at retail and is reported  
3 under the retailing classification.

4 ((Q))R. "Return" means any document a person is required by the City to file to satisfy or  
5 establish a tax or fee obligation that is administered or collected by the City and that has a  
6 statutorily defined due date.  
7

8 ((R))S. "Royalties" mean((s)) compensation for the use of intangible property, such as  
9 copyrights, patents, licenses, franchises, trademarks, tradenames and similar items.

10 ((S))T. "Rubbish" has the meaning given in SMC Section 21.36.016.

11  
12 **Section 6.** Section 5.30.050 of the Seattle Municipal Code is hereby amended as follows:

13 **5.30.050 Definitions, S.**

14 A. "Sale," "casual or isolated sale."

15 1. "Sale" means any transfer of the ownership of, title to, or possession of,  
16 property for a valuable consideration and includes any activity classified as a "sale  
17 at retail," ((or)) "retail sale,((-))" or "retail service." It includes renting or leasing,  
18 conditional sale contracts, leases with option to purchase, and any contract under  
19 which possession of the property is given to the purchaser but title is retained by  
20 the vendor as security for the payment of the purchase price. It also includes the  
21 furnishing of food, drink, or meals for compensation whether consumed upon the  
22 premises or not.  
23

24 2. "Casual or isolated sale" means a sale made by a person who is not engaged in  
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the business of selling the type of property involved on a routine or continuous basis.

B. "Sale at retail," "retail sale."

1. "Sale at retail" or "retail sale" means every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons irrespective of the nature of their business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers, other than a sale to a person who presents a resale certificate under RCW 82.04.470 and who:

- a. Purchases for the purpose of resale as tangible personal property in the regular course of business without intervening use by such person; or
- b. Installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of or for consumers, if such tangible personal property becomes an ingredient or component of such real or personal property without intervening use by such person; or
- c. Purchases for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale; or

1 d. Purchases for the purpose of consuming the property purchased in  
2 producing ferrosilicon which is subsequently used in producing  
3 magnesium for sale, if the primary purpose of such property is to create a  
4 chemical reaction directly through contact with an ingredient of  
5 ferrosilicon; or

6 e. Purchases for the purpose of providing the property to consumers as  
7 part of competitive telephone service, as defined in RCW 82.04.065.  
8

9 The term shall include every sale of tangible personal property which is used or  
10 consumed or to be used or consumed in the performance of any activity classified  
11 as a "sale at retail" or "retail sale" even though such property is resold or utilized  
12 as provided in (a), (b), (c), (d), or (e) of this subsection following such use.

13  
14 2. "Sale at retail" or "retail sale" also means every sale of tangible personal  
15 property to persons engaged in any business activity which is taxable under  
16 ~~.050(1)(h)~~ SMC 5.45.050 G.

17  
18 3. "Sale at retail" or "retail sale" shall include the sale of or charge made for  
19 tangible personal property consumed and/or for labor and services rendered in  
20 respect to the following:

21 a. The installing, repairing, cleaning, altering, imprinting, or improving of  
22 tangible personal property of or for consumers, including charges made for  
23 the mere use of facilities in respect thereto, but excluding charges made for  
24 the use of coin-operated laundry facilities when such facilities are situated  
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1 in an apartment house, rooming house, or mobile home park for the  
2 exclusive use of the tenants thereof, and also excluding sales of laundry  
3 service to nonprofit health care facilities, and excluding services rendered  
4 in respect to live animals, birds and insects;

5 b. The constructing, repairing, decorating, or improving of new or existing  
6 buildings or other structures under, upon, or above real property of or for  
7 consumers, including the installing or attaching of any article of tangible  
8 personal property therein or thereto, whether or not such personal property  
9 becomes a part of the realty by virtue of installation, and shall also include  
10 the sale of services or charges made for the clearing of land and the  
11 moving of earth excepting the mere leveling of land used in commercial  
12 farming or agriculture;

13 c. The charge for labor and services rendered in respect to constructing,  
14 repairing, or improving any structure upon, above, or under any real  
15 property owned by an owner who conveys the property by title, possession,  
16 or any other means to the person performing such construction, repair, or  
17 improvement for the purpose of performing such construction, repair, or  
18 improvement and the property is then reconveyed by title, possession, or  
19 any other means to the original owner;

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

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

15 f. The sale of and charge made for the furnishing of lodging and all other  
16 services, except network telephone service and cable service, by a hotel,  
17 rooming house, tourist court, motel, trailer camp, and the granting of any  
18 similar license to use real property, as distinguished from the renting or  
19 leasing of real property, and it shall be presumed that the occupancy of real  
20 property for a continuous period of one month or more constitutes a rental  
21 or lease of real property and not a mere license to use or enjoy the same.  
22

23 For the purposes of this subsection, it shall be presumed that the sale of  
24 and charge made for the furnishing of lodging for a continuous period of  
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one month or more to a person is a rental or lease of real property and not  
a mere license to enjoy the same;

g. The sale of or charge made for tangible personal property, labor and services to persons taxable under (a), (b), (c), (d), (e), and (f) of this subsection when such sales or charges are for property, labor and services which are used or consumed in whole or in part by such persons in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property, labor and services may be resold after such use or consumption.

Nothing contained in this subsection B 3 shall be construed to modify subsection 1 of this subsection B, and nothing contained in subsection B 1 shall be construed to modify this subsection B 3.

4. "Sale at retail" or "retail sale" shall also include the providing of competitive telephone service to consumers.

5. "Sale at retail" or "retail sale" shall also include the sale of canned software other than a sale to a person who presents a resale certificate under RCW 82.04.470, regardless of the method of delivery to the end user, but shall not include custom software or the customization of canned software.

6. "Sale at retail" or "retail sale" shall also include the sale of or charge made for labor and services rendered in respect to the building, repairing, or improving of any street, place, road, highway, easement, right of way, mass public



1 transportation terminal or parking facility, bridge, tunnel, or trestle which is  
2 owned by a municipal corporation or political subdivision of the state, the State of  
3 Washington, or by the United States and which is used or to be used primarily for  
4 foot or vehicular traffic including mass transportation vehicles of any kind.

5 (Public road construction).

6  
7 7. "Sale at retail" or "retail sale" shall also include the sale of or charge made for  
8 labor and services rendered in respect to the constructing, repairing, decorating, or  
9 improving of new or existing buildings or other structures under, upon, or above  
10 real property of or for the United States, any instrumentality thereof, or a county  
11 or city housing authority created pursuant to chapter 35.82 RCW, including the  
12 installing, or attaching of any article of tangible personal property therein or  
13 thereto, whether or not such personal property becomes a part of the realty by  
14 virtue of installation (government contracting).

15  
16 8. "Sale at retail" or "retail sale" shall not include the sale of services or charges  
17 made for the clearing of land and the moving of earth of or for the United States,  
18 any instrumentality thereof, or a county or city housing authority. Nor shall the  
19 term include the sale of services or charges made for cleaning up for the United  
20 States, or its instrumentalities, radioactive waste and other byproducts of weapons  
21 production and nuclear research and development. (This is reported under the  
22 service or other classification).

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25 9. "Sale at retail" or "retail sale" shall not include the sale of or charge made for  
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labor and services rendered for environmental remedial action as defined in RCW

82.04.2635(2) (This is reported under the service or other classification).

C. "Sale at wholesale," "wholesale sale." "Sale at wholesale" or "wholesale sale" means any sale of tangible personal property which is not a retail sale, and any charge made for labor and services rendered for persons who are not consumers, in respect to real or personal property and retail services, if such charge is expressly defined as a retail sale or retail service when rendered to or for consumers. Sale at wholesale also includes the sale of network telephone service to a telecommunications company as defined in RCW 80.04.010 for the purpose of resale, as contemplated by RCW 35.21.715.

Notwithstanding the above, "sale at wholesale" or "wholesale sale" shall specifically not include a distribution cooperative's or its distribution affiliate's sales of merchandise to a customer-owner of the distribution cooperative for the customer-owner's resale at retail. A distribution cooperative or a distribution affiliate is taxed on such sales pursuant to Section 5.45.050 G of the Seattle Municipal Code.

D. "Services." A definition of "services" will be adopted when the term is defined in RCW 82.04.

((D))E. "Software," "prewritten software," (~~("canned software,")~~) "custom software," "customization of canned software," "master copies," "retained rights."

1. "Prewritten software," or "((C))canned software" means computer software, including prewritten upgrades, that is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two

1 or more prewritten computer software programs or prewritten portions thereof  
2 does not cause the combination to be other than prewritten computer software.  
3 Prewritten computer software includes software designed and developed by the  
4 author or other creator to the specifications of a specific purchaser when it is sold  
5 to a person other than such purchaser. Where a person modifies or enhances  
6 computer software of which such persons is not the author or creator, the person  
7 shall be deemed to be the author or creator only of the person's modifications or  
8 enhancements. Prewritten computer software or a prewritten portion thereof that  
9 is modified or enhanced to any degree, where such modification or enhancement  
10 is designed and developed to the specifications of a specific purchaser, remains  
11 prewritten computer software; however, where there is a reasonable, separately  
12 stated charge or an invoice or other statement of the price given to the purchaser  
13 for the modification or enhancement, the modification or enhancement shall not  
14 constitute prewritten computer software. ((software that is created for sale to  
15 more than one (1) person. For purposes of this chapter, canned software is  
16 deemed to be tangible personal property regardless of the method of delivery—  
17 tangible media (i.e. disk or installed on hardware) or intangible (i.e. electronically  
18 over telecommunications paths).))

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22 2. "Custom software" means software created for a single person.

