

ORDINANCE No. 112813

COUNCIL BILL No. 104785

Law Department

The City of Seattle

AN ORDINANCE relating to admission taxes; amending Seattle Municipal Code (SMC) Section 5.40.025 to exempt non-profit tax-exempt organizations from the admission tax; and amending SMC § 5.40.085 relating to registration certificates.

RECEIVED APR 19 1986

Honorable President:

Your Committee on _____

to which was referred the within Council report that we have considered the same

COMPTROLLER FILE No. Finance Hold 5/2/86
Finance 9/17/86

Introduced:	By: <u>Executive</u>
Referred: <u>2/25/86</u>	To: <u>Finance</u>
Referred: <u>4-21-86</u>	To: <u>Full Council</u>
Referred:	To:
Reported: <u>APR 28 1986</u>	Second Reading: <u>APR 28 1986</u>
Third Reading: <u>APR 28 1986</u>	Signed: <u>APR 28 1986</u>
Presented to Mayor: <u>APR 29 1986</u>	Approved: <u>MAY 5 1986</u>
Returned to City Clerk: <u>MAY 5 1986</u>	Published:
Vetoed by Mayor:	Veto Published: 
Passed over Veto:	Veto Sustained:

4-21-
Vote

Department

The City of Seattle--Legislative Department

REPORT OF COMMITTEE

Date Reported
and Adopted

President: _____

Committee on _____

As referred the within Council Bill No. _____

We have considered the same and respectfully recommend that the same:

4-21-86 Hold over week

Vote 9-0

Committee Chair

RE:hh
2/22/85
ORD12.

10485

ORDINANCE 112813

AN ORDINANCE relating to admission taxes; amending Seattle Municipal Code (SMC) Section 5.40.025 to exempt non-profit tax-exempt organizations from the admission tax; and amending SMC § 5.40.085 relating to registration certificates.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 5.40.025 of the Seattle Municipal Code, as last amended by Ordinance 111449, is further amended as follows:

5.40.025 Tax exemption.

A. The admission tax as defined in Section 5.40.020 shall not apply to anyone paying an admission charge:

1. in the amount of ten cents (\$0.10) or less, or
2. to any activity of any elementary or secondary school as contemplated by RCW 35.21.280; or
3. to an opera, concert, dance recital or like musical entertainment, a play, puppet show or dramatic reading, an exhibition of painting, sculpture, or artistic or historical objects or to a museum, historic vessel or science center when all of the following three criteria are met:

a. A college or university or non-profit tax-exempt organization, as defined in Section 5.40.010 and registered under Sections 5.40.080 and 5.40.085, that meets one or more of the following criteria:

- (i) publicly sponsors and through its members, representatives, or personnel promotes, publicizes and distributes most of the tickets for admission; or

1 (ii) publicly sponsors and presents the
2 event at a facility it owns or leases as lessee for a term
3 of not less than one month; or

4 (iii) publicly sponsors and

5 (1.) performs a major portion of the
6 performance, or

7 (2.) supplies a major portion of the
8 materials on exhibition, or

9 (3.) when the event is part of a
10 season or series of performances or exhibitions, performs the
11 major portion of the performances or exhibitions in the season
12 or series((-)); and

13 b. The college, university or non-profit
14 tax-exempt organization receives the use and benefit of
15 admission charges collected; and

16 c. In the case of a performance, the seating
17 capacity of the location where the event occurs is three
18 thousand one hundred (3,100) people or less, or, in the case
19 of an exhibition, nor more than three thousand one hundred
20 (3,100) people are permitted on the premises at any one time.

21 4. to the following activities of non-profit tax-
22 exempt organizations as defined in Section 5.40.010 and
23 registered under Sections 5.40.080 and 5.40.085:

24 a. Dinners with entertainment, including but
25 not limited to dinner dances and dinner theaters;

26 b. Auctions;

27 c. Fashion shows;

28 d. Wine or beer tasting parties;

e. Haunted houses;

1 f. Art lectures and art lecture series;

2 g. Tours of the following:

3 i. homes;

4 ii. historical sites;

5 iii. historical vessels;

6 iv. pubs and taverns; and

7 v. hotels.

