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CS 117279

Glen Lee/kcm
FAS Flour Milling Tax Code Amendment ORD
July 21, 2011
Version #3

ORDINANCE _____

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AN ORDINANCE relating to the business license tax; repealing a tax classification relating to flour manufacturing and selling in the City; and amending Sections 5.30.025, 5.30.050, 5.45.050, 5.45.080, 5.45.081, 5.45.082, 5.45.100, and 5.46.030 of the Seattle Municipal Code in connection therewith.

WHEREAS, the Seattle Municipal Code presently taxes activities relating to flour milling in the City of Seattle and the buying and selling of related products in the City at a rate that is one-tenth the rate for flour milled outside the City; and

WHEREAS, the City desires to simplify its tax code and to tax manufacturing and selling activities at the same rate by repealing the special classification; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 5.45.050 of the Seattle Municipal Code, as last amended by Ordinance 123239, is amended as follows:

5.45.050 Imposition of the tax -- Tax or fee levied((=))

Except as provided in ((SMC)) subsection 5.55.040.D.1(((D)(1))), there is hereby levied upon and shall be collected from every person a tax for the act or privilege of engaging in business activities within the City, whether the person's office or place of business be within or without the City. The tax shall be in amounts to be determined by application of rates against gross proceeds of sale, gross income of business, or value of products, including by-products, as the case may be, as follows:

A. Upon every person engaging within the City in business as an extractor; as to such persons the amount of the tax with respect to such business shall be equal to the value of the products, including by-products, extracted within the City for sale or for commercial or industrial use, multiplied by the rate of ((two hundred fifteen one thousandths of one percent)).00215. The measure of the tax is the value of the products, including by-products, so extracted, regardless of the place of sale or the fact that deliveries may be made to points outside the City.



1 B. Upon every person engaging within the City in business as a manufacturer(~~(, except~~
2 ~~persons taxable under subsection D of this Section))~~); as to such persons the amount of the tax
3 with respect to such business shall be equal to the value of the products, including by-products,
4 manufactured or processed within the City, multiplied by the rate of ~~((two hundred fifteen one-~~
5 ~~thousandths of one percent))~~.00215. The measure of the tax is the value of the products,
6 including by-products, so manufactured or processed, regardless of the place of sale or the fact
7 that deliveries may be made to points outside the City.

8 C. Upon every person engaging within the City in the business of making sales of retail
9 services, or making sales at wholesale or retail(~~(, except persons taxable under subsection D of~~
10 ~~this section))~~); as to such persons, the amount of tax with respect to such business shall be equal
11 to the gross proceeds of such sales of the business without regard to the place of delivery of
12 articles, commodities or merchandise sold, multiplied by the rate of ~~((two hundred fifteen one-~~
13 ~~thousandths of one percent))~~.00215.

14 ~~((D. Upon every person engaging within the City in the business of:~~

15 1. ~~Buying wheat, oats, corn, barley and rye, but not including any manufactured or~~
16 ~~processed products thereof, and selling the same at wholesale, the tax imposed shall be equal to~~
17 ~~the gross proceeds of such sales of the business without regard to the place of delivery of articles,~~
18 ~~commodities or merchandise sold, multiplied by the rate of two hundred fifteen ten-thousandths~~
19 ~~of one percent (.000215); or~~

20 2. ~~Manufacturing wheat into flour; the tax imposed shall be equal to the value of the flour~~
21 ~~manufactured, multiplied by the rate of two hundred fifteen ten-thousandths of one percent~~
22 ~~(.000215).)~~

23 D~~(E)~~. Upon every person engaging within the City in the business of:

24 1. Printing;



1 2. Both printing and publishing newspapers, magazines, periodicals, books, music, and
2 other printed items;

3 3. Publishing newspapers, magazines and periodicals;

4 4. Extracting for hire;

5 5. Processing for hire; or

6 6. Conducting a tour operator business; as to such persons, the amount of tax on such
7 business shall be equal to the gross income of the business multiplied by the rate of ~~((two~~
8 ~~hundred fifteen one thousandths of one percent))~~.00215.

9 E~~((F))~~. Upon every motor carrier engaging within the City in the business of transporting
10 freight for hire, as to such persons, the amount of the tax with respect to such business shall be
11 equal to the gross income from the transport of freight picked up in the City multiplied by the
12 rate of ~~((four hundred fifteen one thousandths of one percent))~~.00415. The business of
13 transporting freight for hire includes the business of leasing or renting motor vehicles operated
14 by the lessor, or by a person under the control of the lessor, to transport freight for hire.