23  
24 3. "Customization of canned software" means any alteration, modification, or  
25 development of applications using or incorporating canned software to specific  
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1 individualized requirements of a single person. Customization of canned software  
2 includes individualized configuration of software to work with other software and  
3 computer hardware but does not include routine installation. Customization of  
4 canned software does not change the underlying character or taxability of the  
5 original canned software.

6  
7 4. "Master copies" of software means copies of software from which a software  
8 developer, author, inventor, publisher, licensor, sublicensor, or distributor makes  
9 copies for sale or license. The software encoded on a master copy and the media  
10 upon which the software resides are both ingredients of the master copy.

11  
12 5. "Retained rights" means any and all rights, including intellectual property  
13 rights such as those rights arising from copyrights, patents, and trade secret laws,  
14 that are owned or are held under contract or license by a software developer,  
15 author, inventor, publisher, licensor, sublicensor, or distributor.

16  
17 6. "Software" means any information, program, or routine, or any set of one (1) or  
18 more programs, routines, or collections of information used, or intended for use,  
19 to convey information that causes one (1) or more computers or pieces of  
20 computer-related peripheral equipment, or any combination thereof, to perform a  
21 task or set of tasks. "Software" includes the associated documentation, materials,  
22 or ingredients regardless of the media upon which that documentation is provided,  
23 that describes the code and its use, operation, and maintenance and that typically  
24 is delivered with the code to the consumer. All software is classified as either  
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canned or custom.

((E))F. "Solid waste" has the meaning given in SMC Section 21.36.016.

((F))G. "Successor" means any person to whom a taxpayer quitting, selling out, exchanging or disposing of a business sells or otherwise conveys, directly or indirectly, in bulk and not in the ordinary course of the taxpayer's business, any part of the materials, supplies, merchandise, inventory, fixtures or equipment of the taxpayer. Any person obligated to fulfill the terms of a contract shall be deemed a successor to any contractor defaulting in the performance of any contract as to which such person is a surety or guarantor.

**Section 7.** Section 5.30.060 of the Seattle Municipal Code is hereby amended as follows:

**5.30.060 Definitions, T--Z.**

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F. "Value proceeding or accruing" means the consideration, whether money, credits, rights, or other property expressed in terms of money, a person is entitled to receive or accrue or which is actually received or accrued. The term shall be applied, in each case, on a cash receipts or accrual basis according to which method of accounting is regularly employed in keeping the books of the taxpayer. The value proceeding or accruing from sales on the installment plan under conditional contracts of sale shall be reported as of the dates when the payments become due.

G. "Value of products, how determined."

1. The value of products, including by-products, extracted or manufactured, shall be determined by the gross proceeds derived from the sale thereof, whether such



1 sale is at wholesale or at retail, to which shall be added all subsidies and bonuses  
2 received from the purchaser or from any other person with respect to the  
3 extraction, manufacture or sale of such products or by-products by the seller.

4 2. Where such products, including by-products, are extracted or manufactured for  
5 commercial or industrial use, and where such products, including by-products, are  
6 shipped, transported or transferred out of the City, or to another person, without  
7 prior sale or are sold under circumstances such that the gross proceeds from the  
8 sale are not indicative of the true value or the subject matter of the sale, the value  
9 shall correspond as nearly as possible to the gross proceeds from sales in this state  
10 of similar products of like quality and character, and in similar quantities by other  
11 taxpayers, plus the amount of subsidies or bonuses ordinarily payable by the  
12 purchaser or by any third person with respect to the extraction, manufacture or  
13 sale of such products. In the absence of sales of similar products as a guide to  
14 value, such value may be determined upon a cost basis. In such cases, there shall  
15 be included every item of cost attributable to the particular article or article  
16 extracted or manufactured, including direct and indirect overhead costs. The  
17 Director of Finance may prescribe uniform and equitable rules for the purpose of  
18 ascertaining such values.

19 3. Notwithstanding subsection 2 above, the value of a product manufactured or  
20 produced for purposes of serving as a prototype for the development of a new or  
21 improved product shall correspond to:  
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a. the retail selling price of such new or improved product when first offered for sale; or

b. the value of materials incorporated into the prototype in cases in which the new or improved product is not offered for sale.

H. "Wholesaling" means engaging in the activity of making sales at wholesale, and is reported under the wholesaling classification.

((H))I. "Yardwaste" has the meaning given in SMC Section 21.36.016.

**Section 8.** Section 5.45.050 of the Seattle Municipal Code is hereby amended as follows:

**5.45.050 Imposition of the tax--Tax or fee levied.**

Except as provided in SMC 5.55.040(D)(1), there is hereby levied upon and shall be collected from every person a tax for the act or privilege of engaging in business activities within the City, whether the person's office or place of business be within or without the City. The tax shall be in amounts to be determined by application of rates against gross proceeds of sale, gross income of business, or value of products, including by-products, as the case may be, as follows:

A. Upon every person engaging within the City in business as an extractor; as to such persons the amount of the tax with respect to such business shall be equal to the value of the products, including by-products, extracted within the City for sale or for commercial or industrial use, multiplied by the rate of two hundred fifteen one-thousandths of one percent (.00215). The measure of the tax is the value of the products, including by-products, so extracted, regardless of the place of sale or the fact that deliveries may be made to points outside the City.

B. Upon every person engaging within the City in business as a manufacturer, except

persons taxable under subsection D of this Section; as to such persons the amount of the tax with respect to such business shall be equal to the value of the products, including by-products, manufactured or processed within the City, multiplied by the rate of two hundred fifteen one-thousandths of one percent (.00215). The measure of the tax is the value of the products, including by-products, so manufactured or processed, regardless of the place of sale or the fact that deliveries may be made to points outside the City.

C. Upon every person engaging within the City in the business of making sales of retail services, or making sales at wholesale or retail, except persons taxable under subsection D of this section; as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of such sales of the business without regard to the place of delivery of articles, commodities or merchandise sold, multiplied by the rate of two hundred fifteen one-thousandths of one percent (.00215).

D. Upon every person engaging within the City in the business of:

1. Buying wheat, oats, corn, barley and rye, but not including any manufactured or processed products thereof, and selling the same at wholesale, the tax imposed shall be equal to the gross proceeds of such sales of the business without regard to the place of delivery of articles, commodities or merchandise sold, multiplied by the rate of two hundred fifteen ten-thousandths of one percent (.000215); or
2. Manufacturing wheat into flour; the tax imposed shall be equal to the value of the flour manufactured, multiplied by the rate of two hundred fifteen ten-thousandths of one percent (.000215).

E. Upon every person engaging within the City in the business of:

1. printing;
2. both printing and publishing newspapers, magazines, periodicals, books, music, and other printed items;
3. publishing newspapers, magazines and periodicals;
4. extracting for hire;
- ~~((4))~~5. processing for hire; or
- ~~((5))~~6. conducting a tour operator business; as to such persons, the amount of tax on such business shall be equal to the gross income of the business multiplied by the rate of two hundred fifteen one-thousandths of one percent (.00215).

F. Upon every motor carrier engaging within the City in the business of transporting freight for hire, as to such persons, the amount of the tax with respect to such business shall be equal to the gross income from the transport of freight picked up in the City multiplied by the rate of four hundred fifteen one-thousandths of one percent (.00415). The business of transporting freight for hire includes the business of leasing or renting motor vehicles operated by the lessor, or by a person under the control of the lessor, to transport freight for hire.

G. Upon every other person engaging within the City in any business activity other than or in addition to those enumerated in the above subsections; as to such persons, the amount of tax on account of such activities shall be equal to the gross income of the business multiplied by the rate of four hundred fifteen one-thousandths of one percent (.00415). This subsection includes, among others, and without limiting the scope hereof (whether or not title to material used in the

performance of such business passes to another by accession, merger or other than by outright sale), persons engaged in the business of developing, or producing custom software or of customizing canned software, producing royalties or commissions, persons engaged in the business of freight brokering, and persons engaged in the business of rendering any type of service which does not constitute a sale at retail, ~~((or))~~ a sale at wholesale, or a retail service.

**Section 9.** Section 5.45.070 of the Seattle Municipal Code is hereby amended as follows:

**5.45.070 Multiple activities credit when activities take place in one or more cities with eligible gross receipt taxes.**

A. Persons who engage in business activities that are within the purview of two (2) or more subsections of SMC Section 5.45.050 shall be taxable under each applicable subsection.

B. Notwithstanding anything to the contrary herein, ~~((I))~~ if imposition of the City's tax would place an undue burden upon interstate commerce or violate constitutional requirements, a taxpayer shall be allowed a credit to the extent necessary to preserve the validity of the City's tax, and still apply the City tax to as much of the taxpayer's activities as may be subject to the City's taxing authority.

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**Section 10.** Section 5.45.075 of the Seattle Municipal Code is hereby amended as follows:

**5.45.075 Deductions to prevent multiple taxation of transactions involving more than one city with an eligible gross receipts tax.**

A. Amounts subject to an eligible gross receipts tax in another city that also maintains

nexus over the same activity. A taxpayer that is subject to an eligible gross receipts tax on the same activity in more than one jurisdiction may be entitled to a deduction as follows:

1. A taxpayer that has paid an eligible gross receipts tax with respect to a sale of goods or services, to a jurisdiction in which the goods are delivered or the services are provided, may deduct an amount equal to the gross receipts used to measure that tax from the measure of the tax owed to the City.

2. Notwithstanding the above, a person who is subject to an eligible gross receipts tax in more than one jurisdiction on the gross income derived from intangibles such as royalties, trademarks, patents, or goodwill shall assign those gross receipts to the ~~((may deduct from the measure of the tax on those amounts the gross income used in measuring the eligible gross receipts tax paid to the other))~~ jurisdiction where the person is domiciled (its headquarters is located).

