

Ordinance No. 122842

Council Bill No. 116340

AN ORDINANCE relating to solid waste taxation; amending Titles 5 and 21 of the Seattle Municipal Code to add and modify definitions; deleting a duplicative tax exemption provision; amending provisions relating to the taxation of solid waste effective January 1, 2010; increasing the transfer tax rate effective January 1, 2010; deleting an obsolete credit provision; and amending sections 5.20.020, 5.30.025, 5.30.035, 5.30.040, 5.30.050, 5.45.090, 5.45.100, 5.480.055, 21.36.016, and deleting section 5.48.072, respectively, of the Seattle Municipal Code.

CF No. _____

Date Introduced:	9.15.08		
Date 1st Referred:	9.15.08	To	Environment, Emergency Mgmt & Utilities (EEMU)
Date Re - Referred:	11.10.08	To: (committee)	Budget
Date Re - Referred:		To: (committee)	
Date of Final Passage:	11-24-08	Full Council Vote:	9-0
Date Presented to Mayor:	11-25-08	Date Approved:	12.2.08
Date Returned to City Clerk:	12.4.08	Date Published:	16
		T.O.	<input checked="" type="checkbox"/>
		F.T.	<input checked="" type="checkbox"/>
Date Vetoed by Mayor:		Date Veto Published:	
Date Passed Over Veto:		Veto Sustained:	

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: Richard Conlin
Councilmember

Committee Action:

11/5/08 repr to Budget Committee 3-0 yes Conlin,
McIver, Burges

11/17/08 PASS 9-0

11-24-08 Passed 9-0

This file is complete and ready for presentation to Full Council. Committee: _____
(initial/date)

Law Department

Law Dept. Review

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Review

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Review

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City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

September 2, 2008

Honorable Richard Conlin, President
Seattle City Council
City Hall, 2nd Floor

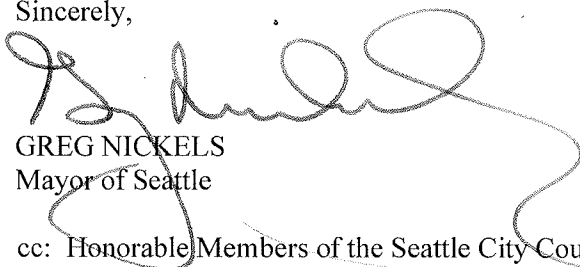
Dear Council President Conlin:

I am pleased to transmit this proposed Council Bill, which would amend the Seattle Municipal Code to modify provisions relating to the City's Solid Waste tonnage taxes. The Bill will update definitions to reflect current practices in the field, eliminate the Collection Tax in 2010 when the City's landfill-closure debt is set to expire, and set the Transfer Tax at a level to finance ongoing landfill operations, future landfill capital projects, and the Clean Cities programs, which combat illegal dumping, litter and graffiti. This legislation is a companion piece to the Solid Waste rate legislation being introduced by Seattle Public Utilities (SPU). Revenue changes found in this Bill are assumed in the proposed Solid Waste rate.

In the late 1980s, the City spent large sums to close the nearby Kent Highlands and Midway landfills and bring them to current environmental standards. Initially, a B&O tax surcharge was imposed on Solid Waste activities so both City and non-City generators that had contributed tons to those landfills would share in the cleanup costs. In the 1990s, this surcharge was replaced by two tonnage taxes levied on Solid Waste tons either collected or transferred in the city, and the goal of financing the Clean Cities programs was added. In 2009, SPU will make its final debt service payment on the landfill closure debt, which prompted a review of the tonnage taxes for this rate period. The review concluded that the Collection Tax, which is now paid almost entirely by SPU ratepayers, could be eliminated when the debt expired.

In addition, the Department of Executive Administration (DEA), which has worked diligently to collect these taxes, recommends several definition clarifications and removal of obsolete code to keep pace with current business practices. Passage of this Bill will also ensure that all construction, demolition, and land clearing waste that is transferred by rail to a landfill will pay the transfer tax, eliminating a current disparity. Thank you for your consideration of this legislation. Should you have questions, please contact Denise Movius at (206) 684-9259 or John McCoy at (206) 615-0768.

Sincerely,



GREG NICKELS
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

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

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ORDINANCE 122842

AN ORDINANCE relating to solid waste taxation; amending Titles 5 and 21 of the Seattle Municipal Code to add and modify definitions; deleting a duplicative tax exemption provision; amending provisions relating to the taxation of solid wastes; deleting the tonnage tax on the collection of solid waste effective January 1, 2010; increasing the transfer tax rate effective January 1, 2010; deleting an obsolete credit provision; and amending sections 5.30.020, 5.30.025, 5.30.035, 5.30.040, 5.30.050, 5.45.090, 5.45.100, 5.48.055, 21.36.016, and deleting section 5.48.072, respectively, of the Seattle Municipal Code.

WHEREAS, the Department of Executive Administration, Revenue and Consumer Affairs Division has determined it is in the best interest of the City to add definitions to SMC Chapter 5.30 relevant to the solid waste industry and to amend certain provisions contained within SMC Chapter 5.48; and

WHEREAS, the credit that prohibits a pyramiding of the utility tax for haulers of Construction, Demolition and Landclearing waste is obsolete; and

WHEREAS, the City established per-ton taxes on the collection and transfer of Solid Waste in the city so that both City and private generators of Solid Waste that had contributed tons to the Kent Highlands and Midway landfills would support the costs of closing and maintaining those landfills, as well as the costs of the Clean Cities programs, which combat litter, illegal dumping and graffiti;

WHEREAS, the City in 2009 will make its final payment for debt incurred for the Kent Highlands and Midway landfill closure work, prompting a re-evaluation of the role of the tonnage taxes in subsequent years; and

WHEREAS, the evaluation concluded that only the transfer tax was necessary to finance ongoing landfill operations, additional landfill-related capital improvement programs and the Clean Cities programs, and that preservation of the transfer tax would maintain the incentive to recycle where possible; 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 E. "Beneficial use" has the meaning given in SMC 21.36.010.