8 B. The exemption to the admission tax as provided in
9 Section 5.40.025A.3 shall not apply to:

10 1. an athletic event;

11 2. ~~((an event containing dancing by persons paying
12 an admission charge,~~

13 3-)) an event in which a college, university or
14 nonprofit tax-exempt organization lends its name to an
15 endorsement for an ineligible person for the purpose of
16 invoking the tax exemption.

17 Section 2. Section 5.40.085 of the Seattle Municipal
18 Code, as last amended by Ordinance 111489, is further amended
19 as follows:

20 5.40.085 Certificate of exemption - Application,
21 Issuance, Cancellation.

22 A. Any person seeking to secure an exemption from
23 the admission tax pursuant to Section 5.40.025A.3
24 shall, for each activity or series of activities ~~((on
25 application for exemption))~~ as prescribed by the Director
26 of Licenses and Consumer Affairs:

27 1. Identify the activity or set of activities
28 at which persons paying an admission charge are not to
be taxed;

1 2. Supply sufficient information as well as
2 enable the Director of Licenses and Consumer Affairs both
3 (a) to determine the applicability of the tax to the
4 activity or set of activities so identified and (b) to
5 distinguish the same from other occasions, if any, when
6 taxes are to be collected; and

7 3. Provide evidence as necessary to show the
8 status of the party performing the activity or set or
9 activities as a college, university, or nonprofit tax-exempt
10 organization as defined in Section 5.40.010. The (~~form~~
11 ~~may require the~~) applicant may be required to notify
12 the Director of Licenses and Consumer Affairs of any sub-
13 sequent change in condition from the facts stated or infor-
14 mation supplied. If the Director of Licenses and Consumer
15 Affairs determines that persons paying such admission charge
16 are not subject to the admission tax, the applicant shall
17 receive a certification of such determination for the activity
18 or series of activities, as the case may be.
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(To be used for all Ordinances except Emergency.)

Section 4... This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 28th day of April, 1986, and signed by me in open session in authentication of its passage this 28th day of April, 1986.

[Handwritten signature]
President of the City Council.

Approved by me this 5th day of May, 1986.

[Handwritten signature]
Mayor.

Filed by me this 5th day of May, 1986.

Attest: *[Handwritten signature]*
City Comptroller and City Clerk.

(SEAL)

Published.....

By *[Handwritten signature]*
Deputy Clerk.

City of Seattle

Executive Department-Office of Management and Budget

Gary Zarker, Director
Charles Royer, Mayor



February 22, 1985

Honorable Dolores Sibonga, Chair
Finance Committee
City Council
City of Seattle

Dear Ms. Sibonga:

In the City Council's Statement of Legislative Intent for the Department of Licenses and Consumer Affairs, the Council requested that the Executive prepare a study quantifying revenue losses from the 1981 admission tax exemption for nonprofit performing arts groups. We were also asked to examine abuses of this exemption that may have occurred since the exemption was granted, and to propose a means of eliminating these abuses.

We are in the process of preparing this study, and will deliver the completed study, including potential revenue impacts of the proposed changes, to the Council by March 1, 1985. In the meantime, we have prepared the attached ordinance which we believe addresses the problems inherent in the existing admission tax ordinance.

Briefly, the current ordinance causes confusion as to what events are subject to the City's admission tax and what are not. Live performances by nonprofit performing arts organizations are exempt from the admission tax, whereas other types of fundraising events by these same organizations, such as dinner dances, are not exempt. This distinction does not appear consistent with the City's traditional support of local performing arts groups, particularly at a time when state and federal support of the arts is declining. In addition, the distinction may lead to abuses of the current exemption if nonprofit groups are able to "sell" their exemption to for-profit organizations who are otherwise not eligible for the exemption.