3. A taxpayer that has paid an eligible gross receipts tax on the privilege of accepting or executing a contract with another city may deduct an amount equal to the contract price used to measure the tax due to the other city from the measure of the tax owed to the City.

B. Person manufacturing products within and without the City. A person manufacturing products within the City using products manufactured by the same person outside the City may deduct from the measure of the manufacturing tax the value of products manufactured outside the City and included in the measure of an eligible gross receipts tax paid to the other jurisdiction with respect to manufacturing such products.

Gross income derived from the sale of intangibles such as royalties, trademarks, patents,

**Section 12.** Section 5.45.090 of the Seattle Municipal Code is hereby amended as follows:

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U. Mortgage Brokers' Third-Party Provider Services Trust Accounts. This chapter shall not apply to amounts received from trust accounts to mortgage brokers for the payment of third-party costs if the accounts are operated in a manner consistent with RCW 19.146.050 and any rules adopted by the director of financial institutions.



1 This chapter shall not apply to the manufacturing, selling or distributing motor vehicle fuel, as  
2 the term "motor vehicle fuel" is defined in RCW 82.36.010 and exempted under RCW  
3 82.36.440, provided that any fuel not subjected to the state fuel excise tax, or any other  
4 applicable deduction or exemption, will be taxable under this chapter.

5 W. Amounts Derived From Liquor, and the Sale or Distribution of Liquor. This chapter  
6 shall not apply to liquor as defined in RCW 66.04.010 and exempted in RCW 66.08.120.

7 X. Casual and Isolated Sales. This chapter shall not apply to the gross proceeds derived  
8 from casual or isolated sales.

9 Y. Health Maintenance Organization, Health Care Service Contractor, Certified Health  
10 Plan. Beginning on January 1, 2000, this chapter does not apply to any health maintenance  
11 organization, health care service contractor, or certified health plan in respect to premiums or  
12 prepayments that are taxable under RCW 48.14.0201. This exemption is limited to premiums  
13 and payments for health benefit plans offered by health care service contractors under RCW  
14 Chapter 48.44 and health maintenance organizations under RCW chapter 48.46 and does not  
15 apply to health care services directly delivered by the employees of a health maintenance  
16 organization under RCW Chapter 48.46.

17 Z. Accommodation Sales. This chapter shall not apply to sales for resale by persons  
18 regularly engaged in the business of making retail sales of the type of property so sold to other  
19 persons similarly engaged in the business of selling such property where:

- 20 1. The amount paid by the buyer does not exceed the amount paid by the seller to  
21 his vendor in the acquisition of the article; and  
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1           2. The sale is made as an accommodation to the buyer to enable the buyer ((him))  
2           to fill a bona fide existing order of a customer or is made within fourteen (14)  
3           days to reimburse in kind a previous accommodation sale by the buyer to the  
4           seller.

5           Provided, that where the seller holds himself or herself out as being regularly  
6           engaged in the business of making sales at wholesale of such property, such sales  
7           shall be included in his principal business activity, and not exempt from tax.

8  
9           AA. Real Estate Brokers and Associated Brokers, Agents, or Salesmen. This chapter  
10          does not apply to that portion of a real estate commission assigned to another brokerage office  
11          pursuant to the division of revenue between the originating brokerage office and a cooperating  
12          brokerage office on a particular transaction. Each brokerage office shall pay the tax upon its  
13          respective revenue share of the transaction. Furthermore, where a brokerage office has paid the  
14          business license tax on the gross commission earned by that brokerage office, associate brokers,  
15          salesmen or agents within the same office shall not be required to pay the tax upon their share of  
16          the commission from the same transaction.  
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19          BB. Taxes Collected as Trust Funds. This chapter shall not apply to amounts collected  
20          by the taxpayer from third parties to satisfy third party obligations to pay taxes such as the retail  
21          sales tax, use tax, and admission tax.

22          CC. Public Utilities. This chapter shall not apply to any person in respect to a  
23          business activity with respect to which a utilities tax liability is specifically imposed pursuant to  
24          SMC Chapter 5.48.  
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Section 13. Section 5.55.030 of the Seattle Municipal Code is hereby amended as follows:

**5.55.030 License requirements.**

A. No person, unless specifically exempted, shall engage in any business activity, profession, trade or occupation in the City without having first obtained and being the holder of a valid and subsisting license to do so, to be known as a "business license." The fee for the business license shall be ~~((Seventy-five))~~ Ninety Dollars (\$((75))90.00) for persons with worldwide gross income of the business and value of products of more than Twenty Thousand Dollars (\$20,000) in the current calendar year that engage ((engaging)) in any business activity, profession, trade or occupation in the City prior to July 1st and ~~((Thirty-seven))~~ Forty-five Dollars ((and Fifty Cents)) (\$((37.50))45.00) for persons beginning their activity on or after July 1st. The business license fee for persons with worldwide gross income of the business and value of products of Twenty Thousand Dollars (\$20,000) or less in the current calendar year will be Forty-five Dollars (\$45) if prior to July 1<sup>st</sup> and Twenty Two Dollars and Fifty Cents (\$22.50) for persons beginning their activity on or after July 1<sup>st</sup>. ~~((Effective January 1, 2003 a surcharge of Five Dollars (\$5) will be added to the fee for a business license for persons engaging in any business activity, profession, trade or occupation in the City prior to July 1st and a surcharge of Two Dollars and Fifty Cents (\$2.50) will be added to the fee for a business licenses for persons beginning their activity after June 30<sup>th</sup>)).~~ The fee shall accompany the application for the license.

The business license shall expire at the end of the calendar year for which it is issued.  
The business license shall be personal and nontransferable except as provided in subsection G,



1 below. Applications for the business license shall be made to the Director of ((£))Finance on  
2 forms provided by the Director. Each business license shall be numbered, shall show the name,  
3 place and character of the business of the licensee, and such other information as the Director  
4 deems necessary, and shall at all times be conspicuously posted in the place of business for  
5 which it is issued.

6  
7 If the licensee changes the place of business, the licensee shall return the business license  
8 to the Director and a new license shall be issued for the new place of business free of charge.

9 B. When business is transacted at two (2) or more separate places by one (1) taxpayer, a  
10 separate business license for each place at which business is transacted with the public shall be  
11 required. A Ten Dollar (\$10.00) license fee shall be imposed and accompany each application  
12 for the business license required for each additional business location.

13  
14 C. No person to whom a business license has been issued pursuant to this chapter shall  
15 suffer or allow any other person for whom a separate license is required to operate under or  
16 display his or her license; nor shall such other person operate under or display such license.

17  
18 D. As provided in SMC Section 6.20.040, a participant at an event, identified in the list  
19 supplied by the promoter or organizer, shall be exempt from the ((minimum)) business license  
20 fee established by subsection A, above, or the fee for a separate business location established by  
21 subsection B, above, on account of business activities at the licensed event for the duration of the  
22 event license; provided however, that such participant is not otherwise engaging in business in  
23 the City as such term is defined in SMC Section 5.30.030 B2.

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

~~((1. Five Dollars (\$5) if not received on or before the due date;))~~

~~((2))~~1. Ten Dollars (\$10) if not received on or before the last day of the month following the due date.

~~((3))~~2. Twenty Dollars (\$20) if not received on or before the last day of the second month following the due date.

~~((4))~~3. All business licenses issued subsequent to the initial license period shall be deemed renewal licenses if there has been no discontinuance of the licensee's operations or activities. Nonpayment of business license fees and taxes when due by the licensee during the term of any license shall constitute grounds for revocation or suspension of said license.

F. Licenses for amusement devices will be in addition to this business license and will be assessed pursuant to SMC Section 5.32.170. It is unlawful for any person to own any amusement device, which is available for use by the public, without having first obtained an amusement device license issued in accordance with the provisions of this chapter and SMC Chapter 5.32. The license shall be attached to the amusement device at all times when in use or play or available for use or play so that it is readily visible. The amusement device license will be prorated semi-annually in the same manner as the business license; however, the amusement device license expires annually on November 30th.

1 G. A business license or amusement device license cannot be assigned or transferred,  
2 except that a license may be transferred:

- 3 1. To the surviving or new corporation, whenever the licensed corporation is  
4 merged or consolidated pursuant to RCW Chapter 23B.11, as now or hereafter  
5 amended;
- 6 2. To the surviving partner, or to a new partnership which consists exclusively of  
7 the surviving partners, whenever one (1) partner of a licensed partnership dies;
- 8 3. To the surviving spouse, whenever one (1) spouse of a licensed marital  
9 community dies;
- 10 4. To any one (1) or more former partners, whenever a licensed partnership is  
11 dissolved and one (1) or more of the former partners of the licensed partnership  
12 continue the operation of the business as an individual proprietorship or  
13 partnership without the addition of any new partner, and all of the other former  
14 partners consent in writing to the transfer of the license, which written consent  
15 shall be filed with the application for such transfer;
- 16 5. To one (1) spouse, whenever a licensed marital community is dissolved and the  
17 other spouse consents in writing to the transfer of the license, which written  
18 consent shall be filed with the application for such transfer;
- 19 6. In case of the death of any licensee before the expiration of his or her license,  
20 his or her administrator or executor, duly appointed as such by order of court, may  
21 continue to act under said license for the unexpired term thereof upon filing with  
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the City proof of such appointment.

As used in this subsection, SMC 5.55.030 G, the term "partnership" includes joint venture, and the term "partner" includes a co-venturer.