2 F. "Bona-fide charitable organization" means an organization that meets all of the
3 requirements of RCW 9.46.0209, as now existing or hereafter amended, and is organized and
4 operated primarily to provide charitable services as defined by WAC 230-02-160. This term is
5 used in conjunction with the gambling tax provisions contained in SMC Chapter 5.52.
6

7 ~~((F-))~~G. "Bona-fide nonprofit organization" means an organization that meets all of the
8 requirements of RCW 9.46.0209. This term is used in conjunction with the gambling tax
9 provisions contained in SMC Chapter 5.52.

10 ~~((G-))~~H. "Business" includes all activities engaged in with the object of gain, benefit, or
11 advantage to the taxpayer or to another person or class, directly or indirectly.
12

13 ~~((H-))~~I. "Business and occupation tax" or "gross receipts tax" means a tax imposed on or
14 measured by the value of products, the gross income of the business, or the gross proceeds of
15 sales, as the case may be, and that is the legal liability of the business.
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18 **Section 2.** Section 5.30.025 of the Seattle Municipal Code is hereby amended as follows:

19 **5.30.025 Definitions, C--D.**

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21 I. "Dangerous waste" has the same meaning as given in SMC 21.36.012.

22
23 ~~((I-))~~J. "Deficiency" means the amount of tax imposed by law less any tax reported by the
24 taxpayer on a tax return.

25 ~~((J-))~~K. "Delivery" means the transfer of possession of tangible personal property
26 between the seller and the buyer or the buyer's representative. Delivery to an employee of a
27



1 buyer is considered delivery to the buyer. Transfer of possession of tangible personal property
2 occurs when the buyer or the buyer's representative first takes physical control of the property or
3 exercises dominion and control over the property. Dominion and control means the buyer has the
4 ability to put the property to the buyer's own purposes. It means the buyer or the buyer's
5 representative has made the final decision to accept or reject the property, and the seller has no
6 further right to possession of the property and the buyer has no right to return the property to the
7 seller, other than under a warranty contract. A buyer does not exercise dominion and control
8 over tangible personal property merely by arranging for shipment of the property from the seller
9 to itself. A buyer's representative is a person, other than an employee of the buyer, who is
10 authorized in writing by the buyer to receive tangible personal property and take dominion and
11 control by making the final decision to accept or reject the property. Neither a shipping company
12 nor a seller can serve as a buyer's representative. It is immaterial where the contract of sale is
13 negotiated or where the buyer obtains title to the property. Delivery terms and other provisions
14 of the Uniform Commercial Code (Title 62A RCW) do not determine when or where delivery of
15 tangible personal property occurs for purposes of Seattle's business license tax.
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19 ~~((K.))~~L. "Director" means the Director of Executive Administration of the City or any
20 officer, agent or employee of the City designated to act on the Director's behalf.

21 ~~((L.))~~M. "Distribution affiliate" means a partnership, limited liability company or other
22 entity that sells merchandise to the customer-owners of the distribution cooperative and which is
23 owned fifty (50) percent or more by the distribution cooperative.
24

25 ~~((M.))~~N. "Distribution cooperative" means a person a) that itself sells, or owns fifty (50)
26 percent or more of a distribution affiliate that sells, merchandise to its customer-owners for resale
27
28



1 at retail, b) in which two-thirds of the aggregate outstanding voting ownership interest is owned
2 by its customer-owners, c) that makes distributions to its customer-owners at least partly on the
3 basis of patronage, and d) that qualifies for federal income tax purposes under the provisions of
4 subchapter T of the Internal Revenue Code of 1986, as amended.

5 **Section 3.** Section 5.30.035 of the Seattle Municipal Code is hereby amended as follows:

6 **5.30.035 Definitions, G-M.**

7 ***

8
9 F. "Hazardous substances" has the same meaning as given in SMC 21.36.014.

10 ~~((F-))~~G. "In this City," "within this City." "In this City" or "within this City" includes all
11 federal areas lying within the corporate city limits of the City.

12
13 ~~((G-))~~H. "Janitorial Services." The term "janitorial services" shall mean those cleaning
14 and care taking services ordinarily performed by commercial janitor service businesses including,
15 but not limited to, wall and window washing, floor cleaning and waxing, and the cleaning in
16 place of rugs, drapes and upholstery. The term does not include painting, papering, repairing,
17 furnace or septic tank cleaning, snow removal, sandblasting, or cleanup related to construction
18 activities.

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20 ~~((H-))~~I. "Manufacturer," "to manufacture."

21
22 1. "Manufacturer" means every person who, either directly or by contracting with
23 others for the necessary labor or mechanical services, manufactures for sale or for
24 commercial or industrial use from the person's own materials or ingredients any
25 products. When the owner of equipment or facilities furnishes, or sells to the
26 customer prior to manufacture, materials or ingredients equal to less than twenty
27



1 percent (20%) of the total value of all materials or ingredients that become a part
2 of the finished product, the owner of the equipment or facilities will be deemed to
3 be a processor for hire and not a manufacturer. A business not located in this City
4 that is the owner of materials or ingredients processed for it in this City by a
5 processor for hire shall be deemed to be engaged in business as a manufacturer in
6 this City.
7

8 2. "To manufacture" means all activities of a commercial or industrial nature
9 wherein labor or skill is applied, by hand or machinery, to materials or ingredients
10 so that as a result thereof a new, different or useful product of tangible personal
11 property is produced for sale or commercial or industrial use, and shall include:
12

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

~~((H.))~~ 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.

Section 4. Section 5.30.040 of the Seattle Municipal Code is hereby amended as follows:

5.30.040 Definitions, N--R.

L. "Recyclable materials" (~~((means material:))~~) has the meaning given in SMC 21.36.016.

- ~~((1. That is collected for recycling or reuse, such as papers, glass, plastics, used wood, sand, building debris, metals, yardwaste, used oil and tires; and
2. That if not collected for recycling would otherwise be destined for disposal at a landfill or incineration.))~~

M. (~~("Recycled material" means material:~~

- ~~1. That is in fact recycled, re-used, or reprocessed after collection; and
2. If not recycled, re-used or reprocessed, would have been destined for disposal at a landfill or incineration.~~

~~N--))~~ "Recycling" or "recycle." "Recycling" or "recycle" has the meaning given in SMC Section 21.36.016.



