Ordinance No. 121987

Council Bill No. 115435

AN ORDINANCE relating to taxation; providing a deduction to businesses selling water for resale to other political subdivisions of the State of Washington ; providing a deduction to businesses selling electricity for resale; repealing the tax on electric light and power suppliers for electricity sales delivered outside the State of Washington; making technical corrections; and amending Sections 5.45.100, 5.48.050, 5.48.055, 5.48.070; and 5.48.072 of the Seattle Municipal Code.

CF No. _____

Date Introduced: 10-31-05	
Date 1st Referred: 10-31-05	To: (committee) Budget
Date Re - Referred:	To: (committee)
Date Re - Referred:	To: (committee)
Date of Final Passage: 11-28-05	Full Council Vote: 9-0
Date Presented to Mayor: 11-28-05	Date Approved: 11/30/05
Date Returned to City Clerk: 12/2/05	Date Published: DJC 6 pp. T.O. ___ F.T. ✓
Date Vetoed by Mayor:	Date Veto Published:
Date Passed Over Veto:	Veto Sustained:

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: _____
Councilmember

Committee Action:

11-9-05 Pass. RM, RC, DR, JG, TB, PS

11/28/05 Passed 9-0

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

Law Department

Law Dept. Review	OMP Review	City Clerk Review	Electronic Copy Loaded	Indexed

Mel McDonald/gmh
DEA Utility Tax Ordinance
September 26, 2005
version #8a

ORDINANCE 121987

AN ORDINANCE relating to taxation; providing a deduction to businesses selling water for resale to other political subdivisions of the State of Washington; providing a deduction to businesses selling electricity for resale; repealing the tax on electric light and power suppliers for electricity sales delivered outside the State of Washington; making technical corrections; and amending Sections 5.45.100, 5.48.050, 5.48.055, 5.48.070; and 5.48.072 of the Seattle Municipal Code.

WHEREAS, the City of Seattle enters into long-term contracts with other political subdivisions of the State of Washington for the supply of water for resale; and

WHEREAS, the contracts with such entities, and the City Utilities' rates, do not contemplate the levying of Business and Occupation (B&O) tax; and

WHEREAS, levying a B&O tax on the resale of water and electricity would place an unreasonable burden on the wholesalers that resell those commodities; and

WHEREAS, the City of Seattle desires to provide a deduction from the measure of its B&O tax liability to companies which sell water and electricity to other companies for resale; and to amend provisions in its tax code with respect to solid waste activities and sales of electric power and telephone service; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsections 5.45.100 U and V are hereby added to the Seattle Municipal Code as follows:

5.45.100 Deductions.

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

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U. Sales of Water to Water Districts, Municipalities and other Political Subdivisions of the State of Washington for Resale. In computing tax, there may be deducted from the measure

CITY CLERK

of the tax under the wholesaling classification, amounts derived from the sale of water to any water district, municipality or other political subdivision of the State of Washington.

V. Sales of Electricity for Resale. In computing tax, there may be deducted from the measure of the tax amounts derived from the sale of electricity to any purchaser of electricity for resale.

Section 2. Subsections 5.48.050 A and D of the Seattle Municipal Code are hereby amended as follows:

5.48.050 Occupations subject to tax--Amount.

There are levied upon, and shall be collected from everyone, including The City of Seattle, on account of certain business activities engaged in or carried on, annual license fees or occupation taxes in the amount to be determined by the application of rates given against gross income as follows:

A. Upon everyone engaged in or carrying on a telephone business, a fee or tax equal to six (6) percent of the total gross income from such business provided to customers within the City.((~~; provided, that effective January 1, 1987, t~~)) The tax liability imposed under this section shall not apply for that portion of gross income derived from charges to another telecommunications company, as defined in RCW 80.04.010, for connecting fees, switching charges, or carrier access charges relating to intrastate toll telephone services, or for access to, or charges for, interstate services, ((~~which~~)) or charges for network telephone service that is purchased for the purpose of resale. (Such charges, except for interstate service, shall be taxed under SMC Chapter 5.45.) The total gross income shall also include all charges by the provider

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of cellular or cellular mobile telephone services provided to its customers in any taxing jurisdiction (intrastate or interstate), which are billed to a "place of primary use" located in Seattle by or for the home service provider, irrespective of whether the services are provided by the home service provider.

