

ORDINANCE No. 118529

COUNCIL BILL No. 111653

Law Dept
The City

**AN ORDINANCE relating to
business and occupation taxes;
amending Seattle Municipal
Code Sections 5.44.100 and
5.44.120.**

OK

Honorable President:

Your Committee on _____

to which was referred the within C
report that we have considered the

Full Council

COMPTROLLER FILE No. _____

Introduced: MAR 1 3 1997	By: CHOE
Referred: MAR 1 3 1997	To: Finance & Budget Committee
Referred:	To:
Referred:	To:
Reported: MAR 2 4 1997	Second Reading: MAR 2 4 1997
Third Reading: MAR 2 4 1997	Signed: MAR 2 4 1997
Presented to Mayor: MAR 2 5 1997	Approved: MAR 2 5 1997
Returned to City Clerk: MAR 2 7 1997	Published: <i>Full Comp.</i>
Vetoed by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained:

EM doc

Law Department

PASS 4-0

The City of Seattle--Legislative Department

REPORT OF COMMITTEE

Date Reported
and Adopted

City President:

Committee on _____

_____ was referred the within Council Bill No. _____

_____ that we have considered the same and respectfully recommend that the same:

Full Council vote 7-0

Committee Chair

ORDINANCE 118529

1 AN ORDINANCE relating to business and occupation taxes; amending Seattle Municipal
2 Code Sections 5.44.100 and 5.44.120.

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

4 Section 1. Section 5.44.100 of the Seattle Municipal Code (Ordinance 72630, § 20, as
5 last amended by Ordinance 118314 § 16) is further amended to read as follows:

6 **5.44.100 Over or under payment of tax or fee.**

7 A. In the event of overpayment of any tax or fee due under this chapter, the Finance
8 Director or his or her authorized agent upon written application by the taxpayer for a refund
9 or credit within two (2) years after the due date of such overpayment, may offset the amount
10 of such overpayment against the taxpayer's existing tax liability under this chapter and
11 refund any balance to such taxpayer or credit such balance to taxes which may accrue under
12 this chapter. No refund or credit may be allowed with respect to any payments made to the
13 City more than two (2) years before the date of such application; provided, that where a
14 taxpayer under audit or investigation by the City makes application for a credit of an
15 overpayment made more than two (2) years before the date of such application, the amount
16 of the credit otherwise allowable for the portion of the assessment period preceding the two
17 (2) year period may be offset against any existing tax deficiency which accrued under this
18 chapter in the same calendar year as the overpayment.

19 The denial of a refund may only be appealed when and as set forth in Section 5.44.120.

20 Refund of overpayments as authorized in this section shall be paid from the Refund
21 Account of the General Fund.
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1 B. Notwithstanding the foregoing limitations there shall be refunded or credited to
2 taxpayers engaged in the performance of United States government contracts or subcontracts
3 the amount of any tax paid, measured by that portion of the amounts received from the
4 United States, which taxpayer is required by contract or applicable federal statute to refund
5 or credit to the United States, if claim for such refund is filed by the taxpayer with the
6 Finance Director within one (1) year of the date that the amount of the refund or credit due
7 to the United States is finally determined and filed within four (4) years of the date on which
8 tax was paid.

9 C. Assessments or demands for any additional tax, fee, penalty, or interest shall be
10 made by the Director within four (4) years after the close of the calendar year in which the
11 same accrued except with the following exceptions:

12 1. Against a taxpayer who is not currently licensed or has not filed a tax return as
13 required by this chapter; assessments or demands for any additional tax, fee, penalty or
14 interest due, as provided for in Section 5.44.090, as a result of failure to obtain and
15 maintain a license as provided for under Section 5.44.300 and file a tax return as required by
16 this chapter may be made by the Director within ten (10) years after the close of the calendar
17 year in which the same accrued;

18 2. Against a taxpayer who has ~~((been guilty of))~~ committed fraud; ~~((or
19 misrepresentation of))~~

20 3. Against a taxpayer who misrepresented a material fact; or

21 ~~((3))~~ 4. Where a taxpayer has executed a written waiver of such limitations.
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1 D. The Finance Director may enter into an agreement in writing with any person
2 relating to the liability of such person in respect of any tax, fee, or assessment imposed by
3 this chapter for any taxable period or periods.