The local arts community is a very important sector of the Seattle area, not only because of its contribution to the local economy and to local tax coffers, but also because of its vital contribution to the "quality of life" in this region. The attached ordinance is a necessary step in ensuring the continued existence of the local arts community during a period of extreme financial hardship.

Sincerely,

A handwritten signature in cursive script that reads "Gary Zarker".

GARY ZARKER
Budget Director

GZ/rv/ab

Attachment

City of Seattle

Executive Department-Office of Management and Budget

Gary Zarker, Director
Charles Royer, Mayor



MEMORANDUM

Date: March 7, 1986
To: Alan Osaki
From: Jim Ritch 
Subject: Proposed Admission Tax Revisions (C.B. 104785)

A while ago you called me and asked about the status of C.B. 104785, relating to admission tax revisions for certain fund raising activities. I mentioned that I thought that we had also sent an issue paper discussing the proposal last year and would send you a copy. At last, I found a copy of the materials we sent to you last year and have attached them to this memo. I am also sending a copy to Debbie Cone of Council central staff. Please let me know how you want to proceed with the consideration of this proposal.

JR/ne

Attachments

cc: Debbie Cone *(with attachments)*
Regina Tyner, DLCA
Carl Petrick, Arts Commission
Bob Vogler, OMB

Full Wright → why all was paid to

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MAR 10 1986

DOLORES BISONGA
SEATTLE CITY COUNCIL MEMBER

City of Seattle

Executive Department-Office of Management and Budget

Gary Zarker, Director
Charles Royer, Mayor



March 1, 1985

Honorable Dolores Sibonga, Chairperson
Finance Committee
Seattle City Council

Dear Councilmember Sibonga:

Attached is OMB's analysis of the City's admission tax policy relating to nonprofit performing arts groups. The analysis is in response to the Council's Statement of Legislative Intent for the Department of Licenses and Consumer Affairs, and discusses the proposed legislation transmitted to you earlier this week (C.B. 104785, introduced February 25, 1985).

Please give me or Bob Vogler a call if you have any questions relating to this report or our proposed amendment to the admission tax ordinance.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Zarker", written in a cursive style.

GARY ZARKER
Budget Director

GZ/bv/dc

Attachment

cc: Regina Tyner, DLCA

REVIEW OF ADMISSION TAX EXEMPTION CRITERIA

Statement of Issue

The purpose of this analysis is to quantify revenue losses from the admission tax exemption for qualified nonprofit performing arts groups, to examine abuses of this tax exemption by for-profit organizations who may be avoiding admission taxes, and to propose a means of eliminating these abuses by amending the current admission tax ordinance.

Background

In 1981, the City Council adopted a two-year phaseout of the City's five percent admission tax for the newly refurbished Fifth Avenue Theater and for similar nonprofit performing art groups. The exemption applied only to performances by these groups, and not to other fundraising activities such as dinner dances. The purpose of the exemption was to provide support to Seattle's performing arts community. The annual cost to the City from this measure, at the end of the two-year phaseout, was estimated at \$600,000.

Since 1981, the admission tax has undergone additional revisions. In 1983, a further amendment was passed which clarified the City Council's intent to limit exemptions to performances and not other fundraising activities, and which also restricted the exemption to activities held in facilities with a seating capacity of fewer than 3,100. The latter change was to prevent possible large revenue losses to the City by eliminating the exemption for any activity, whether nonprofit or not, held in the Kingdome, Coliseum, Memorial Stadium, Hec Edmundsen Pavilion, and the Seattle Arena.

Additionally, the 1983 legislation required that the tax-exempt organization receive the use and benefit of admission taxes collected, to prevent the organization from lending its name to an ineligible person or group for the purpose of invoking the tax exemption.

In 1984, the City Council adopted legislation introduced by Councilmember Kraabel which expanded the exemption to include general B&O taxes as well as admission taxes. Because of the relatively small B&O tax rate, the revenue impact of this measure was minor (about \$10,000 per year).