B. Upon everyone engaged in or carrying on the business of selling, brokering, or furnishing gas for hire, a fee or tax equal to six (6) percent of the total gross income from such business in the City.

C. Upon everyone, including The City of Seattle, engaged in or carrying on the business of selling or furnishing water for hire to consumers, a fee or tax equal to fifteen and fifty-four one hundredths (15.54) percent of the total gross income from such retail business in the City; provided that as to The City of Seattle in the conduct of its municipal water utility, such tax shall be applicable to the business of such utility done without, as well as within, the City.

D. Upon everyone, including The City of Seattle, engaged in or carrying on the business of selling or furnishing electric light and power to consumers, a fee or tax equal to six (6) percent of the total gross income from such business in the City. The fee or tax imposed upon the municipal light and power system of the City shall be applicable to the business of such system both within and without the City((~~; provided, that as to the gross income derived by such system from the production, sale or transfer of electric energy for resale or consumption outside the state the fee or tax shall be in an amount equal to five (5) percent of the gross income~~)).

***

Section 3. Subsection 5.48.055 E of the Seattle Municipal Code is hereby amended as

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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:

***

E. Income derived from activities excluded from the gross receipts factor as described in subsections B and C of this section above shall be taxed under SMC Chapter 5.45.

Section 4. Section 5.48.070 of the Seattle Municipal Code is hereby amended as follows:

5.48.070 Exceptions and deductions.

A. There shall be excepted and deducted from the total gross income upon which the license fee or tax is computed, amounts derived from business which the City is prohibited from taxing under the Constitution or laws of the United States, the Constitution or laws of the state, or the Charter of the City; and any amounts collected by the taxpayer as an excise tax (trust funds) and remitted to the taxing authority, including but not limited to the leasehold excise tax, retail sales and use tax, State's refuse collection tax and admission tax.

B. A taxpayer engaged in a telephone business shall exclude from the total taxable gross income taxed under this chapter charges to ((a)) another telecommunications company, for such fees and charges as are excluded under SMC Section 5.48.050 A ((~~as defined in RCW 80.04.010, for network telephone service, as defined in RCW 82.04.065, that the telecommunication~~

CITY CLERK

~~company purchases for the purpose of resale~~)). This excluded revenue shall be recorded and taxed under SMC Chapter 5.45.

C. A deduction from gross income shall be allowed, only to cellular telephone service companies who keep their regular books of account on an accrual basis, for credit losses actually sustained by a taxpayer as a result of cellular telephone service business.

Section 5. Section 5.48.072 of the Seattle Municipal Code is hereby amended as follows:

5.48.072 Anti-pyramiding credit for haulers of CDL Waste.

There shall be allowed to anyone who is engaged in the business of the collection of CDL Waste and subject to tax under Section 5.48.055 B a credit against the tax in the amount of One Dollar and Forty-three Cents ($1.43) per ton for each ton of ((~~DCL~~)) CDL Waste collected in the City, delivered to a person engaged in or carrying on the business of transferring ((~~DCL~~)) CDL Waste from one (1) mode of transportation to another under Section 5.48.055 A (called the "transfer station"), and used by the transfer station in measuring the tax due under Section 5.48.055 A upon the transfer station's activities of transferring CDL Waste from one (1) mode of transportation to another. When the transfer station engages in recycling activities, the tonnage used by the taxpayer in measuring the credit shall be reduced by the proportion of the transfer station's tonnage recycled.

This section is intended to prevent pyramiding of the economic impact of the tax imposed under Section 5.48.055 A on CDL Waste, and is limited in it application to fulfilling that purpose.