1 ~~((O.))~~N. "Reporting period," "Monthly," "Quarterly," "Annual." The "reporting period"

2 means one of the following:

- 3 1. A one-month period beginning the first day of each calendar month
4 ("monthly");
5 2. A three-month period beginning the first day of January, April, July or October
6 of each year ("quarterly"); or
7 3. A twelve-month period beginning the first day of January of each year
8 ("annual").
9

10 ~~((P.))~~O. "Retail Service" shall include the sale of or charge made for personal, business,
11 or professional services including amounts designated as interest, rents, fees, admission, and
12 other service emoluments however designated, received by persons engaging in the following
13 business activities:
14

- 15 1. Amusement and recreation services including but not limited to golf, pool,
16 billiards, skating, bowling, swimming, bungee jumping, ski lifts and tows,
17 basketball, racquet ball, handball, squash, tennis, batting cages, day trips for
18 sightseeing purposes, and others, when provided to consumers. "Amusement and
19 recreation services" also include the provision of related facilities such as
20 basketball courts, tennis courts, handball courts, swimming pools, and charges
21 made for providing the opportunity to dance. The term "amusement and
22 recreation services" does not include instructional lessons to learn a particular
23 activity such as tennis lessons, swimming lessons, or archery lessons.
24 2. Abstract, title insurance, and escrow services;
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3. Credit bureau services;

4. Automobile parking and storage garage services;

5. Landscape maintenance and horticultural services but excluding (a) horticultural services provided to farmers and (b) pruning, trimming, repairing, removing, and clearing of trees and brush near electric transmission or distribution lines or equipment, if performed by or at the direction of an electric utility;

6. Service charges associated with tickets to professional sporting events; and

7. The following personal services: Physical fitness services, tanning salon services, tattoo parlor services, steam bath services, turkish bath services, escort services, and dating services.

8. The term shall also include the renting or leasing of tangible personal property to consumers and the rental of equipment with an operator.

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

~~((R-))~~Q. "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.

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

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

Section 5. Section 5.30.050 of the Seattle Municipal Code is hereby amended as follows:

5.30.050 Definitions, S.



G. "Solid waste collection service" means collecting solid waste from customers for transfer, processing, treatment, storage, or disposal. Solid waste collection service includes, but is not limited to the activities of transferring, processing, treating, storing, or disposing of the solid waste collected. Solid waste collection service includes "property clean up services," defined as businesses that contract directly with residences and businesses to clean up property and remove solid waste. It does not include the operation of public or private dumps, transfer stations and similar operations.

~~((G.))~~H. "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 6. Section 5.45.090 of the Seattle Municipal Code is hereby amended as follows:

5.45.090 Exemptions.

~~((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 7. Subsection W of Section 5.45.100 of the Seattle Municipal Code is hereby amended as follows:



5.45.100 Deductions.

In computing the license fee or tax, the following may be deducted from the measure of tax:

W. Receipts From the Sale of Tangible Personal Property or Retail Services Delivered Outside the City but Within Washington. Effective January 1, 2008, amounts included in the gross receipts reported on the tax return derived from the sale of tangible personal property or retail services delivered to the buyer or the buyer's representative outside the city but within the State of Washington may be deducted from the measure of tax under the retailing or wholesaling classifications. Retail services include those services defined as a retail service pursuant to SMC 5.30.040 ((P)) O.

Section 8. Section 5.48.055 of the Seattle Municipal Code is hereby amended as follows:

5.48.055 Solid Waste activities subject to tax – Amount.

There is levied upon, and shall be collected from everyone including The City of Seattle, on account of the following business activities engaged in or carried on with respect to solid waste, an annual license fee or occupation tax in the amount to be determined by the application of the rates given below:

A. Transfer tax. ~~((Effective through December 31, 2006,))~~ There is imposed upon everyone engaged in or carrying on the business of operating a ~~((garbage))~~ solid waste transfer station or upon the business of transferring solid waste generated in or outside of Seattle from one (1) mode of transportation to another a ~~((fee or))~~ transfer tax equal to the solid waste tons



1 handled for transportation or transported for landfill or incineration disposal purposes multiplied
2 by the following rates. Effective through December 31, 2006, a rate of Six Dollars and Forty
3 Five Cents (\$6.45) per ton ((of the waste handled for transportation or transported for garbage
4 disposal, landfill, or incineration purposes)). Effective January 1, 2007 through December 31,
5 2009, ((upon everyone engaged in or carrying on the business of operating a garbage transfer
6 station or upon the business of transferring solid waste generated in or outside of Seattle from
7 one (1) mode of transportation to another a fee or tax equal to)) a rate of Seven Dollars and Fifty
8 Cents (\$7.50) per ton ((of the waste handled for transportation or transported for garbage
9 disposal, landfill, or incineration purposes)). Effective January 1, 2010 a rate of Eight Dollars
10 and Fifty Cents (\$8.50) per ton. To prevent pyramiding of the tax under this subsection when
11 two (2) or more transfers occur in Seattle, the ((fee or)) tax is imposed only upon the last
12 transferor and shall not apply to earlier transfers. Solid ((W)) waste is transferred from one (1)
13 mode of transportation equipment to another, whenever it is moved from a motor vehicle
14 (including, for example, landgrading or earthmoving equipment), barge, train or other carrier to
15 another motor vehicle (including landgrading or earthmoving equipment), barge, train or other
16 carrier, irrespective of whether or not temporary storage occurs in the process((, provided that)).
17 Solid waste shall not be considered transferred if the solid waste was generated and ((it has
18 been)) placed in a sealed shipping container outside of the city prior to being moved from one
19 mode of transportation to another within the ((C)) city or the solid waste was put into a sealed
20 shipping container at a transfer station and subjected to the transfer tax prior to being delivered to
21 the railhead. Beginning January 1, 2009, the transfer tax shall also be imposed on the last
22 transfer in the city of construction, demolition, and landclearing solid waste placed into an
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intermodal container at the construction, demolition, or landclearing site and transported for landfill or incineration disposal outside of the city. Solid waste transported for recycling, ~~((or))~~ reuse ~~((as recovered material (which solid waste shall contain no more than ten (10) percent non-recyclable material, by volume)))~~, ~~((yard waste))~~ yard and food waste destined for composting, items to be scrapped for salvage, solid waste used for beneficial use as approved by Seattle Public Utilities, soils, dangerous waste and hazardous substances, and sand and gravel for construction of a public improvement shall not be included in the tonnage by which the ~~((fee or))~~ transfer tax is measured. The measure of the transfer tax is the actual tonnage of the last in-city transfer of solid waste materials destined for landfill, or incineration disposal unless excluded above, and it is the intent of this subsection that all solid waste generated within the City, unless excluded above, destined to a landfill or incineration disposal be subject to this transfer tax.