4 Section 2. Section 5.44.120 of the Seattle Municipal Code (Ordinance 72630, § 22, as
5 last amended by Ordinance 118314 § 18) is further amended to read as follows:

6 **5.44.120 Appeals and judicial review.**

7 ~~((A-)) ((Any))~~ A person aggrieved by the amount of the tax, fee, interest, or penalty
8 assessed by the Finance Director under the provisions of this chapter((s)) may appeal the
9 Director's decision only as provided in this section. A person aggrieved by the denial of a
10 refund by the Finance Director under the provisions of this chapter may appeal the
11 Director's decision only if and as provided in this section. The denial of a refund may be
12 appealed only if the taxes for which a refund is sought were not the subject of any
13 assessment by the Finance Director.

14 A. In order to appeal, a person aggrieved shall file a written appeal ("petition") with the
15 Office of the Hearing Examiner within twenty (20) days from the date that the assessment or
16 denial notice was mailed to the taxpayer, or within the period covered by any extension of
17 said due date granted in writing by the Finance Director. The Finance Director may grant an
18 extension of the appeal period only if the taxpayer, within the twenty (20) day period to
19 appeal, makes written application showing good cause why an extension is necessary. A
20 copy of the petition must be provided by the ((taxpayer)) person filing it to the Finance
21 Director and the City Attorney on or before the date the petition is filed with the Hearing
22 Examiner. If no such petition is filed with the Hearing Examiner and provided to the
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Ver. 1

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

4 B. The petition shall set forth the reasons why the assessment should be reversed or
5 modified. The petition shall also include ~~((and))~~ the amount of the tax, fee, interest, or
6 penalties which the taxpayer believes to be due. If the appeal is from the denial of a refund,
7 the petition shall set forth the amount of refund or credit the taxpayer believes to be due.

8 The Hearing Examiner shall fix the time and place of the hearing and notify the taxpayer
9 thereof by mail. The hearing shall be conducted in accordance with the procedures for
10 hearing contested cases in the Seattle Administrative Code (Chapter 3.02 of the Seattle
11 Municipal Code).

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

20 D. The Hearing Examiner may reverse or modify an action of the Director and ascertain
21 the correct amount of the tax, fee, interest, or penalty due if the Director's assessment or
22 refund denial violates the terms of this chapter ~~((or is contrary to law))~~. The decision of the
23

Hearing Examiner shall be final. The taxpayer, any other person beneficially interested,
1 and/or the Department of Finance may seek review of the decision of the Hearing Examiner
2 ((tø)) by the Superior Court of Washington in and for King County within fourteen (14) days
3 from the date of the decision.

4 Section 3. The provisions of this ordinance are declared to be separate and severable.
5 The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this
6 ordinance, or the invalidity of the application thereof to any person or circumstance shall not
7 affect the validity of the remainder of this ordinance, or the validity of its application to
8 other persons or circumstances.

9 Section 4. This ordinance shall take effect and be in force thirty (30) days from and
10 after its approval by the Mayor, but if not approved and returned by the Mayor within ten

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(10) days after presentation, it shall take effect as provided by Municipal Code Section
1.04.020.

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3 PASSED by the City Council of the City of Seattle the 24 day of March,
4 1997, and signed by me in open session in authentication of its passage this 24 day of
5 March, 1997.

6
7 Jan Gray
8 President _____ of the City Council

9 Approved by me this 26 day of March, 1997.

10
11 Norman B. Rice
12 Mayor

13 Filed by me this 27 day of March, 1997.

14
15 Jessica E. Lipp
16 City Clerk

17 (Seal)



City of Seattle

Norman B. Rice, Mayor
Executive Services Department
Dwight D. Dively, Director

March 3, 1997

The Honorable Jan Drago
President, Seattle City Council
600 Fourth Avenue, 11th Floor
Seattle, Washington 98104

Via: Mayor's Office

Attention: Tom Tierney, Director, Office of Management and Planning

Subject: Revisions to SMC Chapter 5.44: Business and Occupation Tax

Dear Councilmember Drago,

The attached ordinance amends Chapter 5 of the Seattle Municipal Code. It continues the ongoing efforts of the Finance Division and Law Department to clarify the City's tax code.

Summary

The purpose of this ordinance is to provide for an administrative review of refund requests which have been denied by the Department. A refund may be denied for either an issue of fact (periods in question are outside statute of limitation) or an issue of law (taxpayer believes it is entitled to a refund, the Department does not). Once a denial has been issued, the taxpayer has twenty (20) days to file an appeal.