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Section 6. 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 28th day of November, 2005, and signed by me in open session in authentication of its passage this 28th day of November, 2005.

President _____ of the City Council

Approved by me this 30th day of November, 2005.

Gregory J. Nickels, Mayor

Filed by me this 2nd day of December, 2005.

City Clerk

(Seal)

EMS CITY CLERK

City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

September 26, 2005

Honorable Jan Drago
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Drago:

I am transmitting the attached proposed Council Bill, which amends Seattle's Tax Code as it relates to the taxation of public and private utilities. Upon adoption, this Bill will allow Seattle City Light (SCL) and Seattle Public Utilities (SPU) to deduct income earned from the sale of commodities to utility districts from the City's Business & Occupation (B&O) tax.

The City of Seattle's utilities sell water and electricity to water districts, municipalities, and other local government agencies, who then resell these commodities to their customers. Assessing B& O tax on the utilities' income from such sales places an unreasonable burden on SCL, SPU, and their customers. While the City imposes a utility tax of between 6% to 15.54% on SCL, SPU, and private utilities, and the State imposes a public utility tax with rates ranging from 3.873% on electricity to 5.029% on water, the City's B& O tax has not been assessed nor contemplated in its current short-term and long-term contracts with its resale customers. The B & O tax exemption authorized in this Bill would apply to private firms selling electricity or water at wholesale as well, although private firms account for no more than five percent of these sales.

In addition to the B& O exemption, the attached legislation eliminates the five percent (5%) utility tax imposed on income earned by SCL and other Seattle-based wholesalers for sales of electricity delivered outside of the State of Washington. The City has not levied this tax in recent years. The proposed Bill will bring the City's tax code into alignment with longstanding practice regarding this tax.

Finally, the Bill makes technical amendments to provisions relating to solid waste and telecommunications taxes authorized in Chapter 5.48 of the Seattle Municipal Code.

Thank you for your consideration of this legislation. Should you have questions, please contact Ken Nakatsu at 684-0505 or Mel McDonald at 233-0071.

Sincerely,

GREG NICKELS
Mayor of Seattle

600 Fourth Avenue, 7th Floor, P.O. Box 94749, Seattle, WA 98124-4749
Tel: (206) 684-4000, TDD: (206) 684-8811 Fax: (206) 684-5360, E:mail: mayors.office@seattle.gov
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CITY CLERK

Form revised March 10, 2005

2006 BUDGET LEGISLATION FISCAL NOTE

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Executive Administration	Mel McDonald/3-0071	Glen Lee/4-8079

Legislation Title:
AN ORDINANCE relating to taxation; providing a deduction to businesses selling water for resale to other political subdivisions of the State of Washington; providing a deduction to businesses selling electricity for resale; repealing the tax on electric light and power suppliers for electricity sales delivered outside the State of Washington; making technical corrections; and amending Sections 5.45.100, 5.48.050, 5.48.055, 5.48.070; and 5.48.072 of the Seattle Municipal Code.

- Summary of the Legislation:

This legislation permits Seattle City Light, Seattle Public Utilities, and private utilities operating in Seattle to deduct income earned from sales of electricity and water to water districts, municipalities, and other political subdivisions of the State of Washington; eliminates the five percent (5%) utility tax imposed on electric light and power suppliers for electricity sales delivered outside of the state; and, makes some minor technical corrections to Chapter 5.48 of the Seattle Municipal Code.

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

Deduction for SCL and SPU: The City of Seattle's Seattle Public Utilities (SPU) provides water to other water districts for sale to their customers. SPU enters into long-term contracts with these agencies to provide water, and the current contracts preclude SPU from passing on to purchasers any costs from the levying of Business and Occupation (B & O) taxes.

Similarly, Seattle City Light (SCL) sells electricity to several utilities in the state who sell the electricity to their customers. Currently, the B & O tax is not applied to the sales, and it is likely that levying the tax on this income to SCL may place SCL's commodity at a competitive disadvantage.