Description of Tax Base

The admission tax base includes both permanent and temporary accounts. As shown in the following table, the permanent accounts include the local sport franchises, movie theaters, and major entertainment promoters (including the Fifth Avenue Theater). The temporary accounts include one-time events or cover charges for weekend entertainment in taverns or similar establishments.

The "all other activities/events" category is a mixture of permanent and temporary accounts such as ticket agencies, which contributed \$40,000 in admission taxes in 1984, fairs and circuses (\$100,000), tours and amusements (\$160,000), and automobile and boat trade shows (\$106,000).

Within the entertainment category, the major promoters other than the Fifth Avenue Theater include the Paramount Theater, Albatross Productions, Northwest Entertainment, and John Bauer Productions. The revenue impact of the 1981 and later admission tax changes, including the proposed amendment to the admission tax ordinance, occurs within this group.

Admission Tax Revenue History
(\$1,000's)

	1981	1982	1983	1984
Sports	\$1,367*	\$1,571	\$1,503	\$1,474
Movies	522	602	678	606
Entertainment:				
Fifth Avenue Theater	605	114	10	0
Other major promoters	355	460	252	185
All other activities/events	856	908	660	680
Total	\$3,705	\$3,655	\$3,103	\$2,945

*Reflects effect of major league baseball strike.

Revenue Implications

OMB and DLCA have attempted to quantify the actual revenue losses from the 1981 action because we now have two full years of experience since completion of the phaseout of the tax on nonprofit performing arts groups. Additionally, the question has arisen that the City may be experiencing further revenue losses due to abuse of the exemption by certain nonprofit organizations that may be "selling" the exemption to commercial enterprises.

The revenue loss from abuses is difficult to ascertain, as there has been a general decline in the entertainment industry since the 1981 action. According to DLCA records, however (see above table), between 1981 and 1984, concert revenue from the major promoters (primarily the Fifth Avenue Theater) has declined by \$775,000, compared with OMB's original estimate of \$600,000. Assuming the original estimate was reasonably correct, there is an additional 1984 revenue loss of \$170,000 among the other major promoters that is attributable to some combination of economic conditions and abuses. To put the question of abuses in perspective, if major organizations such as the Cornish Institute or the Seattle Symphony held 10 events per year without collecting the applicable five percent admission tax, and the average attendance of each of these events were 3,000 with an average ticket price of \$15 (events with over 3,100 in attendance would not be exempt under any circumstances), the annual loss to the City would be \$22,000 ($3,000 \times 15 \times 10 \times .05 = \$22,500$). OMB therefore feels that only a minor portion of the additional \$175,000 revenue loss can be attributable to abuses of the current exemption.

Using similar assumptions, OMB and DLCA estimate that the revenue impact from extending the current exemption to all fundraising activities included in the proposed amendment would cost the City, at most, \$100,000 annually in foregone admission and B&O taxes.

City Council Criteria for Taxes

Resolution 24706, passed in 1974, establishes the following six criteria for revenue taxes and regulatory fees:

1. Efficiency -- The tax should be levied in a way which can be easily and inexpensively administered by the City and complied with by the taxpayer. A minimum of revenue raised should be consumed in the process of raising it.
2. Simplicity -- Tax laws should be written so they can be readily understood by the taxpayer and the tax official. The amount of tax due should be easily computed and verified.
3. Equitability -- No arbitrary distinctions should be made among taxpayers or classes of taxpayers; essentially similar circumstances or activities should be taxed at similar rates.
4. Neutrality -- The tax should be designed so that all sectors of the economy are affected to about the same extent, thus assuring that the common necessities and amenities of life are not overburdened by the tax. The objective should be to avoid distorting the economic signals which are received in the marketplace and which determine the relative amounts of various goods and services produced. Where feasible, the effect of taxes levied by other jurisdictions should also be considered.
5. Growth -- Tax rates should not be so high as to either discourage reasonable economic growth or to place Seattle in a position of comparative disadvantage vis-a-vis other communities.
6. Public Costs -- Special compensatory taxes may be levied to reflect total costs, if it can be shown that certain classes of businesses entail public costs not taken into consideration in the private sector's decision-making processes (that is, commercial activities which tend to promote needless consumption or waste, or which despoil the environment and cause or contribute to hazards to the property, privacy, health, safety, or security of substantial numbers of people.)