Section Review

The following list outlines the nature and purpose of the changes proposed for each section of Chapter 5.44.

5.44.100 Over or under payment of tax or fee.

Most refund requests submitted to the department are subject to review. If the request is contrary to fact or law, a refund denial notice is issued. The proposed amendment clarifies the taxpayer's ability to request an administrative review of the denial by the Hearing Examiner.

The formatting of subsection C has been changed to separate the actions of a taxpayer found guilty of fraud from a taxpayer misrepresenting material facts provided to the Department.

600 Fourth Avenue, Room 103, Seattle, WA 98104-1891, <http://www.ci.seattle.wa.us>
Tel: (206) 684-0484, TDD: (206) 233-7810, FAX: (206) 684-0188



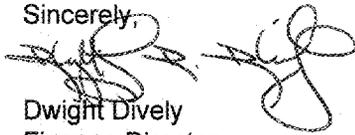
5.44.120 Appeals and Judicial Review.

This section would be clarified to indicate that appeals to the Hearing Examiner can be made for a refund denial; this codifies prior practice.

The words "or is contrary to law" have been deleted from subsection D. The phrase has caused confusion for both the Hearing Examiner and taxpayer as to the authority of the Hearing Examiner to determine the constitutionality of ordinances passed by the City Council.

Thank you for your consideration of the proposed changes. Questions regarding this ordinance can be directed to Mel McDonald at 233-0071 or Norma Bush at 233-0010.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Dively", written over a horizontal line.

Dwight Dively
Finance Director

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(10) days after presentation, it shall take effect as provided by Municipal Code Section
1.04.020.

PASSED by the City Council of the City of Seattle the _____ day of _____,
1997, and signed by me in open session in authentication of its passage this _____ day of
_____, 1997.

President _____ of the City Council

Approved by me this _____ day of _____, 1997.

Mayor

Filed by me this _____ day of _____, 1997.

City Clerk

(Seal)

TIME AND DATE STAMP

SPONSORSHIP

THE ATTACHED DOCUMENT IS SPONSORED FOR FILING WITH THE CITY COUNCIL BY THE MEMBER(S) OF THE CITY COUNCIL WHOSE SIGNATURE(S) ARE SHOWN BELOW:

Martin Chen

FOR CITY COUNCIL PRESIDENT USE ONLY

COMMITTEE(S) REFERRED TO: _____

PRESIDENT'S SIGNATURE

OK PEN
3-4-97

City of Seattle

Executive Department—Office of Management and Planning

Thomas M. Tierney, Director
Norman B. Rice, Mayor

March 3, 1997



The Honorable Mark Sidran
City Attorney
City of Seattle

Dear Mr. Sidran:

The Mayor is proposing to the City Council that the enclosed legislation be adopted.

REQUESTING DEPARTMENT:	Executive Services Department
SUBJECT:	AN ORDINANCE relating to business and occupation taxes; amending Seattle Municipal Code Sections 5.44.100 and .120.

COPY RECEIVED
97 MAR - 3 AM 10:50
SEATTLE CITY ATTORNEY

Pursuant to the City Council's S.O.P. 100-014, the Executive Department is forwarding this request for legislation to your office for review and drafting.

After reviewing this request and any necessary redrafting of the enclosed legislation, return the legislation to OMP. Any specific questions regarding the legislation can be directed to Monica Power at 684-8076.

Sincerely,

Norman B. Rice
Mayor

by

TOM TIERNEY
Director

h:\admin\legis\lawltrs\power24

STATE OF WASHINGTON - KING COUNTY

78940
City of Seattle, City Clerk

—ss.

No. ORDINANCE IN

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 118529

was published on

04/03/97

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

H. Peterson

Subscribed and sworn to before me on

04/03/97

W. C. [Signature]

Notary Public for the State of Washington
residing in Seattle

SUMMONS BY PUBLICATION
Superior Court
 No. 96-2-24336-1 SEA
IN THE SUPERIOR COURT
 of the State of Washington in
 and for the County of King.
Cecil H. Kellum, a single individual, Plaintiff, v. Douglas L. Pang and Lori D. Pang, husband and wife, and the marital community composed thereof; James Eaton and Jane Doe Eaton, husband and wife, and the marital community composed thereof; Floyd L. Hewitt and Jane Doe Hewitt, husband and wife and the marital community composed thereof; and Hewitt Construction Corporation, a Washington corporation, Defendants. No. 96-2-24336-1 SEA. Summons by Publication. [60 days.]
 The State of Washington, to: James Eaton, Defendant.
 You are hereby summoned to

FAMILY LAW

Published below are summaries for dissolutions, adoptions, guardianship actions, name changes, not-responsible-for-debts, and others.