While the deductions proposed in this legislation would apply to private firms selling water and electricity commodities, SCL and SPU account for more than 95% of wholesale sales of these commodities in the region.

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Elimination of tax on certain SCL sales: City code authorizes a five percent (5%) tax on income earned by SCL (and private Seattle-based firms) from sales of electricity for use outside of Washington. However, the City has not levied this tax in recent memory, so SCL has neither reported nor paid tax on income from these sales. This legislation aligns the City tax code with this practice by eliminating the tax from the tax code.

- *Please check one of the following*:

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

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

Since the B&O tax is not currently applied on the resale of water and electricity, and the 5% tax is not levied, rates will not change and there is no direct fiscal impact from adopting this legislation.

2005 CITY CLERK

STATE OF WASHINGTON – KING COUNTY

--ss.

192504 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:121987 ORDINANCE

was published on

12/07/05

The amount of the fee charged for the foregoing publication is the sum of $ 291.50, which amount has been paid in full.

Subscribed and sworn to before me on

12/07/05

Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle

ORDINANCE 121987

AN ORDINANCE relating to taxation; providing a deduction to businesses selling water for resale to other political subdivisions of the State of Washington; providing a deduction to businesses selling electricity for resale; repealing the tax on electric light and power suppliers for electricity sales delivered outside the State of Washington; making technical corrections; and amending Sections 5.45.100, 5.48.050, 5.48.055, 5.48.070; and 5.48.072 of the Seattle Municipal Code.

WHEREAS, the City of Seattle enters into long-term contracts with other political subdivisions of the State of Washington for the supply of water for resale; and

WHEREAS, the contracts with such entities, and the City Utilities' rates, do not contemplate the levying of Business and Occupation (B&O) tax; and

WHEREAS, levying a B&O tax on the resale of water and electricity would place an unreasonable burden on the wholesalers that resell those commodities; and

WHEREAS, the City of Seattle desires to provide a deduction from the measure of its B&O tax liability to companies which sell water and electricity to other companies for resale; and to amend provisions in its tax code with respect to solid waste activities and sales of electric power and telephone service; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsections 5.45.100 U and V are hereby added to the Seattle Municipal Code as follows:

5.45.100 Deductions.

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

***

U. Sales of Water to Water Districts, Municipalities and other Political Subdivisions of the State of Washington for Resale. In computing tax, there may be deducted from the measure of the tax under the wholesaling classification, amounts derived from the sale of water to any water district, municipality or other political subdivision of the State of Washington.

V. Sales of Electricity for Resale. In computing tax, there may be deducted from the measure of the tax amounts derived from the sale of electricity to any purchaser of electricity for resale.

Section 2. Subsections 5.48.050 A and D of the Seattle Municipal Code are hereby amended as follows:

5.48.050 Occupations subject to tax--Amount.

There are levied upon, and shall be collected from everyone, including The City of Seattle, on account of certain business activities engaged in or carried on, annual license fees or occupation taxes in the amount to be determined by the application of rates given against gross income as follows:

A. Upon everyone engaged in or carrying on a telephone business, a fee or tax equal to six (6) percent of the total gross income from such business provided to customers within the City,((~~; provided, that effective January 1, 1987,~~)) The tax liability imposed under this section shall not apply for that portion of gross income derived from charges to another telecommunications company, as defined in RCW 80.04.010, for connecting fees, switching charges, or carrier access charges relating to intrastate toll telephone services, or for access to, or charges for, interstate services, ((~~which~~)) or charges for network telephone service that is purchased for the purpose of resale. (Such charges, except for interstate service, shall be taxed under SMC Chapter 5.45.) The total gross income shall also include all charges by the provider of cellular or cellular mobile telephone services provided to its customers in any taxing jurisdiction (intrastate or interstate), which are billed to a "place of primary use" located in Seattle by or for the home service provider, irrespective of whether the services are provided by the home service provider.