15 F~~((G))~~. Upon every person engaging within the City in the business of providing
16 international investment management services, as to such persons, the amount of tax with respect
17 to such business shall be equal to the gross income or gross proceeds of sales of the business
18 multiplied by a rate of ~~((fifteen one hundredths of one percent))~~.0015.

19 G~~((H))~~. Upon every other person engaging within the City in any business activity other
20 than or in addition to those enumerated in the above subsections; as to such persons, the amount
21 of tax on account of such activities shall be equal to the gross income of the business multiplied
22 by the rate of ~~((four hundred fifteen one thousandths of one percent))~~.00415. This subsection
23 includes, among others, and without limiting the scope hereof (whether or not title to material
24 used in the performance of such business passes to another by accession, merger or other than by
25 outright sale), persons engaged in the business of developing, or producing custom software or of



1 customizing canned software, producing royalties or commissions, persons engaged in the
2 business of freight brokering, and persons engaged in the business of rendering any type of
3 service which does not constitute a sale at retail, a sale at wholesale, or a retail service.
4

5 Section 2. Subsection 5.45.080.D and subsection 5.45.080.E of the Seattle Municipal
6 Code, which section was last amended by Ordinance 123239, are amended as follows:

7 **5.45.080 Persons conducting business both within and without the City.**

8 D. If the Director determines that the allocation of gross income from business activities
9 for a person subject to subsection C above and taxable under the "other business activities"
10 classification (~~((SMC))~~ subsection 5.45.050.G~~((H))~~) does not fairly reflect gross income derived
11 from business activities within the City, the Director shall determine such gross income by either
12 of the following methods: (a) by a fair and equitable formula agreed upon by the Director and the
13 taxpayer after a consideration of the facts; or (b) by the ratio that the cost of doing business
14 within the City bears to the cost of doing business both within and without the City. For
15 apportionment purposes, all costs must be assigned to an office location.

16 E. This section does not apply to allocate gross income of motor carriers included in the
17 measure of the tax pursuant to subsection 5.45.050 E~~((F))~~ of the Seattle Municipal Code. This
18 section may apply to allocate gross receipts of motor carriers included in the measure of the tax
19 pursuant to any other subsection of (~~((SMC))~~)Section 5.45.050.

20
21 Section 3. Section 5.45.081 of the Seattle Municipal Code, as last amended by Ordinance
22 123239, is amended as follows:

23 **5.45.081 Assignment of revenues**~~((:))~~
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1 Beginning on January 1, 2008, and with the exception of those persons subject to the
2 provisions of chapter 82.14A RCW, this section will be used to assign revenue for purposes of
3 the business license tax imposed under ~~((SMC))~~Section 5.45.050.

4 A. Gross income derived from all activities other than those taxed under ~~((SMC))~~
5 subsections 5.45.050.E(~~F~~), ~~((SMC))~~ 5.45.050.F(~~G~~), and ~~((SMC))~~ 5.45.050.G(~~H~~) shall be
6 assigned to the location where the activity takes place.

7 B. For sales of tangible personal property, the activity takes place where delivery to the
8 buyer occurs.

9 C. Gross income derived from international investment management services taxed under
10 ~~((SMC))~~ subsection 5.45.050.F(~~G~~) and from service and other business activity taxed under
11 ~~((SMC))~~ subsection 5.45.050.G(~~H~~) shall be apportioned to the City by multiplying
12 apportionable income by a fraction, the numerator of which is the payroll factor plus the service
13 and other business activity income factor and the denominator of which is two(~~-2~~).

14 * * *

15 F. This section does not apply to allocate gross income of motor carriers included in the
16 measure of the tax pursuant to subsection 5.45.050.E(~~F~~) of the Seattle Municipal Code.
17 However, this section does apply to allocate gross receipts of motor carriers included in the
18 measure of the tax pursuant to any other subsection of ~~((SMC))~~Section 5.45.050.

19
20 Section 4. Section 5.45.082 of the Seattle Municipal Code, as last amended by Ordinance
21 123239, is amended as follows:

22 **5.45.082 Ancillary activities of motor carriers and freight brokers(~~-~~)**

23 A. Ancillary activities of motor carriers include but are not limited to stevedoring,
24 separately billed charges for loading, unloading, sorting, storage, consolidation charges, and
25 other charges not representing the actual transportation charge. The charges for ancillary
26



1 activities shall be recorded separately from the transportation charges and reported under the
2 "other business activity" classification (~~((Section))~~ Subsection 5.45.050.G((H))).