**Section 14.** Section 5.55.040 of the Seattle Municipal Code is hereby amended as follows:

**5.55.040 When due and payable--Reporting periods--Monthly, quarterly, and annual returns--Threshold provisions--Computing time periods--Failure to file returns.**

A. Other than any annual license fee or registration fee assessed under this chapter, the tax imposed by SMC Chapters 5.32 (Amusement Devices), 5.40 (Admission Taxes), 5.45 (Business License Tax), 5.48 (Utility Tax), and 5.52 (Gambling Tax), shall be due and payable in quarterly installments. At the Director's discretion, businesses may be assigned to a monthly or annual reporting period depending on the tax amount owing or type of tax. Taxes imposed by SMC Section 5.52.030(A)(2) and (B)(2) for punchboards and pulltabs shall be due and payable in monthly installments. Tax payments are due on or before the last day of the next month following the end of the assigned reporting period covered by the return.

B. Taxes shall be paid as provided in this chapter and accompanied by a return on forms as prescribed by the Director. The return shall be signed by the taxpayer personally or by a responsible officer or agent of the taxpayer. The individual signing the return shall swear or affirm that the information in the return is true and complete.

C. Tax returns must be filed and returned by the due date whether or not any tax is owed.

Returns not received on or before the due date are subject to penalties and interest in accordance with this chapter.

D. 1. For purposes of the tax imposed by SMC Chapter 5.45, any person whose ~~((value of products,))~~ gross proceeds of sales, ~~((or))~~ gross income of the business, and value of products, including by-products, as the case may be, from all activities conducted within the City subject to tax after all allowable deductions, is less than Fifty Thousand Dollars (\$50,000) in the current calendar year, shall file a return, declare no tax due on their return, and submit the return to the Director.

The gross receipts and deduction amounts shall be entered on the tax return even though no tax may be due.

2. Any person who reasonably estimates that the ~~((value of products,))~~ gross proceeds of sales, ~~((or))~~ gross income of the business, and value of products, including by-products, as the case may be, from all activities conducted within the City subject to tax after all allowable deductions, will be less than Fifty Thousand Dollars (\$50,000) in the current calendar year may file a declaration so stating on a form supplied by the Director at the same time he or she files his or her application for a business license or a renewal. The Director may assign any person who files such declaration to an annual reporting basis.

E. A taxpayer who commences to engage in business activity shall file a return and pay the tax or fee for the portion of the reporting period during which he or she is engaged in business activity subject to the conditions set forth in subsection D, above.

1 F. Except as otherwise specifically provided by any other provision of this chapter, in  
2 computing any period of days prescribed by this chapter the day of the act or event from which  
3 the designated period of time runs shall not be included. The last day of the period shall be  
4 included unless it is a Saturday, Sunday, or City or Federal legal holiday, in which case the last  
5 day of such period shall be the next succeeding day which is neither a Saturday, Sunday, or City  
6 or Federal legal holiday.

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

18 **Section 15.** Section 6.20.050 of the Seattle Municipal Code is hereby amended as  
19 follows:

20 **6.20.050 Relation to annual City business license.**

21 A. A ~~((participant at a trade show))~~ person whose business location is located outside the  
22 City, and who (a) has been identified in a listing supplied to the City by the trade show's  
23 promoter or organizer under Section 6.20.030, and (b) limits ~~((his or her))~~ their business  
24 activities in Seattle to a trade show ancillary to a convention, shall be exempt from paying the  
25



1 ((minimum)) business license fee required by Section 5.55.030 A on account of ((his or her))  
2 their business activities at the trade show, or in the event that the participant already has a City  
3 business license, from securing a license for a separate business location at the trade show under  
4 Section 5.55.030 B, each for the duration of the trade show license.

5 B. Notwithstanding subsection A above, a((A)) participant at a trade show remains  
6 subject to the other provisions of Chapters 5.45 or 5.48, as the case may be. If the gross proceeds  
7 of sales, value of products, or gross income of the participant on account of his or her business  
8 activities at the trade show or elsewhere in Seattle is equal to or exceeds the taxable threshold  
9 pursuant to SMC Subsection 5.55.040 D in the tax year, the participant shall ((file)) obtain a  
10 business license and pay the City's business license tax as contemplated by Chapter 5.45.  
11

12 C. Registration of a participant at a trade show of collectibles for hobbyists sponsored by  
13 an association of such collectors or an incorporated association of dealers in such collectibles  
14 substitutes for applying for a "used goods dealers" license with respect to transactions at the trade  
15 show in that line of collectibles, but not of other objects. The trade show license shall be in lieu  
16 of the license and fees required by Sections 6.288.030 and 6.204.080. The participants are  
17 subject to Section 6.288.050 (unlawful acts) and Sections 6.288.070 through 6.288.110, inclusive  
18 (recordkeeping, reporting to police, police holds, and inspection).  
19  
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28

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

Passed by the City Council the \_\_\_\_ day of \_\_\_\_\_, 2004, and signed by me in open session in authentication of its passage this \_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
President \_\_\_\_\_ of the City Council

Approved by me this \_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
Gregory J. Nickels, Mayor

Filed by me this \_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
City Clerk

(Seal)



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**STATE OF WASHINGTON – KING COUNTY**

--SS.

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179645  
CITY OF SEATTLE, CLERKS OFFICE

No.

**Affidavit of Publication**

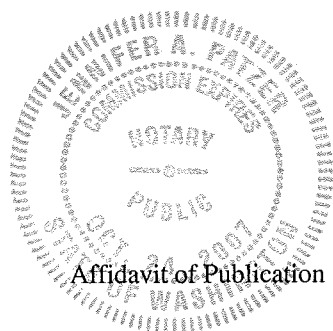
The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12<sup>th</sup> 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:ORDINANCE 121679

was published on

12/13/2004



Journal of Commerce

Subscribed and sworn to before me on

12/13/2004

[Signature]

Notary public for the State of Washington,  
residing in Seattle

# State of Washington, King County

## City of Seattle

### ORDINANCE 121679

AN ORDINANCE relating to business licensing; adding exemptions for rental income and utility revenue taxed under SMC Chapter 5.48; providing for a two-tier business license fee structure; providing a grace period before assessing penalties to licensees that file annual business license renewals late; increasing the cost of annual and half-year business licenses and abolishing the surcharge on those licenses; adding Section 5.45.076; and amending Sections 5.30.20, 5.30.25, 5.30.030, 5.30.035, 5.30.040, 5.30.050, 5.30.060, 5.45.050, 5.45.070, 5.45.075, 5.45.076, 5.45.090, 5.55.030, 5.55.040, and 5.20.050, respectively, of the Seattle Municipal Code.

WHEREAS, in 2003, the Washington State Legislature passed Chapter 79, Session Laws of 2003, which established mandatory provisions of the Model Ordinance to be used by gross receipt business and occupation tax cities, codified in Chapter 35.102 RCW; and

WHEREAS, under Ch. 35.102 RCW, it is necessary that the City of Seattle adopt by ordinance the mandatory provisions of the Model Ordinance; and

WHEREAS, the City desires to give small businesses a reduction on their business licensing fee; and

WHEREAS, enforcement of the \$5 late penalty on annual business licenses costs more than the revenue it generates and the City desires to give licensees a grace period of one month before penalties are assessed; and

WHEREAS, the Seattle Municipal Code needs to be clarified for the licensing and taxing of trade show participants; NOW, THEREFORE,

### BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 5.30.020 of the Seattle Municipal Code is hereby amended as follows:

#### 5.30.020 Definitions, A-B.

\*\*\*

H. "Business and occupation tax" or "gross receipts tax" means a tax imposed on or measured by the value of products, the gross income of the business, or the gross proceeds of sales, as the case may be, and that is the legal liability of the business.

Section 2. Section 5.30.025 of the Seattle Municipal Code is hereby amended as follows:

#### 5.30.025 Definitions, C-D.

A. "Cash discount" means a deduction from the invoiced amount allowed by the seller if the (b)(H) invoice is paid within a certain time period or before a specified date.

B. "Cellular telephone service" is a voice or data telephone/telecommunications system based in whole or substantial part on wireless radio communications, whether or not the communications are subject to regulation by the Washington Utilities and Transportation Commission (WUTC). This includes cellular mobile service. Cellular mobile service includes other wireless radio communications services such as specialized mobile radio (SMR), personal communications services (PCS), and any other evolving wireless radio communications technology which accomplishes the same purpose as cellular mobile service.

C. "City" means the City of Seattle.

D. "Commercial or industrial use" means the following uses of products, including by-products, by the extractor or manufacturer thereof:

1. Any use as a consumer; and

2. ((Any use in the))The manufacturing of ((products including)) articles, substances or commodities((or)).

((3. Consigning, shipping or transferring extracted or manufactured products to another either without consideration or in the performance of contracts.))

\*\*\*

Section 3. Section 5.30.030 of the Seattle Municipal Code is hereby amended as follows:

#### 5.30.030 Definitions, E-F.

A. "Eligible gross receipts tax" means a tax which:

1. Is imposed on the act or privilege of engaging in business activities within SMC Section 5.45.050;

2. Is measured by the gross volume of business in terms of gross receipts, and is not an income tax or value added tax;

3. Is not, pursuant to law or custom, separately stated from the sales price;

4. Is not a sales or use tax, business license fee, franchise fee, royalty or severance tax measured by volume or weight, or concession charge, or payment for the use and enjoyment of property, property right or a privilege; and

5. Is a tax imposed by a local jurisdiction, whether within or without the State of Washington, and not by a Country, State, Province, or any other non-local jurisdiction above the county level.

#### B. "Engaging in business."

1. The term "engaging in business activity" means commencing, conducting, or continuing in business, and also the exercise of corporate or franchise powers, as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business.

2. This section sets forth examples of activities that constitute engaging in business in the City, and establishes safe harbors for certain of those activities so that a person who meets the criteria may engage in de minimus business activities in the City without having to register and obtain a business license or pay City business and occupation (license) taxes. The activities listed in this section are illustrative only and are not intended to narrow the definition of "engaging in business" in subsection (1), above. If an activity is not listed, the issue of whether it constitutes engaging in business in the City shall be determined by considering all the facts and circumstances and applicable law.