B. Upon everyone engaged in or carrying on the business of selling, brokering, or furnishing gas for hire, a fee or tax equal to six (6) percent of the total gross income from such business in the City.

C. Upon everyone, including The City of Seattle, engaged in or carrying on the business of selling or furnishing water for hire to consumers, a fee or tax equal to fifteen and fifty-four one hundredths (15,54) percent of the total gross income from such retail business in the City; provided that as to The City of Seattle in the conduct of its municipal water utility, such tax shall be applicable to the business of such utility done without, as well as within, the City.

D. Upon everyone, including The City of Seattle, engaged in or carrying on the business of selling or furnishing electric light and power to consumers, a fee or tax equal to six (6) percent of the total gross income from such business in the City. The fee or tax imposed upon the municipal light and power system of the City shall be applicable to the business of such system both within and without the City((~~; provided, that as to the gross income derived by such system from the production, sale or transfer of electric energy for resale or consumption outside the state the fee or tax shall be in an amount equal to five (5) percent of the gross income~~)).

***

Section 3. Subsection 5.48.055 E 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:

***

E. Income derived from activities excluded from the gross receipts factor as described in subsections B and C of this section above shall be taxed under SMC Chapter 5.45.

Section 4. Section 5.48.070 of the Seattle Municipal Code is hereby amended as follows:

5.48.070 Exceptions and deductions.

A. There shall be excepted and deducted from the total gross income upon which the license fee or tax is computed, amounts derived from business which the City is prohibited from taxing under the Constitution or laws of the United States, the Constitution or laws of the state, or the Charter of the City; and any amounts collected by the taxpayer as an excise tax (trust funds) and remitted to the taxing authority, including but not limited to the leasehold excise tax, retail sales and use tax, State's refuse collection tax and admission tax.

B. A taxpayer engaged in a telephone business shall exclude from the total taxable gross income taxed under this chapter charges to ((~~a~~)) another telecommunications company, for such fees and charges as are excluded under SMC Section 5.48.050 A ((~~as defined in RCW 80.04.010, for network telephone service, as defined in RCW 82.04.065, that the telecommunication company purchases for the purpose of resale~~)). This excluded revenue shall be recorded and taxed under SMC Chapter 5.45.

C. A deduction from gross income shall be allowed, only to cellular telephone service companies who keep their regular books of account on an accrual basis, for credit losses actually sustained by a taxpayer as a result of cellular telephone service business.

Section 5. Section 5.48.072 of the Seattle Municipal Code is hereby amended as follows:

5.48.072 Anti-pyramiding credit for haulers of CDL Waste.

There shall be allowed to anyone who is engaged in the business of the collection of CDL Waste and subject to tax under Section 5.48.055 B a credit against the tax in the amount of One Dollar and Forty-three Cents ($1.43) per ton for each ton of ((~~DCL~~)) CDL Waste collected in the City, delivered to a person engaged in or carrying on the business of transferring ((~~DCL~~)) CDL Waste from one (1) mode of transportation to another under Section 5.48.055 A (called the "transfer station"), and used by the transfer station in measuring the tax due under Section 5.48.055 A upon the transfer station's activities of transferring CDL Waste from one (1) mode of transportation to another. When the transfer station engages in recycling activities, the tonnage used by the taxpayer in measuring the credit shall be reduced by the proportion of the transfer station's tonnage recycled.

This section is intended to prevent pyramiding of the economic impact of the tax imposed under Section 5.48.055 A on CDL Waste, and is limited in it application to fulfilling that purpose.

Section 6. 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 28th day of November, 2005, and signed by me in open session in authentication of its passage this 28th day of November, 2005.

Jan Drago

President of the City Council

Approved by me this 30th day of November, 2005.

Gregory J. Nickels, Mayor

Filed by me this 2nd day of December, 2005.

(Seal) Judith Pippin

City Clerk

Publication ordered by JUDITH PIPPIN, City Clerk

Date of publication in the Seattle Daily Journal of Commerce, December 7, 2005.

12/7(192504)