B. Upon everyone, including The City of Seattle, engaged in or carrying on the business of ~~((the))~~ solid waste collection services ~~((of garbage, rubbish, trash, CDL Waste, and other solid waste))~~, a ~~((fee or))~~ tax measured by ~~((the total of components 1 and 2 below))~~ the following:

1. A tax measured by gross income from solid waste collection services in Seattle which includes any charges to customers for transferring, processing, treating, storage, or disposal:

a. Prior to April 1, 2005, ten (10) percent of the total gross income from solid waste collection services in Seattle, less income derived from the activities identified in subsection C of this section.

b. Effective April 1, 2005, ~~((E))~~eleven and one-half (11.5) percent of the total gross income from ~~((the))~~ solid waste collection services ~~((of solid~~

1 ~~waste~~)) in Seattle, less income derived from the activities identified in
2 subsection C of this section(~~(;and)~~)).

3 2. A tax measured by solid waste tonnage collected:

4 a. Effective through December 31, 2006, Twelve Dollars and Forty Cents
5 (\$12.40) per ton of solid waste collected in Seattle, excluding the tonnage
6 from recycling when such recycling contains no more than ten (10) percent
7 non-recyclable material by volume, (~~(yardwaste)~~) yard and food waste
8 destined for composting, items to be reused or scrapped for salvage, and/or
9 sand and gravel for construction of a public improvement(~~(;or)~~)).

10 b. Effective January 1, 2007 through December 31, 2009, Thirteen Dollars
11 and Sixty Five Cents (\$13.65) per ton of solid waste collected in Seattle,
12 excluding the tonnage from recycling (~~((when such recycling contains no~~
13 ~~more than ten (10) percent non-recyclable material by volume))~~), yard and
14 food waste destined for composting, items to be reused or scrapped for
15 salvage, solid waste used for beneficial use as approved by Seattle Public
16 Utilities, soils, and/or sand and gravel for construction of a public
17 improvement.

18 c. After December 31, 2009 the collection tax measured by the tons of
19 solid waste as imposed in this subsection SMC 5.48.055 B 2 is eliminated.

20 C. The gross income (~~((receipts factor))~~) identified in subsection B(~~(-1)~~) of this section
21 above shall exclude income derived from:

1. Collection and/or sale of recycled materials and/or recovered materials, including charges for the lease or rental of containers used in the collection of recycled/recovered materials;
2. Collection and/or sale after processing of ~~((yardwaste))~~ yard and food waste products, including charges for the lease or rental of containers used in the collection of ~~((yardwaste))~~ yard and food waste products;
3. Sale of containers used for collection of residential solid waste;
4. Collection ~~((and disposal of bulky items and white goods))~~ of solid waste used for beneficial use as approved by Seattle Public Utilities, and soils;
5. Grants and contracts from governmental agencies;
6. The City of Seattle for collecting or disposing of residential garbage and other solid waste;
7. The portion of the City's solid waste collection receipts expended for collection of recyclable materials and ~~((yardwaste))~~ yard and food waste; and
8. Transportation or deposit of sand and gravel for construction or a public improvement.

D. The tax imposed under subsection A of this section applies to transferring in the ~~((C))~~city of all solid waste generated in or outside the ~~((C))~~city and the tax imposed under subsection B of this section applies only to ~~((collecting))~~ solid waste collection services within the ~~((C))~~city. The taxes imposed under subsections A and B of this section are cumulative as to solid waste collected and/or transferred in the ~~((C))~~city, even though the same tonnage of solid

waste may be involved at each successive stage in the disposal process, and the economic burden of the two (2) taxes may aggregate.

E. Gross ~~((H))~~ income derived from activities excluded from the taxes imposed in subsections A and B and those activities contained in subsection ~~((gross receipts factor as described in subsections B and))~~ C of this section above shall be taxed under SMC Chapter 5.45.

Section 9. Section 5.48.072 of the Seattle Municipal Code is hereby deleted in its entirety.

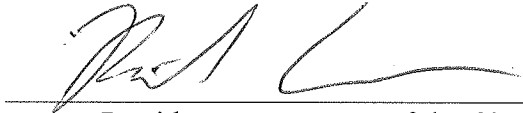
Section 10. Section 21.36.016 of the Seattle Municipal Code is hereby amended as follows:

21.36.016 Definitions R--Z.

12. "Solid waste" means all putrescible and nonputrescible solid, ~~((and))~~ semisolid and liquid wastes, including but not limited to garbage, rubbish, yardwaste, ashes, industrial wastes, infectious wastes, swill, construction, demolition and landclearing wastes, abandoned vehicles or parts thereof, and recyclable materials. This includes all liquid, solid and semisolid materials which are not the primary products of public, private, industrial, commercial, mining and agricultural operations. Solid waste includes, but is not limited to sludge from wastewater treatment plants, seepage from septic tanks, wood waste, dangerous waste, hazardous substances, and problem wastes.

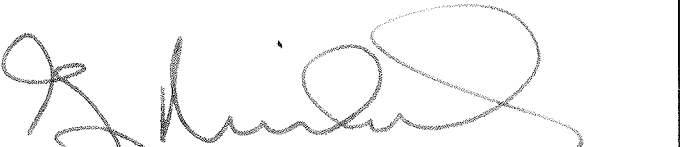
Section 11. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 24th day of November, 2008, and signed by me in open session in authentication of its passage this 24th day of November, 2008.



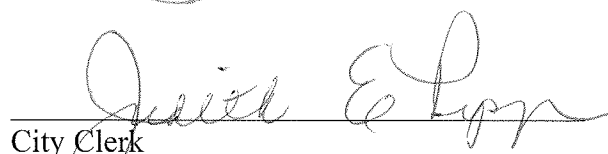
President _____ of the City Council

Approved by me this 2nd day of December, 2008.