3. Without being all inclusive, any one of the following activities conducted within the City by a person, or its employee, agent, representative, independent contractor, broker or another acting on its behalf constitutes engaging in business and requires a person to register and obtain a business license:

a. Owning, renting, leasing, maintaining, or having the right to use, or using, tangible personal property, intangible personal property, or real property permanently or temporarily located in the City;

b. Owning, renting, leasing, using, or maintaining, an office, place of business, or other establishment in the City;

c. Soliciting sales;

d. Making repairs or providing maintenance or service to real or tangible personal property, including warranty work and property maintenance;

e. Providing technical assistance or service, including quality control, product inspections, warranty work, or similar services on or in connection with tangible personal property sold by the person or on its behalf;

f. Installing, constructing, or supervising installation or construction of, real or tangible personal property;

g. Soliciting, negotiating, or approving franchise, license, or other similar agreements;

h. Collecting current or delinquent accounts;

i. Picking up and transporting tangible personal property, solid waste construction debris, or excavated materials;

j. Providing disinfecting and pest control services, employment and labor pool services, home nursing care, janitorial services, appraising, landscape architectural services, security system services, surveying, and real estate services including the listing of homes and managing real property;

k. Rendering professional services such as those provided by accountants, architects, attorneys, auctioneers, consultants, engineers, professional athletes, barbers, baseball clubs and other sports organizations, chemists, consultants, psychologists, court reporters, dentists, doctors, detectives, laboratory operators, teachers, veterinarians; (or)

l. Meeting with customers or potential customers, even when no sales or orders are solicited at the meetings((or));

m. Training or recruiting ((employees)) agents, representatives, independent contractors, brokers or others domiciled or operating on a job in the City, acting on its behalf, or for customers or potential customers;

n. Investigating, resolving, or otherwise assisting in resolving customer complaints;

o. In-store stocking or manipulating products or goods, sold to and owned by a customer, regardless of where sale and delivery of the goods took place;

p. Delivering goods in vehicles owned, rented, leased, used, or maintained by the person who sold the goods or another acting on its behalf((or)); or

q. Accepting or executing a contract with the City, irrespective of whether the goods or services are delivered within or without the City, or whether the person's office or place of business is within or without the City.

4. If a person, or its employee, agent, representative, independent contractor, broker or another acting on the person's behalf, engages in no other activities in or with the City but the following, it need not register and obtain a business license and pay tax.

a. Meeting with suppliers of goods and services as a customer;

b. Meeting with government representatives in their official capacity, other than those performing contracting or purchasing functions;

c. Attending meetings, such as board meetings, retreats, seminars, and conferences, or other meetings wherein the person does not provide training in connection with tangible personal property sold by the person or on its behalf;

d. Renting tangible or intangible property as a customer when the property is not used in the City;

e. Attending, but not participating in, a "trade show". Persons participating at a trade show shall review the City's trade show ordinance, SMC Chapter 6.20;

f. Conducting advertising through the mail; or

g. Soliciting sales by phone from a location outside the City;

5. A seller located outside the City merely delivering goods into the City by means of common carrier is not required to register and obtain a business license provided that it engages in no other business activities in the City.

The City expressly intends that engaging in business include any activity sufficient to establish nexus for purposes of applying the tax under the law and the constitutions of the United States and the State of Washington.

Nexus is presumed to continue as long as the taxpayer benefits from the activity that constituted the original nexus generating contact or subsequent contacts.

C. "Extracting" means the activity engaged in by an extractor and is reportable under the extracting classification.

((C))D. "Extractor" means every person who from the person's own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, for sale or for commercial or industrial use, mines, quarries, takes or produces coal, oil, natural gas, ore, stone, sand, gravel, clay, mineral or other natural resource product; or fells, cuts or takes timber, Christmas trees, other than plantation Christmas trees, or other natural products; or takes fish, or takes, cultivates, or raises shellfish, or other sea or inland water foods or products. "Extractor" does not include persons performing under contract the necessary labor or mechanical services for others; persons cultivating or raising fish entirely within confined rearing areas on the person's own land or on land in which the person has a present right of possession; or persons who fell, cut, or take plantation Christmas trees from the person's own land or from land in which the person has a present right of possession, or persons meeting the definition of farmer.

E. "Extractor for Hire" means a person who performs under contract necessary labor or mechanical services for an extractor.

((B))F. "Freight Broker" shall mean persons who sell, provide for, or arrange transportation by a motor carrier for compensation. Freight brokers do not themselves transport or contract to transport property from origin to destination.

Section 4. Section 5.30.035 of the Seattle Municipal Code is hereby amended as follows:

#### 5.30.035 Definitions, G-M.

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D. "Gross income of the business" means the value proceeding or accruing by reason of the transaction of the business activity engaged in and includes gross proceeds of sales, compensation for the rendition of services, gains realized from trading in stocks, bonds or other evidences of indebtedness, interest, discount, rents, royalties, fees, commissions, dividends and other emoluments however designated, all without any deduction on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes or any other expense whatsoever paid or accrued and without any deduction on account of losses.

\*\*\*

H. "Manufacturer," "to manufacture."

1. "Manufacturer" means every person who, either directly or by contracting with others for the necessary labor or mechanical services, manufactures for sale or for commercial or industrial use from the person's own materials or ingredients any products. When the owner of equipment or facilities furnishes, or sells to the customer prior to manufacture, materials or ingredients equal to less than twenty percent (20%) of the total value of all materials or ingredients that become a part of the finished product, the owner of the equipment or facilities will be deemed to be a processor for hire and not a manufacturer. A business not located in this City that is the owner of materials or ingredients processed for it in this City by a processor for hire shall be deemed to be engaged in business as a manufacturer in this City.

2. "To manufacture" means all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to materials or ingredients so that as a result thereof a new, different or useful product of tangible personal property is produced for sale or commercial or industrial use, and shall include:

a. The production of special-made articles or custom-made articles;

b. The production of dental appliances, devices, restorations, substitutes, or other dental laboratory products by a dental laboratory or dental technician;

c. Crushing and/or blending of rock, sand, stone, gravel, or ore, and

d. The producing of articles for sale, or for commercial or industrial use from raw materials or prepared materials by giving such materials, articles, and substances of trade or commerce new forms, qualities, properties or combinations including, but not limited to, such activities as making, fabricating, processing, refining, mixing, slaughtering, packing, aging, curing, mild curing, preserving, canning, and the preparing and freezing of fresh fruits and vegetables.

3. "To manufacture" shall not include the production of computer software if the computer software is delivered from the seller to the purchaser by means other than tangible storage media, including the delivery by use of a tangible storage media where the tangible storage media is not physically transferred to the purchaser.

4. "Motor Carrier" shall mean the carrier providing transportation for hire described in the definitions of "common carrier" and "contract carrier" as defined in RCW 81.80.010.

Section 5. Section 5.30.040 of the Seattle Municipal Code is hereby amended as follows:

#### 5.30.040 Definitions, N-R.

\*\*\*

D. "Office," "place of business," "Office" or "place of business" means a fixed location or permanent facility where the regular business of the person is conducted and which is either owned by the person or over which the person exercises legal dominion and control. The regular business of the person is presumed conducted at a location:

1. Whose address the person uses as its business mailing address;

2. Where the place of primary use is shown on a telephone billing or a location ((C)) containing a telephone line listed in a public telephone directory or other similar publication under the business name;

3. Where the person holds itself out to the general public as conducting its regular business through signage or other means; and

4. Where the person is required to obtain any appropriate state and local business license or registration unless exempted by law from such requirement.

A vehicle such as a pickup, van, truck, boat or other motor vehicle is not an office or place of business. A post office box is not an office or place of business.

If a person has an office or place of business, the person's home is not an office or place of business unless it meets the criteria for office or place of business above((7)). If a person has no office or place of business, the person's home or apartment within the City will be deemed the place of business.

\*\*\*

Q. "Retailing" means the activity of engaging in making sales at retail and is reported under the retailing classification.

((Q))R. "Return" means any document a person is required by the City to file to satisfy or establish a tax or fee obligation that is administered or collected by the City and that has a statutorily defined due date.

((R))S. "Royalties" mean((e)) compensation for the use of intangible property, such as copyrights, patents, licenses, franchisees, trademarks, tradenames and similar items.

((S))T. "Rubbish" has the meaning given in SMC Section 21.36.016.

Section 6. Section 5.30.050 of the Seattle Municipal Code is hereby amended as follows:

#### 5.30.050 Definitions, S.

A. "Sale," "casual or isolated sale."

1. "Sale" means any transfer of the ownership of, title to, or possession of, property for a valuable consideration and includes any activity classified as a "sale at retail," ((or)) "retail sale," ((or)) "retail service." It includes renting or leasing, conditional sale contracts, leases with option to purchase, and any contract under which possession of the property is given to the purchaser but title is retained by the vendor as security for the payment of the purchase price. It also includes the furnishing of food, drink, or meals for compensation whether consumed upon the premises or not.

2. "Casual or isolated sale" means a sale made by a person who is not engaged in the business of selling the type of property involved on a routine or continuous basis.

B. "Sale at retail," "retail sale."

1. "Sale at retail" or "retail sale" means every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons irrespective of the nature of their business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers, other than a sale to a person who presents a resale certificate under RCW 82.04.470 and who:

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

b. Installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of or for consumers, if such tangible personal property becomes an ingredient or component of such real or personal property without intervening use by such person; or

c. Purchases for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale; or

d. Purchases for the purpose of consuming the property purchased in producing ferroalloy which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferroalloy; or

e. Purchases for the purpose of providing the property to consumers as part of competitive telephone service, as defined in RCW 82.04.065.