SUMMONS BY PUBLICATION
Superior Court
 No. 97-3-01868-8 SEA
SUPERIOR COURT OF
 Washington, County of King.
In re the Marriage of Jorge Ruiz, Petitioner and Patricia Clay, Respondent. No. 97-3-01868-8 SEA. Summons by Publication. (SMPB)

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6. One method of serving a copy of your response on the petitioner is to send it by certified mail with return receipt requested.

This summons is issued pursuant to RCW 4.28.100 and Superior Court Civil Rule 4.1 of the State of Washington.

Dated: February 20, 1997.
MICHELLE L. PAILTHORP,
 W. S. B. A. #11925, Attorney for Petitioner.

File original of your response with the Clerk of the Court at: Clerk of the Court, King County Superior Court, E609, King Co. Courthouse, 516 Third Avenue, Seattle, WA 98104.

Serve a copy of your response on: Michelle L. Pailthorp, Michelle L. Pailthorp, P. S. 600 Market Place One, 2003 Western Avenue, Seattle, WA 98121.

Dates of 1st and 2nd publication in the Journal American, March 6 and 13, 1997.

Date first published in the Seattle Daily Journal of Commerce, March 20, 1997.

4/10(78413)

SUMMONS AND NOTICE OF PETITION
Superior Court No. 97-5-00948-1 SEA
IN THE SUPERIOR COURT
 of the State of Washington for the County of King.

In Re the Interest of Infant Child Hales, a child under the age of eighteen years. No. 97-5-00948-1 SEA. Summons and Notice of Petition/Hearing re Relinquishment of Child and Termination of Parent/Child Relationship.

To: Alex (last name unknown).

The petitioner has filed a Petition for Termination of Parent-Child Relationship praying that the parent-child relationship between the above named parent and child be terminated.

You may respond to the Summons and Petition by filing a written response with the Clerk of the Court and serving a copy on the person signing the Summons. If you do not serve your written response within thirty (30) days after the date this Summons was served on you, the court may, without further notice, enter an Order of Default against you, enter an order relinquishing the child to the petitioner, permanently terminating your parent-child relationship and approving the adoption of the above-named child.

The child is about to be born on April 28, 1997, and was conceived in Kent, Washington; the natural mother is Shylah Marie Hales.

The court hearing on this matter shall be on April 30th, 1997, at 9:00 a. m. in Room W-285 of the King County Courthouse, 516 Third Ave., Seattle, Washington 98104.

Any indigent, non-consenting parent or alleged father has the right to be represented by an attorney if so requested, and, upon such request one will be appointed.

Your failure to file a claim of paternity under Chapter 26.26

missioner of sea and the sea hereunto affix of March, 1997.

Date of March 20, 1997
M. JANICE
 King County Clerk.

(Seal) By: Deputy Clerk File respon

the Court, King house, 516 T Washington 9 Serve copy c **DAVID V. J** Third Avenue Washington 9: 583-2714.

SUMMONS BY PUBLICATION
Superior Court
 No. 97-5-0

IN THE SUPERIOR COURT
 of the State of Washington in and for the County of King.

In re the Marriage of Alexandra M. person under the age of 18 years. No. 97-5-0

Summons and Notice of Termination of Parent/Child Relationship. (F)

Outside of State To: Christopher consenting father

You are hereby summoned to appear within 30 days after the date of this summons within thirty (30) days of March 27th day of March to defend the above in the termination of child relationship.

copy of your answer to the petition for termination of parent-child relationship below stated do so, judgment entered against the request of Adoption by Termination of Parent/Child Relationship which with the Clerk of the Court.

You are hereby summoned to file your petition has been filed with the Clerk of the Court.

parent-child relationship between you and child be terminated of the action is terminating the relationship between child and a De

declaring the parent-child relationship BORN CHILD

born on October 15, 1997, in the City of Kirkland, King County, Washington. The natural mother was F

at the time the child was born the name of the child is Penny Grav

have been named for a possible father or a possible father.

The court hearing on this matter shall be on the 28th day of March, 1997, at 9:30 a. m. in Room W-285 of the King County Courthouse, 516 Third Avenue, Seattle, Washington 98104.

Your failure to file a claim of paternity under Chapter 26.26