3 B. Freight brokers should report revenue from brokering activities under the "other
4 business activity" classification (~~((Section))~~ Subsection 5.45.050.G((H))).

5 C. Gross receipts from the activities contained in (~~(Section 5.45.082 A & B))~~ subsections
6 5.45.082.A and 5.45.082.B above are subject to the apportionment provisions contained in
7 Section 5.45.080.

8
9 Section 5. Subsection 5.45.100.R and subsection 5.45.100.S of the Seattle Municipal
10 Code, which section was last amended by Ordinance 123361, are amended as follows:

11 **5.45.100 Deductions.**

12 R. In computing tax imposed by subsection 5.45.050.E((F)), there may be deducted from
13 the measure of the tax gross income from the transport of empty containers picked up in the City
14 if 1) a full container transported from outside the City is exchanged for the empty container at
15 the time of pick-up, and 2) the job is billed to the customer as a round trip charge.

16 S. Interstate Trucking. The tax imposed on motor carriers under subsection
17 5.45.050.E((F)) shall not apply to gross income from freight picked up in the City and
18 transported by the taxpayer to a location outside the State of Washington. A motor carrier that
19 does not transport freight across the state boundary is not entitled to a deduction, even though the
20 freight is destined for and is ultimately transported to a location outside Washington.

21
22 Section 6. Subsection 5.30.025.G of the Seattle Municipal Code, which section was last
23 amended by Ordinance 123361, is amended as follows:

24 **5.30.025 Definitions, C -- D.**

25 G. "Consumer" means the following:
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1 * * *

2 2. Any person engaged in any business activity taxable under subsection 5.45.050.F((G))
3 and subsection 5.45.050.G((H));

4 * * *

5
6 Section 7. Subsection 5.30.050.B and subsection 5.30.050.C of the Seattle Municipal
7 Code, which section was last amended by Ordinance 123239, is amended as follows:

8 **5.30.050 Definitions, S.**

9 B. "Sale at retail," "retail sale."

10 * * *

11 2. "Sale at retail" or "retail sale" also means every sale of tangible personal property to
12 persons engaged in any business activity which is taxable under ((SMC))subsections
13 5.45.050.F((G)) and ((SMC)) 5.45.050.G((H)).

14 * * *

15 C. "Sale at wholesale," "wholesale sale." "Sale at wholesale" or "wholesale sale" means
16 any sale of tangible personal property which is not a retail sale, and any charge made for labor
17 and services rendered for persons who are not consumers, in respect to real or personal property
18 and retail services, if such charge is expressly defined as a retail sale or retail service when
19 rendered to or for consumers. Sale at wholesale also includes the sale of telephone business to
20 another telecommunications company for the purpose of resale, as contemplated by RCW
21 35.21.715.

22 Notwithstanding the above, "sale at wholesale" or "wholesale sale" shall specifically not
23 include a distribution cooperative's or its distribution affiliate's sales of merchandise to a
24 customer-owner of the distribution cooperative for the customer-owner's resale at retail. A



1 distribution cooperative or a distribution affiliate is taxed on such sales pursuant to Section
2 5.45.050-G((H)) of the Seattle Municipal Code.

3
4 Section 8. Subsection 5.46.030.E of the Seattle Municipal Code, which section was last
5 amended by Ordinance 123239, is amended as follows:

6 **5.46.030 Tax Imposed -- Measure of the Tax.**

7 E. Any person required to pay the square footage business tax imposed in this chapter
8 that also pays the business license tax as imposed in ((SMC))Section 5.45.050 may take a credit
9 against the square footage business tax computed as follows:

10 1. The credit is equal to the square footage business tax owed for the reporting period
11 multiplied by the ratio of adjusted gross income derived from the Seattle business location(s) for
12 the reporting period to the total gross income derived from the Seattle business location(s) for the
13 reporting period.

14 2. For the purpose of this section, "total gross income derived from the Seattle business
15 location(s)" is equal to the total gross income derived from the business activities rendered by,
16 generated from, or attributable to the place(s) of business located within the city.

