Ordinance No. 123099

Council Bill No. 116634

AN ORDINANCE relating to business licensing; adding a new classification and definition for International Investment Management Services for the Business and Occupation tax; and amending Sections 5.30.035 and 5.45.050 of the Seattle Municipal Code in connection therewith.

Related Legislation File:

| Date Introduced and Referred: | To: (committee): |
|---|---|
| 9.8.09 | Finance + Budget |
| Date Re-referred: | To: (committee): |
| Date Re-referred: | To: (committee): |
| Date of Final Action: 9-21-09 | Date Presented to Mayor: 9-22-09 |
| Date Signed by Mayor: 9.24.09 | Date Returned to City Clerk: 9.24.09 |
| Published by Title Only<br>Published in Full Text ✓ 6 | Date Vetoed by Mayor: |
| Date Veto Published: | Date Passed Over Veto: |
| Date Veto Sustained: | Date Returned Without Signature: |

# The City of Seattle – Legislative Department

Council Bill/Ordinance sponsored by: Jean Godden

## Committee Action:

| Date | Recommendation | Vote |
|---|---|---|
| 9/17 | Do pass – Y – JG, NL, SC, TB, RC | |

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

## Full Council Action:

| Date | Decision | Vote |
|---|---|---|
| 9-21-09 | Passed 8-0 Absent: JD | |

Law Department

Dwight Dively/ddd
DOF B&O ORD
September 1, 2009
Version #5

**ORDINANCE** 123099

AN ORDINANCE relating to business licensing; adding a new classification and definition for International Investment Management Services for the Business and Occupation tax; and amending Sections 5.30.035 and 5.45.050 of the Seattle Municipal Code in connection therewith.

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

Section 1. Effective January 1, 2010, Section 5.30.035 of the Seattle Municipal Code, as last amended by Ordinance 122842, is amended as follows:

**SMC 5.30.035 Definitions, G – M.**

* * *

H. "International Investment Management Services." A person is engaged in the business of providing international investment management services if such a person is engaged primarily in the business of providing investment management services and at least ten percent of the gross income of such person is derived from providing investment management services to any of the following: 1) persons or collective investment funds residing outside of the United States; or 2) persons or collective investment funds with at least ten percent of their investments located outside the United States. "Investment management services" means investment research, investment consulting, portfolio management, fund administration, fund distribution, investment transactions, or related investment services. "Collective investment funds" include: 1) a mutual fund or other regulated investment company, as defined in section 851(a) of the Internal Revenue Code of 1986, as amended; 2) an investment company as that term is used in Section 3(a) of the Investment Company Act of 1940, as well as any entity that would be an investment company



COUNCIL CLERK

for this purpose but for the exemptions contained in section 3(c)(1) or (11) of that act; 3) an employee benefit plan, which includes any plan, trust, commingled employee benefit trust, or custodial arrangement that is subject to the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. Sec. 1001 et seq., or that is described in sections 125, 401, 403, 408, 457, and 501(c)(9) and (17) through (23) of the Internal Revenue Code of 1986, as amended, or a similar plan maintained by a state or local government, or a plan, trust, or custodial arrangement established to self-insure benefits required by federal, state, or local law; 4) a fund maintained by a tax-exempt organization as defined in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, for operating, quasi-endowment, or endowment purposes; 5) funds that are established for the benefit of such tax-exempt organizations, such as charitable remainder trusts, charitable lead trusts, charitable annuity trusts, or other similar trusts; or 6) collective investment funds similar to those described in 1) through 5) of this subsection created under the laws of a foreign jurisdiction. Investments are located outside of the United States if the underlying assets in which the investment constitutes a beneficial interest reside or are created, issued, or held outside the United States.

I. "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.



KD COUNCIL CLERK

((~~I~~)) J. "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



COUNCIL CLERK

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.

((~~J~~))K. "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 2. Effective January 1, 2010, Section 5.45.050 of the Seattle Municipal Code, as last amended by Ordinance 121679, is amended as follows:

**SMC 5.45.050 Imposition of the Tax – Tax or fee levied.**

* * *

G. Upon every person engaging within the City in the business of providing international investment management services, as to such persons, the amount of tax with respect to such

business shall be equal to the gross income or gross proceeds of sales of the business multiplied by a rate of fifteen one-hundredths of one percent (.0015).

H. 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, a sale at wholesale, or a retail service.

Section 3. The provisions of this ordinance are declared to be separate and severable. If one or more of the provisions of this ordinance shall be declared by any court of competent jurisdiction to be contrary to law, the provision shall be severed from the rest of the ordinance and all other provisions shall remain valid.