The term shall include every sale of tangible personal property which is used or consumed or to be used or consumed in the performance of any activity classified as a "sale at retail" or "retail sale" even though such property is resold or utilized as provided in (a), (b), (c), (d), or (e) of this subsection following such use.

2. "Sale at retail" or "retail sale" also means every sale of tangible personal property to persons engaged in any business activity which is taxable under: 9504((b)) SMC 5.45.050 G.

3. "Sale at retail" or "retail sale" shall include the sale of or charge made for tangible personal property consumed and/or for labor and services rendered in respect to the following:

a. The installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers, including charges made for the mere use of facilities in respect thereto, but excluding charges made for the use of coin-operated laundry facilities when such facilities are situated in an apartment house, rooming house, or mobile home park for the exclusive use of the tenants thereof, and also excluding sales of laundry service to nonprofit health care facilities, and excluding services rendered in respect to live animals, birds and insects;

b. The constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for consumers, 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, and shall also include the sale of services or charges made for the clearing of land and the moving of earth excepting the mere leveling of land used in commercial farming or agriculture;

c. The charge for labor and services rendered in respect to constructing, repairing, or improving any structure upon, above, or

under any real property owned by an owner who conveys the property by title, possession, or any other means to the person performing such construction, repair, or improvement for the purpose of performing such construction, repair, or improvement and the property is then reconveyed by title, possession, or any other means to the original owner;

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

e. The sale of or charge made for labor and services rendered in respect to automobile towing and similar automotive transportation services, but not in respect to those required to report and pay taxes under chapter 82.16 RCW;

f. The sale of and charge made for the furnishing of lodging and all other services, except network telephone service and cable service, by a hotel, rooming house, tourist court, motel, trailer, camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, and it shall be presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same. For the purposes of this subsection, it shall be presumed that the sale of and charge made for the furnishing of lodging for a continuous period of one month or more to a person is a rental or lease of real property and not a mere license to enjoy the same;

g. The sale of or charge made for tangible personal property, labor and services to persons taxable under (a), (b), (c), (d), (e), and (f) of this subsection when such sales or charges are for property, labor and services which are used or consumed in whole or in part by such persons in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property, labor and services may be resold after such use or consumption.

Nothing contained in this subsection B 3 shall be construed to modify subsection 1 of this subsection B, and nothing contained in subsection B 1 shall be construed to modify this subsection B 3.

4. "Sale at retail" or "retail sale" shall also include the providing of competitive telephone service to consumers.

5. "Sale at retail" or "retail sale" shall also include the sale of canned software other than a sale to a person who presents a resale certificate under RCW 82.04.470, regardless of the method of delivery to the end user, but shall not include custom software or the customization of canned software.

6. "Sale at retail" or "retail sale" shall also include the sale of or charge made for labor and services rendered in respect to the building, repairing, or improving of any street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state, the State of Washington, or by the United States and which is used or to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind. (Public road construction).

7. "Sale at retail" or "retail sale" 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 (government contracting).

8. "Sale at retail" or "retail sale" shall not include the sale of services or charges made for the clearing of land and the moving of earth or for the United States, any instrumentality thereof, or a county or city housing authority. Nor shall the term include the sale of services or charges made for cleaning up for the United States, or its instrumentalities, radioactive waste and other byproducts of weapons production and nuclear research and development. (This is reported under the service or other classification).

9. "Sale at retail" or "retail sale" shall not include the sale of or charge made for labor and services rendered for environmental remedial action as defined in RCW 82.04.2635(2) (This is reported under the service or other classification).

C. "Sale at wholesale," "wholesale sale." "Sale at wholesale" or "wholesale sale" means any sale of tangible personal property which is not a retail sale, and any charge made for labor and services rendered for persons who are not consumers, in respect to real or personal property and retail services, if such charge is expressly defined as a retail sale or retail service when rendered to or for consumers. Sale at wholesale also includes the sale of network telephone service to a telecommunications company as defined in RCW 80.04.010 for the purpose of resale, as contemplated by RCW 35.21.715.

Notwithstanding the above, "sale at wholesale" or "wholesale sale" shall specifically not include a distribution cooperative's or its distribution affiliate's sales of merchandise to a customer-owner of the distribution cooperative for the customer-owner's resale at retail. A distribution cooperative or a distribution affiliate is taxed on such sales pursuant to Section 5.45.050 G of the Seattle Municipal Code.

D. "Services." A definition of "services" will be adopted when the term is defined in RCW 82.04.

((B))E. "Software," "prewritten software," ((canned software-)) "custom software," "customization of canned software," "master copies," "retained rights."

1. "Prewritten software" or ((B)) "canned software" means computer software, including prewritten upgrades, that is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more prewritten computer software programs or prewritten portions thereof does not cause the combination to be other than prewritten computer software. Prewritten computer software includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than such purchaser. Where a person modifies or enhances computer software of which such persons is not the author or creator, the person shall be deemed to be the author or creator only of the person's modifications or enhancements. Prewritten computer software or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten computer software; however, where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for the modification or enhancement, the modification or enhancement shall not constitute prewritten computer software. ((software that is created for sale to more than one (1) person. For purposes of this chapter, canned software is deemed to be tangible personal property regardless of the method of delivery—tangible media (i.e. disk or installed on hardware) or intangible (i.e. electronically over telecommunications paths).))

2. "Custom software" means software created for a single person.

3. "Customization of canned software" means any alteration, modification, or development of applications using or incorporating canned software to specific individualized requirements of a single person. Customization of canned software includes individualized configuration of software to work with other software and computer hardware but does not include routine installation. Customization of canned software does not change the underlying character or taxability of the original canned software.

4. "Master copies" of software means copies of software from which a software developer, author, inventor, publisher, licensor, sublicensor, or distributor makes copies for sale or license. The software encoded on a master copy and the media upon which the software resides are both ingredients of the master copy.

5. "Retained rights" means any and all rights, including intellectual property rights such as those rights arising from copyrights, patents, and trade secret laws, that are owned or are held under contract or license by a software developer, author, inventor, publisher, licensor, sublicensor, or distributor.

6. "Software" means any information, program, or routine, or any set of one (1) or more programs, routines, or collections of information used, or intended for use, to convey information that causes one (1) or more computers or pieces of computer-related peripheral equipment, or any combination thereof, to perform a task or set of tasks. "Software" includes the associated documentation, materials, or ingredients regardless of the media upon which that documentation is provided, that describes the code and its use, operation, and maintenance and that typically is delivered with the code to the consumer. All software is classified as either canned or custom.

((E))F. "Solid waste" has the meaning given in SMC Section 21.36.016.



(F)G. "Successor" means any person to whom a taxpayer quitting, selling out, exchanging or disposing of a business sells or otherwise conveys, directly or indirectly, in bulk and not in the ordinary course of the taxpayer's business, any part of the materials, supplies, merchandise, inventory, fixtures or equipment of the taxpayer. Any person obligated to fulfill the terms of a contract shall be deemed a successor to any contractor defaulting in the performance of any contract as to which such person is a surety or guarantor.

Section 7. Section 5.30.060 of the Seattle Municipal Code is hereby amended as follows:

#### 5.30.060 Definitions, T-Z.

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F. "Value proceeding or accruing" means the consideration, whether money, credits, rights, or other property expressed in terms of money, a person is entitled to receive or accrue, or which is actually received or accrued. The term shall be applied, in each case, on a cash receipts or accrual basis according to which method of accounting is regularly employed in keeping the books of the taxpayer. The value proceeding or accruing from sales on the installment plan under conditional contracts of sale shall be reported as of the dates when the payments become due.

#### G. "Value of products, how determined."

1. The value of products, including by-products, extracted or manufactured, shall be determined by the gross proceeds derived from the sale thereof, whether such sale is at wholesale or at retail, to which shall be added all subsidies and bonuses received from the purchaser or from any other person with respect to the extraction, manufacture or sale of such products or by-products by the seller.

2. Where such products, including by-products, are extracted or manufactured for commercial or industrial use, and where such products, including by-products, are shipped, transported or transferred out of the City, or to another person, without prior sale or are sold under circumstances such that the gross proceeds from the sale are not indicative of the true value and the subject matter of the sale, the value shall correspond as nearly as possible to the gross proceeds from sales in this state of similar products of like quality and character, and in similar quantities by other taxpayers, plus the amount of subsidies or bonuses ordinarily payable by the purchaser or by any third person with respect to the extraction, manufacture or sale of such products. In the absence of sales of similar products as a guide to value, such value may be determined upon a cost basis. In such cases, there shall be included every item of cost attributable to the particular article or article extracted or manufactured, including direct and indirect overhead costs. The Director of Finance may prescribe uniform and equitable rules for the purpose of ascertaining such values.

3. Notwithstanding subsection 2 above, the value of a product manufactured or produced for purposes of serving as a prototype for the development of a new or improved product shall correspond to:

a. the retail selling price of such new or improved product when first offered for sale; or

b. the value of materials incorporated into the prototype in cases in which the new or improved product is not offered for sale.

H. "Wholesaling" means engaging in the activity of making sales at wholesale, and is reported under the wholesaling classification.

(H)I. "Yardwaste" has the meaning given in SMC Section 21.36.016.

Section 8. Section 5.45.050 of the Seattle Municipal Code is hereby amended as follows:

5.45.050 Imposition of the tax—Tax or fee levied.

Except as provided in SMC 5.55.040(D)(1), there is hereby levied upon and shall be collected from every person a tax for the act or privilege of engaging in business activities within the City, whether the person's office or place of business be within or without the City. The tax shall be in amounts to be determined by application of rates against gross proceeds of sale, gross income of business, or value of products, including by-products, as the case may be, as follows:

A. Upon every person engaging within the City in business as an extractor; as to such persons the amount of the tax with respect to such business shall be equal to the value of the products, including by-products, extracted within the City for sale or for commercial or industrial use, multiplied by the rate of two hundred fifteen one-thousandths of one percent (.00215). The measure of the tax is the value of the products, including by-products, so extracted, regardless of the place of sale or the fact that deliveries may be made to points outside the City.