OMB believes that the proposed ordinance change meets four of the six criteria (efficiency, simplicity, equitability, and growth), and that the remaining two criteria (neutrality and public costs) are not applicable to this situation.

The efficiency criterion would be met because the revised ordinance spells out more clearly which activities and events are exempt from the admission tax. The current ordinance is confusing and difficult to administer, requiring DLCA to expend time and resources to track down numerous minor violations that involve a small amount of tax revenue. Eliminating this confusion would allow DLCA audit staff to concentrate on major B&O and admission tax accounts.

The proposed change would also address the simplicity criterion by eliminating taxpayer confusion as to what events are taxable and what are not. By eliminating the distinction between live performances and other fundraising activities, the only issue is whether the sponsoring organization is a nonprofit, tax exempt organization as defined by the admission tax ordinance.

Similarly, elimination of this distinction would address the equitability criterion by establishing similar treatment for all nonprofit performing arts events included in the revised ordinance. The current system contributes to bad feelings in the arts community by organizations who feel they are being singled out unfairly by an unreasonable distinction between different types of fundraising events. In one sense, however, the equitability criterion is intentionally not met because the distinction would still exist between nonprofit and commercial arts organizations, as well as between nonprofit arts organizations and other types of nonprofit agencies.

As to the growth criterion, elimination of the five percent admission tax on fundraising events is consistent with City's intention to support the local performing arts community. It appears inconsistent for the City to, on the one hand, bemoan the deteriorating state of local arts groups and, on the other hand, demand five percent of the proceeds from activities intended to enhance the financial status of these groups.

The neutrality criterion is not applicable because the intent of the City Council in adopting the original 1981 legislation was to foster local arts organizations. The existing, as well as proposed, admission tax regulations make a distinction between nonprofit and commercial activities. The sixth criterion, relating to public costs, appears to have no bearing on this issue because it pertains to regulatory, rather than revenue, licensing.

Recommendation

The Executive proposes that fundraising events of the type spelled out in the proposed ordinance be exempt from the City's five percent admission tax. The current restriction of this exemption to live performances is not consistent with the City's historical leadership in support of the local nonprofit art community, such as the 1% for Art program, the Seattle Arts Commission, and removal of admission and B&O taxes on cultural events. Local support of the arts community becomes even more vital as traditional federal support for the arts dries up under the current move to "new federalism." As an example, between 1981 and 1984, National Endowment for the Arts support to Seattle arts groups has declined from \$1,562,000 to \$1,363,000, or about 13 percent, while the local inflation rate (from January, 1981 through the end of 1984) was about 16 percent. At a time when nonprofit arts organizations are struggling to meet the challenge from the federal government to utilize more private funding and volunteerism, the additional burden of municipal taxation of fundraising activities is particularly onerous.

The proposed change in the City's admission tax would extend the admission tax exemption to other fundraising activities of a nonprofit, tax-exempt performing or visual arts organization, as defined in SMC 5.40.010, including dinner dances, auctions, fashion shows, and tours. Enforcement of the exemption provisions would be simplified by the requirement that these organizations apply for a letter of exemption from DLCA for each activity or series of activities, rather than a "blanket" exemption covering the organization itself as currently required. This will enable DLCA to review each exemption to prevent the types of abuses that could occur under the current admission tax ordinance.

Affidavit of Publication

STATE OF WASHINGTON KING COUNTY—SS.

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 _____
Ordinance No 112813

was published on _____
May 8, 1986

S. Star

Subscribed and sworn to before me on

May 8, 1986

Wenne Summers

Notary Public for the State of Washington,
residing in Seattle.