17 3. For the purpose of this section, "adjusted gross income derived from the Seattle
18 business location(s)" shall include total gross income derived from the Seattle business
19 location(s) less:

20 (a) income derived from the sales of tangible personal property and retail services by the
21 Seattle business location(s) delivered to a location within the State of Washington where no local
22 jurisdiction imposes an eligible gross receipts tax; and

23 (b) the gross income of the Seattle business location(s) subject to the business license tax
24 under ((SMC)) subsection 5.45.050.G((H)) as determined by ((SMC))Section 5.45.060 through
25 ((SMC)) Section 5.45.080 less the gross income of the Seattle business location(s) subject to the
26



1 business license tax under ~~((SMC))~~subsection 5.45.050.G~~((H))~~ as determined by ~~((SMC))~~Section
2 5.45.060 through ~~((SMC))~~Section 5.45.076 and ~~((SMC))~~Section 5.45.081.

3 When the change in income calculated in subsection 3(b) is a negative number, the
4 amount so calculated shall reduce the amount calculated in subsection 3(a); however, if the sum
5 of the totals calculated under subsections 3(a) and 3(b) is a negative number, then the adjusted
6 gross income derived from the Seattle business location(s) shall be equal to the total gross
7 income derived from the Seattle business location(s).

8 4. In computing the tax credit, any gross receipts from manufacturing, extracting, and
9 printing, and also subject to a selling tax (such as retailing and wholesaling) according to the
10 Multiple Activity Tax Credit ~~((SMC))~~Section 5.45.070), shall be included in the gross income
11 and the adjusted gross income only once.

12
13 Section 9. The provisions of this ordinance are declared to be separate and severable. If
14 one or more of the provisions of this ordinance shall be declared by any court of competent
15 jurisdiction to be contrary to law, the provision shall be severed from the rest of the ordinance
16 and all other provisions shall remain valid.

17
18 Section 10. This ordinance shall take effect and be in force 30 days after its approval by
19 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
20 shall take effect as provided by Seattle Municipal Code Section 1.04.020.



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Passed by the City Council the ____ day of _____, 2011, and
signed by me in open session in authentication of its passage this ____ day of
_____, 2011.

President _____ of the City Council

Approved by me this ____ day of _____, 2011.

Michael McGinn, Mayor

Filed by me this ____ day of _____, 2011.

Monica Martinez Simmons, City Clerk

(Seal)



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
FAS	Glen Lee/684-8079	Jennifer Devore/615-1328

Legislation Title:

AN ORDINANCE relating to the business license tax; repealing a tax classification relating to flour manufacturing and selling in the City; and amending Sections 5.30.025, 5.30.050, 5.45.050, 5.45.080, 5.45.081, 5.45.082, 5.45.100, and 5.46.030 of the Seattle Municipal Code in connection therewith.

Summary of the Legislation:

This legislation amends the Seattle Municipal Code (SMC) to remove a Business and Occupation tax classification relating to flour manufacturing and selling in the city and updating cross-references affected by the amendment. This amendment will simplify the tax code by reducing the number of overall classifications and by treating manufacturers and sellers equally.

Background:

The City's business license tax contains classifications in SMC 5.45.050 for various business activities, including extracting, manufacturing, selling at retail and wholesale, and manufacturing wheat into flour. The tax rate for a company located in Seattle that is engaged in manufacturing and selling wheat flour is presently one-tenth the rate charged to companies that manufacture and sell other products, or companies located outside Seattle that manufacture and sell wheat flour in the city. No eligible companies currently report under the flour manufacturing and selling classification in SMC 5.45.050.D. The proposed amendment will simplify the tax code by removing an infrequently used classification and tax manufacturers and sellers at the same rate, regardless of the nature of the product manufactured and sold.

Please check one of the following:

- This legislation does not have any financial implications.**
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City of Seattle
Office of the Mayor

July 26, 2011

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) to remove a Business and Occupation tax classification relating to flour manufacturing and sales in the City of Seattle. This amendment will simplify the tax code by reducing the number of overall classifications and by treating all manufacturers and sellers equally.

The City's business license tax code presently contains classifications for various business activities, including extracting, manufacturing, selling at retail and wholesale, and manufacturing wheat into flour. The tax rate for a company located in Seattle that is engaged in manufacturing and selling wheat flour is now one-tenth the rate charged to companies that manufacture and sell other products or companies located outside the city that manufacture and sell wheat flour in Seattle. As no eligible companies currently report under the flour manufacturing classification, the proposed amendment will simplify the tax code by removing an infrequently used classification and tax manufacturers and sellers at the same rate, regardless of the nature of the product manufactured and sold.

Thank you for your consideration of this legislation. Should you have questions, please contact the City Finance Director, Glen Lee, at 684-8079.

Sincerely,

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