Gregory J. Nickels, Mayor

Filed by me this 4th day of December, 2008.



City Clerk

(Seal)

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	DOF Analyst/Phone:
DEA	Denise Movius/4-9259	John McCoy/5-0768

Legislation Title:

AN ORDINANCE relating to solid waste taxation; amending Titles 5 and 21 of the Seattle Municipal Code to add and modify definitions; deleting a duplicative tax exemption provision; amending provisions relating to the taxation of solid wastes; deleting the tonnage tax on the collection of solid waste effective January 1, 2010; increasing the transfer tax rate effective January 1, 2010; deleting an obsolete credit provision; and amending sections 5.30.020, 5.30.025, 5.30.035, 5.30.040, 5.30.050, 5.45.090, 5.45.100, 5.48.055, 21.36.016, and deleting section 5.48.072, respectively, of the Seattle Municipal Code.

Summary of the Legislation:

This ordinance amends certain definitions used in Seattle Municipal Code 5.48 (utility tax); deletes a duplicative tax exemption provision; amends certain regulations and taxation procedures for solid waste collection and disposal; eliminates the tonnage collection tax after 2009 since landfill closure costs will have been fully paid; sets the transfer tax rate effective January 1, 2010 at a level to cover ongoing landfill operations, landfill-related capital improvement costs and Clean Cities programs; and deletes an obsolete credit provision that has not been used for over a decade.

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

Solid waste collection and disposal is a regulated activity within Seattle. In recent years, many industry procedures and practices have changed, and this ordinance addresses those changes to keep solid waste taxation on a level playing field. That means revisiting some definitions to make sure they are consistent and easily understood by the solid waste industry, insuring that all solid waste collections are taxed uniformly, and updating the code.

Changes in the definitions are mainly for clarity and to link definitions in the tax code with those in the solid waste code. Seattle was involved in a tax court case over the handling and taxation of hazardous and dangerous wastes. During court discussions, some definitions and procedures were found to be unclear in dealing with certain types of wastes. This ordinance strengthens those areas.

The proposed ordinance also retires one of the two tonnage taxes -- the collection tax, contained in SMC 5.48.055(B)(2). The tonnage taxes were implemented in the early 1990s to ensure that residents served by both Seattle solid waste service and private service, as well

as out-of-city generators of solid waste who had contributed tons to the Kent Highlands and Midway landfills, would share in the costs of closing those landfills. The tonnage taxes also finance the Clean Cities programs, which combat illegal dumping and abate litter and graffiti.

The final debt payment for the landfill-closure work will occur in 2009, which prompted Seattle Public Utilities and the Department of Finance to re-evaluate the tonnage taxes for subsequent years. That evaluation concluded that only the transfer tax was necessary to finance ongoing landfill operations, landfill-related capital improvement projects and the Clean Cities programs. The ordinance sets a transfer tax rate of \$8.50 per ton in 2010 which is projected to cover this set of costs, estimated at \$5.7 million for 2010. This rate will be periodically re-evaluated as other Solid Waste rates are reviewed and adjusted.

The ordinance also imposes the transfer tax on construction, demolition, and landclearing (CDL) waste that is loaded directly into an intermodal container and then taken directly to the railhead for transportation to the landfill. Currently, this waste is not subjected to the transfer tax, which creates an un-level playing field between the larger waste generators and the smaller companies. The large CDL waste generators place much of their solid waste directly into intermodal containers and take them to the railhead, while the smaller waste generators deliver their solid waste by truck to the transfer stations and are taxed. With this change, *all* CDL tons transferred in Seattle for disposal or incineration will pay the tax.

Finally, the proposed ordinance deletes a credit provision provided in SMC 5.48.072. This credit has not been used for over a decade, and will no longer be applicable after December 31, 2009 when the collection tax in SMC 5.48.055B is retired.

As for revenue effects, taxing approximately 33,000 additional CDL tons in the intermodal containers will generate approximately \$250,000 starting in 2009. Eliminating the collection tax in 2010 will reduce Solid Waste fund revenue and expense in almost equal measure (approximately \$4.9 million), as SPU ratepayers are the dominant payers of this tax. And the transfer tax rate increase will raise an additional \$670,000 beginning in 2010.

In addition,

- *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.)*

 X **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 had, or will have, appropriations in other legislation, please provide details in the Notes section below.*

Fund Name and Number	Department	Budget Control Level*	2008 Appropriation	2009 Anticipated Appropriation
N/A				
TOTAL				

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

Notes: Appropriations consistent with the Solid Waste rate changes and tonnage tax changes will be included in the 2009-2010 proposed budget.

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.*

Fund Name and Number	Department	Revenue Source	2008 Revenue	2009 Revenue
Solid Waste Fund (45010)	SPU	Transfer Tax	\$0	\$250,000
TOTAL			\$0	\$250,000

Notes: Tonnage tax revenues are ultimately all turned over to the Solid Waste Fund, but take an indirect path. As taxes, 10 percent is first sent to the Parks Fund as Charter revenue with the remaining 90 percent sent to the General Fund. The General Fund then pays the equivalent of 100 percent of the intake to the Solid Waste Fund.

Taxation of intermodal containers begins January 1, 2009 and is reflected in the chart above. In addition, two other changes affect revenue in 2010 – eliminating the collection tax and raising the transfer tax rate. The net revenue effect of all three changes in 2010 is -\$4.0 million. Note that SPU expenses also decline with the elimination of the collection tax so the effect on Solid Waste rates is minimal.

Total Regular Positions Created, Modified, Or Abrogated Through This Legislation, Including FTE Impact: *This table should only reflect the actual number of positions affected by this legislation. In the event that positions have been, or will be, created as a result of other legislation, please provide details in the Notes section below the table.*

Position Title and Department	Position # for Existing Positions	Fund Name & #	PT/FT	2008 Positions	2008 FTE	2009 Positions*	2009 FTE*
TOTAL							

* 2009 positions and FTE are total 2009 position changes resulting from this legislation, not

incremental changes. Therefore, under 2009, please be sure to include any continuing positions from 2008.