B. Upon every person engaging within the City in business as a manufacturer, except persons taxable under subsection D of this Section; as to such persons the amount of the tax with respect to such business shall be equal to the value of the products, including by-products, manufactured or processed within the City, multiplied by the rate of two hundred fifteen one-thousandths of one percent (.00215). The measure of the tax is the value of the products, including by-products, so manufactured or processed, regardless of the place of sale or the fact that deliveries may be made to points outside the City.

C. Upon every person engaging within the City in the business of making sales of retail services, or making sales at wholesale or retail, except persons taxable under subsection D of this section; as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of such sales of the business without regard to the place of delivery of articles, commodities or merchandise sold, multiplied by the rate of two hundred fifteen one-thousandths of one percent (.00215).

D. Upon every person engaging within the City in the business of:

1. Buying wheat, oats, corn, barley and rye, but not including any manufactured or processed products thereof, and selling the same at wholesale, the tax imposed shall be equal to the gross proceeds of such sales of the business without regard to the place of delivery of articles, commodities or merchandise sold, multiplied by the rate of two hundred fifteen one-thousandths of one percent (.00215); or

2. Manufacturing wheat into flour; the tax imposed shall be equal to the value of the flour manufactured, multiplied by the rate of two hundred fifteen one-thousandths of one percent (.00215).

E. Upon every person engaging within the City in the business of:

1. printing;

2. both printing and publishing newspapers, magazines, periodicals, books, music, and other printed items;

3. publishing newspapers, magazines and periodicals;

4. extracting for hire;

(4)5. processing for hire; or

(5)6. conducting a tour operator business; as to such persons, the amount of tax on such business shall be equal to the gross income of the business multiplied by the rate of two hundred fifteen one-thousandths of one percent (.00215).

F. Upon every motor carrier engaging within the City in the business of transporting freight for hire, as to such persons, the amount of the tax with respect to such business shall be equal to the gross income from the transport of freight picked up in the City multiplied by the rate of four hundred fifteen one-thousandths of one percent (.00415). The business of transporting freight for hire includes the business of leasing or renting motor vehicles operated by the lessor, or by a person under the control of the lessor, to transport freight for hire.

G. Upon every other person engaging within the City in any business activity other than or in addition to those enumerated in the above subsections; as to such persons, the amount of tax on account of such activities shall be equal to the gross income of the business multiplied by the rate of four hundred fifteen one-thousandths of one percent (.00415). This subsection includes, among others, and without limiting the scope hereof (whether or not title to material used in the performance of such business passes to another by accession, merger or other than by outright sale), persons engaged in the business of developing, or producing custom software or of customizing canned software, producing royalties or commissions, persons engaged in the business of freight brokering, and persons engaged in the business of rendering any type of service which does not constitute a sale at retail, (or) a sale at wholesale, or a retail service.

Section 9. Section 5.45.070 of the Seattle Municipal Code is hereby amended as follows:

5.45.070 Multiple activities credited when activities take place in one or more cities with eligible gross receipt taxes.

A. Persons who engage in business activities that are within the purview of two (2) or more subsections of SMC Section 5.45.050 shall be taxable under each applicable subsection.

B. Notwithstanding anything to the contrary herein, (H)if imposition of the City's tax would place an undue burden upon interstate commerce or violate constitutional requirements, a taxpayer shall be allowed a credit to the extent necessary to preserve the

validity of the City's tax, and still apply the City tax to as much of the taxpayer's activities as may be subject to the City's taxing authority.

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Section 10. Section 5.45.075 of the Seattle Municipal Code is hereby amended as follows:

5.45.075 Deductions to prevent multiple taxation of transactions involving more than one city with an eligible gross receipts tax.

A. Amounts subject to an eligible gross receipts tax in another city that also maintains nexus over the same activity. A taxpayer that is subject to an eligible gross receipts tax on the same activity in more than one jurisdiction may be entitled to a deduction as follows:

1. A taxpayer that has paid an eligible gross receipts tax with respect to a sale of goods or services, to a jurisdiction in which the goods are delivered or the services are provided, may deduct an amount equal to the gross receipts used to measure that tax from the measure of the tax owed to the City.

2. Notwithstanding the above, a person who is subject to an eligible gross receipts tax in more than one jurisdiction on the gross income derived from intangibles such as royalties, trademarks, patents, or goodwill shall assign those gross receipts to the (may deduct from the measure of the tax on those amounts the gross income used in measuring the eligible gross receipts tax paid to the other) jurisdiction where the person is domiciled (its headquarters is located).

3. A taxpayer that has paid an eligible gross receipts tax on the privilege of accepting or executing a contract with another city may deduct an amount equal to the contract price used to measure the tax due to the other city from the measure of the tax owed to the City.

B. Person manufacturing products within and without the City. A person manufacturing products within the City using products manufactured by the same person outside the City may deduct from the measure of the manufacturing tax the value of products manufactured outside the City and included in the measure of an eligible gross receipts tax paid to the other jurisdiction with respect to manufacturing such products.

Section 11. A new section is added to the Seattle Municipal Code, as follows:

5.45.076 Assignment of gross income derived from intangibles.

Gross income derived from the sale of intangibles such as royalties, trademarks, patents, or goodwill shall be assigned to the jurisdiction where the person is domiciled (its headquarters is located).

Section 12. Section 5.45.090 of the Seattle Municipal Code is hereby amended as follows:

5.45.090 Exemptions.

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T. Amounts derived from sale of real estate. This chapter shall not apply to gross proceeds derived from the sale of real estate. This, however, shall not be construed to allow an exemption of amounts received as commissions from the sale of real estate, nor as fees, handling charges, discounts, interest or similar financial charges resulting from, or relating to, real estate transactions. This chapter shall also not apply to amounts received for the rental of real estate if the rental income is derived from a contract to rent for a continuous period of thirty (30) days or longer.

U. Mortgage Brokers' Third-Party Provider Services Trust Accounts. This chapter shall not apply to amounts received from trust accounts to mortgage brokers for the payment of third-party costs if the accounts are operated in a manner consistent with RCW 19.146.050 and any rules adopted by the director of financial institutions.

V. Amounts Derived From Manufacturing, Selling or Distributing Motor Vehicle Fuel. This chapter shall not apply to the manufacturing, selling or distributing motor vehicle fuel, as the term "motor vehicle fuel" is defined in RCW 82.36.010 and exempted under RCW 82.36.440, provided that any fuel not subjected to the state fuel excise tax, or any other applicable deduction or exemption, will be taxable under this chapter.

W. Amounts Derived From Liquor, and the Sale or Distribution of Liquor. This chapter shall not apply to liquor as defined in RCW 66.04.010 and exempted in RCW 66.08.120.

X. Casual and Isolated Sales. This chapter shall not apply to the gross proceeds derived from casual or isolated sales.

Y. Health Maintenance Organization, Health Care Service Contractor, Certified Health Plan. Beginning on January 1, 2000, this chapter does not apply to any health maintenance organization, health care service contractor, or certified health plan in respect to premiums or prepayments that are taxable under RCW 48.14.0201. This exemption is limited to premiums and payments for health benefit plans offered by health care service contractors under RCW Chapter 48.44 and health maintenance organizations under RCW chapter 48.46 and does not apply to health care services directly delivered by the employees of a health maintenance organization under RCW Chapter 48.46.

Z. Accommodation Sales. This chapter shall not apply to sales for resale by persons regularly engaged in the business of making retail sales of the type of property so sold to other persons similarly engaged in the business of selling such property where:

1. The amount paid by the buyer does not exceed the amount paid by the seller to his vendor in the acquisition of the article; and

2. The sale is made as an accommodation to the buyer to enable the buyer (him) to fill a bona fide existing order of a customer or is made within fourteen (14) days to reimburse in kind a previous accommodation sale by the buyer to the seller.

Provided, that where the seller holds himself or herself out as being regularly engaged in the business of making sales at wholesale of such property, such sales shall be included in his principal business activity, and not exempt from tax.

AA. Real Estate Brokers and Associated Brokers, Agents, or Salesmen. This chapter does not apply to that portion of a real estate commission assigned to another brokerage office pursuant to the division of revenue between the originating brokerage office and a cooperating brokerage office on a particular transaction. Each brokerage office shall pay the tax upon its respective revenue share of the transaction. Furthermore, where a brokerage office has paid the business license tax on the gross commission earned by that brokerage office, associate brokers, salesmen or agents within the same office shall not be required to pay the tax upon their share of the commission from the same transaction.

BB. Taxes Collected as Trust Funds. This chapter shall not apply to amounts collected

by the taxpayer from third parties to satisfy third party obligations to pay taxes such as the retail sales tax, use tax, and admission tax.

CC. Public Utilities. This chapter shall not apply to any person in respect to a business activity with respect to which a utilities tax liability is specifically imposed pursuant to SMC Chapter 5.48.