City of Seattle

ORDINANCE 111429

AN ORDINANCE relating to admission taxes; amending Seattle Municipal Code (SMC) Section 5.40.025 to exempt non-profit tax-exempt organizations from the admission tax; and amending SMC § 5.40.085 relating to registration certificates.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 5.40.025 of the Seattle Municipal Code, as last amended by Ordinance 111449, is further amended as follows:

5.40.025 Tax exemption.

A. The admission tax as defined in Section 5.40.020 shall not apply to anyone paying an admission charge:

1. in the amount of ten cents (\$0.10) or less, or
2. to any activity of any elementary or secondary school as contemplated by RCW 35.21.280; or
3. to an opera, concert, dance recital or like musical entertainment, a play, puppet show or dramatic reading, an exhibition of painting, sculpture, or artistic or historical objects or to a museum, historic vessel or science center when all of the following three criteria are met:

a. A college or university or non-profit tax-exempt organization, as defined in Section 5.40.010 and registered under Sections 5.40.080 and 5.40.085, that meets one or more of the following criteria:

- (i) publicly sponsors and through its members, representatives, or personnel promotes, publicizes and distributes most of the tickets for admission; or
- (ii) publicly sponsors and presents the event at a facility it owns or leases as lessee for a term of not less than one month; or
- (iii) publicly sponsors and
 - (1.) performs a major portion of the performance, or
 - (2.) supplies a major portion of the materials on exhibition, or
 - (3.) when the event is part of a season or series of performances or exhibitions, performs the major portion of the performances or exhibitions in the season or series(ies); and

b. The college, university or non-profit tax-exempt organization receives the use and benefit of admission charges collected; and

c. In the case of a performance, the seating capacity of the location where the event occurs is three thousand one hundred (3,100) people or less, or, in the case of an exhibition, not more than three thousand one hundred (3,100) people are permitted on the premises at any one time.

4. to the following activities of non-profit tax-exempt organizations as defined in Section 5.40.010 and registered under Sections 5.40.080 and 5.40.085:

a. Dinners with entertainment, including but not limited to dinner dances and dinner theaters;

b. Acrobatic

c. Fair shows;

d. Wine or beer tasting parties;

e. Haunted houses;

f. Art lectures and art lecture series;

g. Tours of the following:

i. homes;

ii. historical sites;

iii. historical vessels;

iv. pubs and taverns; and

v. hotels.

B. The exemption to the admission tax as provided in Section 5.40.025A shall not apply to:

1. an athletic event;
2. ((an event containing dancing by persons paying an admission charge;

3.)) an event in which a college, university or nonprofit tax-exempt organization lends its name to an endorsement for an ineligible person for the purpose of invoking the tax exemption.

Section 2. Section 5.40.085 of the Seattle Municipal Code, as last amended by Ordinance 111429, is further amended as follows:

5.40.085 Certificate of exemption - Application, Issuance, Cancellation.

A. Any person seeking to secure an exemption from the admission tax pursuant to Section 5.40.025A.3 shall, for each activity or series of activities ((an application for exemption)) as prescribed by the Director of Licenses and Consumer Affairs:

1. Identify the activity or set of activities at which persons paying an admission charge are not to be taxed;

2. Supply sufficient information as well as enable the Director of Licenses and Consumer Affairs both (a) to determine the applicability of the tax to the activity or set of activities so identified and (b) to distinguish the same from other occasions, if any, when taxes are to be collected; and

3. Provide evidence as necessary to show the status of the party performing the activity or set of activities as a college, university, or nonprofit tax-exempt organization as defined in Section 5.40.010. The ((form may require the)) applicant may be required to notify the Director of Licenses and Consumer Affairs of any subsequent change in condition from the facts stated or information supplied. If the Director of Licenses and Consumer Affairs determines that persons paying such admission charge are not subject to the admission tax, the applicant shall receive a certification of such determination for the activity or series of activities, as the case may be.

Section 4. This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 28th day of April, 1986, and signed by me in open session in authentication of its passage this 28th day of April, 1986.

SAM SMITH,
President of the City Council.

Approved by me this 5th day of May, 1986.

CHARLES ROYER,
Mayor.