Notes: N/A

- **Do positions sunset in the future?** *(If yes, identify sunset date):*

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 & #	Department	Budget Control Level*	2008 Expenditures	2009 Anticipated Expenditures
N/A				
TOTAL				

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

Notes: N/A

- **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.)*

In addition to foregoing the revenue outlined above, not enacting the legislation could subject the Solid Waste taxes to further legal challenges.

- **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.)*

Seattle Public Utilities could continue to rely on both the transfer and collection taxes to fund its ongoing landfill and Clean Cities costs, but this would forego the benefit of tax simplification.

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

Please list attachments to the fiscal note below:

STATE OF WASHINGTON – KING COUNTY

--SS.

232350
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 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:122842 ORDINANCE

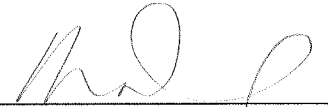
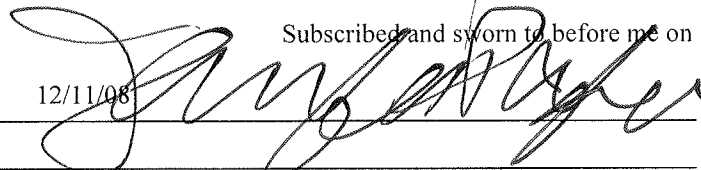
was published on

12/11/08

The amount of the fee charged for the foregoing publication is the sum of \$ 850.03, which amount has been paid in full.



Affidavit of Publication


Subscribed and sworn to before me on
12/11/08

Notary public for the State of Washington,
residing in Seattle

City of Seattle

ORDINANCE 122842

AN ORDINANCE relating to solid waste taxation; amending Titles 5 and 21 of the Seattle Municipal Code to add and modify definitions; deleting a duplicative tax exemption provision; amending provisions relating to the taxation of solid wastes; deleting the tonnage tax on the collection of solid waste effective January 1, 2010; increasing the transfer tax rate effective January 1, 2010; deleting an obsolete credit provision; and amending sections 5.30.020, 5.30.025, 5.30.035, 5.30.040, 5.30.050, 5.45.090, 5.45.100, 5.48.055, 21.36.016, and deleting section 5.48.072, respectively, of the Seattle Municipal Code.

WHEREAS, the Department of Executive Administration, Revenue and Consumer Affairs Division has determined it is in the best interest of the City to add definitions to SMC Chapter 5.30 relevant to the solid waste industry and to amend certain provisions contained within SMC Chapter 5.48; and

WHEREAS, the credit that prohibits a pyramiding of the utility tax for haulers of Construction, Demolition and Landclearing waste is obsolete; and

WHEREAS, the City established per-ton taxes on the collection and transfer of Solid Waste in the city so that both City and private generators of Solid Waste that had contributed tons to the Kent Highlands and Midway landfills would support the costs of closing and maintaining those landfills, as well as the costs of the Clean Cities programs, which combat litter, illegal dumping and graffiti;

WHEREAS, the City in 2009 will make its final payment for debt incurred for the Kent Highlands and Midway landfill closure work, prompting a re-evaluation of the role of the tonnage taxes in subsequent years; and

WHEREAS, the evaluation concluded that only the transfer tax was necessary to finance ongoing landfill operations, additional landfill-related capital improvement programs and the Clean Cities programs, and that preservation of the transfer tax would maintain the incentive to recycle where possible; 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.

E. "Beneficial use" has the meaning given in SMC 21.36.010.

F. "Bona-fide charitable organization" means an organization that meets all of the requirements of RCW 9.46.0209, as now existing or hereafter amended, and is organized and operated primarily to provide charitable services as defined by WAC 230-02-160. This term is used in conjunction with the gambling tax provisions contained in SMC Chapter 5.52.

(F))G. "Bona-fide nonprofit organization" means an organization that meets all of the requirements of RCW 9.46.0209. This term is used in conjunction with the gambling tax provisions contained in SMC Chapter 5.52.

((G))H. "Business" includes all activities engaged in with the object of gain, benefit, or advantage to the taxpayer or to another person or class, directly or indirectly.

((H))I. "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.

I. "Dangerous waste" has the same meaning as given in SMC 21.36.012.

((I))J. "Deficiency" means the amount of tax imposed by law less any tax reported by the taxpayer on a tax return.

((J))K. "Delivery" means the transfer of possession of tangible personal property between the seller and the buyer or the buyer's representative. Delivery to an employee of a buyer is considered delivery to the buyer. Transfer of possession of tangible personal property occurs when the buyer or the buyer's representative first takes physical control of the property or exercises dominion and control over the property. Dominion and control means the buyer has the ability to put the property to the buyer's own purposes. It means the buyer or the buyer's representative has made the final decision to accept or reject the property, and the seller has no further right to possession of the property and the buyer has no right to return the property to the seller, other than under a warranty contract. A buyer does not exercise dominion and control over tangible personal property merely by arranging for shipment of the property from the seller to itself. A buyer's representative is a person, other than an employee of the buyer, who is authorized in writing by the buyer to receive tangible personal property and take dominion and control by making the final decision to accept or reject the property. Neither a shipping company nor a seller can serve as a buyer's representative. It is immaterial where the contract of sale is negotiated or where the buyer obtains title to the property. Delivery terms and other provisions of the Uniform Commercial Code (Title 62A RCW) do not determine when or where delivery of tangible personal property occurs for purposes of Seattle's business license tax.

((K))L. "Director" means the Director of Executive Administration of the City or any officer, agent or employee of the City designated to act on the Director's behalf.

((L))M. "Distribution affiliate" means a partnership, limited liability company or other entity that sells merchandise to the customer-owners of the distribution cooperative and which is owned fifty (50) percent or more by the distribution cooperative.

((M))N. "Distribution cooperative" means a person a) that itself sells, or owns fifty (50) percent or more of a distribution affiliate that sells, merchandise to its customer-owners for resale at retail, b) in which two-thirds of the aggregate outstanding voting ownership interest is owned by its customer-owners, c) that makes distributions to its customer-owners at least partly on the basis of patronage, and d) that qualifies for federal income tax purposes under the provisions of subchapter T of the Internal Revenue Code of 1986, as amended.

Section 3. Section 5.30.035 of the Seattle Municipal Code is hereby amended as follows:

5.30.035 Definitions, G-M.

F. "Hazardous substances" has the same meaning as given in SMC 21.36.014.

((F))G. "In this City" "within this City." "In this City" or "within this City" includes all federal areas lying within the corporate city limits of the City.