Section 13. Effective for licenses to engage in business in 2005 and in subsequent years, Section 5.55.030 of the Seattle Municipal Code is hereby amended as follows:

5.55.030 License requirements.

A. No person, unless specifically exempted, shall engage in any business activity, profession, trade or occupation in the City without having first obtained and being the holder of a valid and subsisting license to do so, to be known as a "business license." The fee for the business license shall be ((Seventy-five)) Ninety Dollars (\$((75))90.00) for persons with worldwide gross income of the business and value of products of more than Twenty Thousand Dollars (\$20,000) in the current calendar year that engage (engaging) in any business activity, profession, trade or occupation in the City prior to July 1st and ((Thirty-seven)) Forty-five Dollars ((and Fifty Cents)) (\$((37.50))45.00) for persons beginning their activity on or after July 1st. The business license fee for persons with worldwide gross income of the business and value of products of Twenty Thousand Dollars (\$20,000) or less in the current calendar year will be Forty-five Dollars (\$45) if prior to July 1st and Twenty Two Dollars and Fifty Cents (\$22.50) for persons beginning their activity on or after July 1st. ((Effective January 1, 2003 a surcharge of Five Dollars (\$5) will be added to the fee for a business license for persons engaging in any business activity, profession, trade or occupation in the City prior to July 1st and a surcharge of Two Dollars and Fifty Cents (\$2.50) will be added to the fee for a business license for persons beginning their activity after June 30th.)) The fee shall accompany the application for the license.

The business license shall expire at the end of the calendar year for which it is issued. The business license shall be personal and nontransferable except as provided in subsection G, below. Applications for the business license shall be made to the Director of ((Finance)) Finance on forms provided by the Director. Each business 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.

If the licensee changes the place of business, the licensee shall return the business license to the Director and a new license

shall be issued for the new place of business free of charge.

B. When business is transacted at two (2) or more separate places by one (1) taxpayer, a separate business license for each place at which business is transacted with the public shall be required. A Ten Dollar (\$10.00) license fee shall be imposed and accompany each application for the business license required for each additional business location.

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

D. As provided in SMC Section 6.20.040, a participant at an event, identified in the list supplied by the promoter or organizer, shall be exempt from the ~~((minimum))~~ business license fee established by subsection A, above, or the fee for a separate business location established by subsection B, above, on account of business activities at the licensed event for the duration of the event license; provided however, that such participant is not otherwise engaging in business in the City as such term is defined in SMC Section 5.30.030 B2.

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

~~((1. Five Dollars (\$5) if not received on or before the due date;))~~

~~((2))1. Ten Dollars (\$10) if not received on or before the last day of the month following the due date.~~

~~((3))2. Twenty Dollars (\$20) if not received on or before the last day of the second month following the due date.~~

~~((4))3. All business licenses issued subsequent to the initial license period shall be deemed renewal licenses if there has been no discontinuance of the licensee's operations or activities. Nonpayment of business license fees and taxes when due by the licensee during the term of any license shall constitute grounds for revocation or suspension of said license.~~

F. Licenses for amusement devices will be in addition to this business license and will be assessed pursuant to SMC Section 5.32.170. It is unlawful for any person to own any amusement device, which is available for use by the public, without having first obtained an amusement device license issued in accordance with the provisions of this chapter and SMC Chapter 5.32. The license shall be attached to the amusement device at all times when in use or play or available for use or play so that it is readily visible. The amusement device license will be prorated semi-annually in the same manner as the business license; however, the amusement device license expires annually on November 30th.

G. A business license or amusement device license cannot be assigned or transferred, except that a license may be transferred:

1. To the surviving or new corporation, whenever the licensed corporation is merged or consolidated pursuant to RCW Chapter 23B.11, as now or hereafter amended;

2. To the surviving partner, or to a new partnership which consists exclusively of the surviving partners, whenever one (1) partner of a licensed partnership dies;

3. To the surviving spouse, whenever one (1) spouse of a licensed marital community dies;

4. To any one (1) or more former partners, whenever a licensed partnership is dissolved and one (1) or more of the former partners of the licensed partnership continue the operation of the business as an individual proprietorship or partnership without the addition of any new partner, and all of the other former partners consent in writing to the transfer of the license, which written consent shall be filed with the application for such transfer;

5. To one (1) spouse, whenever a licensed marital community is dissolved and the other spouse consents in writing to the transfer of the license, which written consent shall be filed with the application for such transfer;

6. In case of the death of any licensee before the expiration of his or her license, his or her administrator or executor, duly appointed as such by order of court, may continue to act under said license for the unexpired term thereof upon filing with the City proof of such appointment.

As used in this subsection, SMC 5.55.030 G, the term "partnership" includes joint venture, and the term "partner" includes a co-venturer.

Section 14. Section 5.55.040 of the Seattle Municipal Code is hereby amended as follows:

**5.55.040 When due and payable—Reporting periods—Monthly, quarterly, and annual returns—Threshold provisions—Computing time periods—Failure to file returns.**

A. Other than any annual license fee or registration fee assessed under this chapter, the tax imposed by SMC Chapters 5.32 (Amusement Devices), 5.40 (Admission Taxes), 5.45 (Business License Tax), 5.48 (Utility Tax), and 5.52 (Gambling Tax), shall be due and payable in quarterly installments. At the Director's discretion, businesses may be assigned to a monthly or annual reporting period depending on the tax amount owing or type of tax. Taxes imposed by SMC Section 5.52.030(A)(2) and (B)(2) for punchboards and pulltabs shall be due and payable in monthly installments. Tax payments are due on or before the last day of the next month following the end of the assigned reporting period covered by the return.

B. Taxes shall be paid as provided in this chapter and accompanied by a return on forms as prescribed by the Director. The return shall be signed by the taxpayer personally or by a responsible officer or agent of the taxpayer. The individual signing the return shall swear or affirm that the information in the return is true and complete.

C. Tax returns must be filed and returned by the due date whether or not any tax is owed. Returns not received on or before the due date are subject to penalties and interest in accordance with this chapter.

D. 1. For purposes of the tax imposed by SMC Chapter 5.45, any person whose ~~((value of products;))~~ gross proceeds of sales, ~~((or))~~ gross income of the business, and ~~((or))~~ value of products, including by-products, as the case may be, from all activities conducted within the City subject to tax after all allowable deductions, is less than Fifty Thousand Dollars (\$50,000) in the current calendar year, shall file a return, declare no tax due on their return, and submit the return to the Director. The gross receipts and deduction amounts shall be entered on the tax return even though no tax may be due.

2. Any person who reasonably estimates that the ~~((value of products;))~~ gross proceeds of sales, ~~((or))~~ gross income of the business, and ~~((or))~~ value of products, including by-products, as the case may be, from all activities conducted within the City subject to tax after all allowable deductions, will be less than Fifty Thousand Dollars (\$50,000) in the current calendar year may file a declaration so stating on a form supplied by the Director at the same time he or she files his or her application for a business license or a renewal. The Director may assign any person who files such declaration to an annual reporting basis.

E. A taxpayer who commences to engage in business activity shall file a return and pay the tax or fee for the portion of the reporting period during which he or she is engaged in business activity subject to the conditions set forth in subsection D, above.

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

G. If any taxpayer fails, neglects or refuses to make his or her return as and when required in this chapter, the Director is authorized to determine the amount of the tax or fees payable by obtaining facts and information upon which to base his or her estimate of the tax or fees due. Such assessment shall be deemed prima facie correct and shall be the amount of tax owed to the City by the taxpayer. The Director shall notify the taxpayer by mail of the amount of tax so determined, together with any penalty, interest, and fees due; the total of such amounts shall thereupon become immediately due and payable.

Section 15. Section 6.20.050 of the Seattle Municipal Code is hereby amended as follows:

**6.20.050 Relation to annual City business license.**

A. A ~~((participant at a trade show))~~ person whose business location is located outside the City, and who (a) has been identified in a listing supplied to the City by the trade show's promoter or organizer under Section 6.20.030, and (b) limits ~~((his or her))~~ their business activities in Seattle to a trade show ancillary to a convention, shall be exempt from paying the ~~((minimum))~~ business license fee required by Section 5.55.030 A on account of ~~((his or her))~~ their business activities at

the trade show, or in the event that the participant already has a City business license, from securing a license for a separate business location at the trade show under Section 5.55.030 B, each for the duration of the trade show license.

B. Notwithstanding subsection A above, a(A) participant at a trade show remains subject to the other provisions of Chapters 5.45 or 5.48, as the case may be. If the gross proceeds of sales, value of products, or gross income of the participant on account of his or her business activities at the trade show or elsewhere in Seattle is equal to or exceeds the taxable threshold pursuant to SMC Subsection 5.55.040 D in the tax year, the participant shall ~~((he))~~ obtain a business license and pay the City's business license tax as contemplated by Chapter 5.45.

C. Registration of a participant at a trade show of collectibles for hobbyists sponsored by an association of such collectors or an incorporated association of dealers in such collectibles substitutes for applying for a "used goods dealers" license with respect to transactions at the trade show in that line of collectibles, but not of other objects. The trade show license shall be in lieu of the license and fees required by Sections 6.288.030 and 6.204.080. The participants are subject to Section 6.288.050 (unlawful acts) and Sections 6.288.070 through 6.288.110, inclusive (recordkeeping, reporting to police, police holds, and inspection).

Section 16. Any act by the Director of Executive Administration or any officer, agent, or employee authorized to act on the Director's behalf, pursuant to the authority and prior to the effective date of this ordinance, for the purpose of issuing business licenses, including but not limited to issuing business licenses for 2005 at the new rates established in this ordinance, is hereby ratified and confirmed.

Section 17. Sections 1 through 12 and Sections 14 and 15 shall take effect and be in force on January 1, 2005.

Section 18. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 22nd of November, 2004, and signed by me in open session in authentication of its passage this 22nd day of November, 2004.

JAN DRAGO,

President of the City Council.

Approved by me this 30th day of November, 2004.

GREGORY J. NICKELS,

Mayor.

Filed by me this 30th day of November, 2004.

(Seal) JUDITH PIPPIN,

City Clerk.

Publication ordered by Judith Pippin, City Clerk.

Date of publication in the Seattle Daily Journal of Commerce, December 13, 2004.  
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