Section 4. 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 21st day of September, 2009, and signed by me in open session in authentication of its passage this 21st day of September, 2009.

President of the City Council

Approved by me this 24th day of September, 2009.

Gregory J. Nickels, Mayor

Filed by me this 24th day of September, 2009.

City Clerk

(Seal)



COUNCIL CLERK

Dively
DOF B&O Definition FISC
September 1, 2009
Version 3

# FISCAL NOTE FOR NON-CAPITAL PROJECTS

| Department: | Contact Person/Phone: | DOF Analyst/Phone: |
|---|---|---|
| Department of Finance | Dwight Dively | Dwight Dively 4-5212 |

**Legislation Title:**

AN ORDINANCE relating to business licensing; adding a new classification and definition for International Investment Management Services for the Business and Occupation tax; and amending Sections 5.30.035 and 5.45.050 of the Seattle Municipal Code in connection therewith.

- **Summary of the Legislation:**

This legislation amends the Seattle Municipal Code (SMC) by adding a new classification and definition for "international investment management services" to the City's Business and Occupation tax, making the City's Code consistent with state law.

- **Background:**

This Council Bill amends SMC 5.30.035 by adding a definition of "International Investment Management Services," consistent with the State of Washington's RCW 82.04.293. The legislation also amends SMC 5.45.050 by establishing a new B&O tax classification for such businesses, consistent with RCW 82.04.290. The tax rate for this classification is set at slightly more than half the State rate, consistent with the usual pattern in which City tax rates are well below those imposed by the State.

- X This legislation has financial implications.

This legislation will simplify the calculation used by certain businesses to determine their Business and Occupation tax obligation to the City, consistent with state law. It is impossible to estimate what dollar effect this action will have at this time because it is not certain how many Seattle firms will meet the criteria to be included in the new classification. The Department of Finance and Department of Executive Administration have examined companies that may qualify and have discovered that the current system yields very different results for different firms, presumably due to deductions and exemptions available under the current code. The proposed new simplified system should increase compliance. Changes in revenue are impossible to predict, although the impact is expected to be immaterial to the City's overall revenue. The proposed Bill does not appropriate any funds.



COUNCIL CLERK

# City of Seattle

Gregory J. Nickels, Mayor

**Office of the Mayor**

COPY

September 1, 2009

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

Dear Council President Conlin:

I am pleased to transmit the attached proposed Council Bill that amends the Seattle Municipal Code (SMC) by adding a definition for "International Investment Management Services" and establishing the formula such businesses will employ when determining the amount of Business and Occupation (B&O) tax owed to the City of Seattle.

Specifically, this Bill amends SMC Section 5.30.035, which relates to business licensing, by adding a definition for "International Investment Management Services," to be consistent with the state law under RCW 82.04.293. The legislation also amends SMC 5.45.050 by establishing a simplified formula that international investment management service firms will use to determine the amount of Business and Occupation Tax owed to the City, consistent with RCW 82.04.290. The proposed legislation should simplify tax preparation by businesses and improve compliance with the City's B&O tax code.

Thank you for your consideration of this legislation. Should you have questions, please contact Dwight Dively at 684-5212.

Sincerely,

GREG NICKELS
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

50962100.2

600 Fourth Avenue, 7th Floor, P.O. Box 94749, Seattle, WA 98124-4749
Tel: (206) 684-4000, TDD: (206) 615-0476 Fax: (206) 684-5360, Email: mayors.office@seattle.gov
An equal employment opportunity, affirmative action employer. Accommodations for people with disabilities provided upon request.

LD COUNCIL CLERK

# STATE OF WASHINGTON – KING COUNTY

--ss.

245615 No.
CITY OF SEATTLE,CLERKS OFFICE

## Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

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

CT:ORD 123099

was published on

10/06/09

The amount of the fee charged for the foregoing publication is the sum of $ 283.00, which amount has been paid in full.

JENNIFER A. PATZER
COMMISSION EXPIRES
NOTARY
PUBLIC
OCT. 24, 2011
STATE OF WASHINGTON

Subscribed and sworn to before me on

10/06/09

Notary public for the State of Washington,
residing in Seattle

# City of Seattle

ORDINANCE 123099

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# State of Washington, King County

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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.

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Passed by the City Council the 21st day of September, 2009, and signed by me in open session in authentication of its passage this

21st day of September, 2009.

RICHARD CONLIN,

President of the City Council.

Approved by me this 24th day of September, 2009.

GREGORY J. NICKELS,

Mayor.

Filed by me this 24th day of September, 2009.

(Seal) JUDITH E. PIPPIN,

City Clerk.

Date of publication in the Seattle Daily Journal of Commerce, October 6, 2009.

10/6(245615)