((G))H. "Janitorial Services." The term "janitorial services" shall mean those cleaning and care taking 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 does not include painting, papering, repairing, furnace or septic tank cleaning, snow removal, sandblasting, or cleanup related to construction activities.

((H))I. "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.

((I))J. "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 4. Section 5.30.040 of the Seattle Municipal Code is hereby amended as follows:

5.30.040 Definitions, N--R.

L. "Recyclable materials" ((means material)) has the meaning given in SMC 21.36.016.

((I--That is collected for recycling or reuse--such as papers, glass, plastics, used wood, sand, building debris, metals, yard waste, used oil and tires; and

2--That if not collected for recycling would otherwise be destined for disposal at a landfill or incineration--))

M. ("Recycled material" means material:

1--That is in fact recycled, re-used, or reprocessed after collection; and

2--If not recycled, re-used or reprocessed, would have been destined for disposal at a landfill or incineration:

N--)) "Recycling" or "recycle." "Recycling" or "recycle" has the meaning given in SMC Section 21.36.016.

((O))N. "Reporting period." "Monthly," "Quarterly," "Annual." The "reporting period" means one of the following:

1. A one-month period beginning the first day of each calendar month ("monthly");

2. A three-month period beginning the first day of January, April, July or October of each year ("quarterly"); or

3. A twelve-month period beginning the first day of January of each year ("annual").

((P))Q. "Retail Service" shall include the sale of or charge made for personal, business, or professional services including amounts designated as interest, rents, fees, admission, and other service emoluments however designated, received by persons engaging in the following business activities:

1. Amusement and recreation services including but not limited to golf, pool, billiards, skating, bowling, swimming, bungee jumping, ski lifts and tows, basketball, racquet ball, handball, squash, tennis, batting cages, day trips for sightseeing purposes, and others, when provided to consumers. "Amusement and recreation services" also include the provision of related facilities such as basketball courts, tennis courts, handball courts, swimming pools, and charges made for providing the opportunity to dance. The term "amusement and recreation services" does not include instructional lessons to learn a particular activity such as tennis lessons, swimming lessons, or archery lessons.

2. Abstract, title insurance, and escrow services;

3. Credit bureau services;

4. Automobile parking and storage garage services;

5. Landscape maintenance and horticultural services but excluding (a) horticultural services provided to farmers and (b) pruning, trimming, repairing, removing, and clearing of trees and brush near electric transmission or distribution lines or equipment, if performed by or at the direction of an electric utility;

6. Service charges associated with tickets to professional sporting events; and

7. The following personal services: Physical fitness services, tanning salon services, tattoo parlor services, steam bath services, turkish bath services, escort services, and dating services.

8. The term shall also include the renting or leasing of tangible personal property to consumers and the rental of equipment with an operator.

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

((R))Q. "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.

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

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

Section 5. Section 5.30.050 of the Seattle Municipal Code is hereby amended as follows:

5.30.050 Definitions, S.

G. "Solid waste collection service" means collecting solid waste from customers for transfer, processing, treatment, storage, or disposal. Solid waste collection service includes, but is not limited to the activities of transferring, processing, treating, storing, or disposing of the solid waste collected. Solid waste collection service includes "property clean up services," defined as businesses that contract directly with residences and businesses to clean up property and remove solid waste. It does not include the operation of public or private dumps, transfer stations and similar operations.

((G))H. "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 6. Section 5.45.090 of the Seattle Municipal Code is hereby amended as follows:

5.45.090 Exemptions.

((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 7. Subsection W of Section 5.45.100 of the Seattle Municipal Code is hereby amended as follows:

5.45.100 Deductions.

In computing the license fee or tax, the following may be deducted from the measure of tax:

W. Receipts From the Sale of Tangible Personal Property or Retail Services Delivered Outside the City but Within Washington. Effective January 1, 2008, amounts included in the gross receipts reported on the tax return derived from the sale of tangible personal property or retail services delivered to the buyer or the buyer's representative outside the city but within the State of Washington may be deducted from the measure of tax under the retailing or wholesaling classifications. Retail services include those services defined as a retail service pursuant to SMC 5.30.040 ((P)) Q.

Section 8. Section 5.48.055 of the Seattle Municipal Code is hereby amended as follows:

5.48.055 Solid Waste activities subject to tax - Amount.

There is levied upon, and shall be collected from everyone including The City of Seattle, on account of the following business activities engaged in or carried on with respect to solid waste, an annual license fee or occupation tax in the amount to be determined by the application of the rates given below:

((P))Q. "Retail Service" shall include the sale of or charge made for personal, business, or professional services including amounts designated as interest, rents, fees, admission, and other service emoluments however designated, received by persons engaging in the following business activities:

A. Transfer tax. ((Effective through December 31, 2006--)) There is imposed upon everyone engaged in or carrying on the business of operating a ((garbage)) solid waste transfer station or upon the business of transferring solid waste generated in or outside of Seattle from one ((1)) mode of transportation to another a ((fee or)) transfer tax equal to the solid waste tons handled for transportation or transported for landfill or incineration disposal purposes multiplied by the following rates. Effective through December 31, 2006, a rate of Six Dollars and Forty Five Cents (\$6.45) per ton ((of the waste handled for transportation or transported for garbage disposal, landfill, or incineration purposes)). Effective January 1, 2007 through December 31, 2009, ((upon everyone engaged in or carrying on the business of operating a garbage transfer station or upon the business of transferring solid waste generated in or outside of Seattle from one ((1)) mode of transportation to another a fee or tax equal to)) a rate of Seven Dollars and Fifty Cents (\$7.50) per ton ((of the waste handled for transportation or transported for garbage disposal, landfill, or incineration purposes)). Effective January 1, 2010 a rate of Eight Dollars and Fifty Cents (\$8.50) per ton. To prevent pyramiding of the tax under this subsection when two ((2)) or more transfers occur in Seattle, the ((fee or)) tax is imposed only upon the last transferor and shall not apply to earlier transfers. Solid ((W)) waste is transferred from one ((1)) mode of transportation equipment to another, whenever it is moved from a motor vehicle (including, for example, landgrading or earthmoving equipment), barge, train or other carrier to another motor vehicle (including landgrading or earthmoving equipment), barge, train or other carrier, irrespective of whether or not temporary storage occurs in the process((--provided that)). Solid waste shall not be considered transferred if the solid waste was generated and ((it has been)) placed in a sealed shipping container outside of the city prior to being moved from one mode of transportation to another within the ((C)) city or the solid waste was put into a sealed shipping container at a transfer station and subjected to the transfer tax prior to being delivered to the railroad. Beginning January 1, 2009, the transfer tax shall also be imposed on the last transfer in the city of construction, demolition, and landclearing solid waste placed into an intermediate container at the construction, demolition, or landclearing site and transported for landfill or incineration disposal outside of the city. Solid waste transported for recycling, ((or)) reuse ((as recovered material (which solid waste shall contain no more than ten ((10)) percent non-recyclable material by volume)), ((yardwaste)) yard and food waste destined for composting, items to be scrapped for salvage, solid waste used for beneficial use as approved by Seattle Public Utilities, soils, dangerous waste and hazardous substances, and sand and gravel for construction of a public improvement shall not be included in the tonnage by which the ((fee or)) transfer tax is measured. The measure of the transfer tax is the actual tonnage of the last in-city transfer of solid waste materials destined for landfill, or incineration disposal unless excluded above, and it is the intent of this subsection that all solid waste generated within the City, unless excluded above, destined to a landfill or incineration disposal be subject to this transfer tax.

B. Upon everyone, including The City of Seattle, engaged in or carrying on the business of ((the)) solid waste collection services ((of garbage, rubbish, trash, CDL Waste, and other solid waste)), a ((fee or)) tax measured by ((the total of components 1 and 2 below)) the following:

1. A tax measured by gross income from solid waste collection services in Seattle which includes any charges to customers for transferring, processing, treating, storage, or disposal:

a. Prior to April 1, 2005, ten ((10)) percent of the total gross income from solid waste collection services in Seattle, less income derived from the activities identified in subsection C of this section.

b. Effective April 1, 2005, ((B)) eleven and one-half ((11.5)) percent of the total gross income from ((the)) solid waste collection services ((of solid waste)) in Seattle, less income derived from the activities identified in subsection C of this section((; and)),

2. A tax measured by solid waste tonnage collected:

a. Effective through December 31, 2006, Twelve Dollars and Forty Cents (\$12.40) per ton of solid waste collected in Seattle, excluding the tonnage from recycling when such recycling contains no more than ten ((10)) percent non-recyclable material by volume, ((yardwaste)) yard and food waste destined for composting, items to be reused or scrapped for salvage, and/or sand and gravel for construction of a public improvement((; or)).

b. Effective January 1, 2007 through December 31, 2009, Thirteen Dollars and Sixty Five Cents (\$13.65) per ton of solid waste collected in Seattle, excluding the tonnage from recycling ((when such recycling contains no more than ten ((10)) percent non-recyclable material by volume)), yard and food waste destined for composting, items to be reused or scrapped for salvage, solid waste used for beneficial use as approved by Seattle Public Utilities, soils, and/or sand and gravel for construction of a public improvement.

c. After December 31, 2009 the collection tax measured by the tons of solid waste as imposed in this subsection SMC 5.48.055 B 2 is eliminated.

C. The gross income ((receipts factor)) identified in subsection B((--b)) of this section above shall exclude income derived from:

1. Collection and/or sale of recycled materials and/or recovered materials, including charges for the lease or rental of containers used in the collection of recycled/recovered materials;

2. Collection and/or sale after processing of ((yardwaste)) yard and food waste products, including charges for the lease or rental of containers used in the collection of ((yardwaste)) yard and food waste products;

3. Sale of containers used for collection of residential solid waste;

4. Collection ~~((and disposal of bulky items and white goods))~~ of solid waste used for beneficial use as approved by Seattle Public Utilities, and soils;

5. Grants and contracts from governmental agencies;

6. The City of Seattle for collecting or disposing of residential garbage and other solid waste;

7. The portion of the City's solid waste collection receipts expended for collection of recyclable materials and ~~((yardwaste))~~ yard and food waste; and

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

D. The tax imposed under subsection A of this section applies to transferring in the ~~((C))~~city of all solid waste generated in or outside the ~~((C))~~city and the tax imposed under subsection B of this section applies only to ~~((collecting))~~ solid waste collection services within the ~~((C))~~city. The taxes imposed under subsections A and B of this section are cumulative as to solid waste collected and/or transferred in the ~~((C))~~city, even though the same tonnage of solid waste may be involved at each successive stage in the disposal process, and the economic burden of the two (2) taxes may aggregate.

E. Gross ~~((B))~~income derived from activities excluded from the taxes imposed in subsections A and B and those activities contained in subsection ~~((gross receipts factor as described in subsections B and))~~ C of this section above shall be taxed under SMC Chapter 5.45.

Section 9. Section 5.48.072 of the Seattle Municipal Code is hereby deleted in its entirety.

Section 10. Section 21.36.016 of the Seattle Municipal Code is hereby amended as follows:

21.36.016 Definitions R--Z.

12. "Solid waste" means all putrescible and nonputrescible solid, ~~((and))~~ semisolid and liquid wastes, including but not limited to garbage, rubbish, yardwaste, ashes, industrial wastes, infectious wastes, swill, construction, demolition and landclearing wastes, abandoned vehicles or parts thereof, and recyclable materials. This includes all liquid, solid and semisolid materials which are not the primary products of public, private, industrial, commercial, mining and agricultural operations. Solid waste includes, but is not limited to sludge from wastewater treatment plants, seepage from septic tanks, wood waste, dangerous waste, hazardous substances, and problem wastes.

Section 11. 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 24th day of November, 2008, and signed by me in open session in authentication of its passage this 24th day of November, 2008.

Richard Conlin

President of the City Council

Approved by me this 2nd day of December, 2008.

Gregory J. Nickels, Mayor

Filed by me this 4th day of December, 2008.

(Seal) Judith Pippin; City Clerk

Publication ordered by JUDITH PIPPIN, City Clerk

Date of publication in the Seattle Daily Journal of Commerce, December 11, 2008.
12/11(232350)