

THE CITY OF SEATTLE
DIRECTOR'S RULE
IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE
RULE 5-065

FILED
CITY OF SEATTLE
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CITY CLERK

Seattle Rule 5-065 Taxes – deductible and nondeductible.

- (1) **Introduction.** This rule explains the circumstances under which taxes may be deducted from the gross amount reported as the measure of tax under the business license tax and the utility tax. It also lists specific deductible and nondeductible taxes.
- (2) **Deductibility of taxes.** In computing tax liability, the amount of certain taxes may be excluded or deducted from the gross amount reported as the measure of tax under the business license tax and the utility tax. These taxes may be deducted provided they have been included in the gross amount reported under the classification in which the deduction is sought, and have not been otherwise included in another allowable deduction, such as credit losses or interstate sales.

The amount of taxes which are not allowable as deductions or exclusions must always be included in the gross amount reported. License and regulatory fees are not deductible. Questions regarding the deductibility or exclusion of a tax that is not specifically identified in this rule should be submitted to the Director for determination.

- (3) **Motor vehicle fuel taxes.** RCW 82.04.4285 provides a B&O tax deduction for certain state and federal motor vehicle fuel taxes when the taxes are included in the sales price. These taxes include:

State motor vehicle fuel tax	chapter 82.36 RCW;
State special fuel tax	chapter 82.38 RCW;
Federal tax on diesel and special motor fuels (including leaking underground storage tank taxes), except train and aviation fuels	26 U.S.C.A. Sec. 4041;
Federal tax on inland waterway commercial fuel	26 U.S.C.A. Sec. 4042;
Federal tax on gasoline and diesel fuel for use in highway vehicles and motorboats	26 U.S.C.A. Sec. 4081.

- (4) **Taxes collected as an agent of municipalities, the state, or the federal government.** The amount of taxes collected by a taxpayer, as agent for municipalities, the state of Washington or its political subdivisions, or the federal government, may be deducted from the gross amount reported. These taxes are deductible under each tax classification in which the gross amount from such sales or services is reported.

This deduction applies only when the amount of such taxes is received by the taxpayer as collecting agent and is paid by the agent directly to a municipality, the state, its political subdivisions, or to the federal government. When the taxpayer is the person upon whom a tax is primarily imposed, no deduction or exclusion is allowed, since in such case the tax is a part of the cost of doing business. The mere fact that the amount of tax is added by the taxpayer as a separate item to the price of goods sold, or to the charge for services rendered, does not in itself, make such taxpayer a collecting agent for the purpose of this deduction. Examples of deductible taxes include:

FEDERAL –

Tax on communications services (telephone and teletype-writer exchange services)	26 U.S.C.A. Sec. 4251;
Tax on transportation of persons	26 U.S.C.A. Sec. 4261;
Tax on transportation of property	26 U.S.C.A. Sec. 4271;

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STATE --

Aviation fuel tax collected from buyers by a distributor as defined by RCW 82.42.010	chapter 82.42 RCW;
Leasehold excise tax collected from lessees	chapter 82.29A RCW;
Oil spill response tax collected from taxpayers by marine terminal operators	chapter 82.23B RCW;
Retail sales tax collected from buyers	chapter 82.08 RCW;
Solid waste collection tax collected from buyers	chapter 82.18 RCW;
State enhanced 911 tax collected from subscribers	chapter 82.14B RCW;
Use tax collected from buyers	chapter 82.12 RCW;

MUNICIPAL --

City admission tax	SMC 5.40.070;
City parking tax.....	SMC 5.35.060;
County admissions and recreations tax	chapter 36.38 RCW;
County enhanced 911 tax collected from subscribers	chapter 82.14B RCW;
Local retail sales and use taxes collected from buyers	chapter 82.14 RCW.

(5) **Specific taxes which are not deductible.** Examples of specific taxes which may be neither deducted nor excluded from the measure of the tax include the following:

FEDERAL --

A.A.A. compensating tax	7 U.S.C.A. Sec. 615(e);
A.A.A. processing tax	7 U.S.C.A. Sec. 609;
Aviation fuel	26 U.S.C.A. Sec. 4091;
Distilled spirits, wine and beer taxes	26 U.S.C.A. chapter 51;
Diesel and special motor fuel tax for fuel used for purposes other than motor vehicles and motor-boats	26 U.S.C.A. Sec. 4041;
Employment taxes	26 U.S.C.A. chapters 21-25;
Estate taxes	26 U.S.C.A. chapter 11;
Firearms, shells and cartridges	26 U.S.C.A. Sec. 4181;
Gift taxes	26 U.S.C.A. chapter 12;
Importers, manufacturers and dealers in firearms	26 U.S.C.A. Sec. 5801;
Income taxes	26 U.S.C.A. Subtitle A;
Insurance policies issued by foreign insurers	26 U.S.C.A. Sec. 4371;
Sale and transfer of firearms tax	26 U.S.C.A. Sec. 5811;
Sporting goods	26 U.S.C.A. Sec. 4161;
Superfund tax	26 U.S.C.A. Sec. 4611;
Tires	26 U.S.C.A. Sec. 4071;
Tobacco excise taxes	26 U.S.C.A. chapter 52;
Wagering taxes	26 U.S.C.A. chapter 35;

STATE --

Ad valorem property taxes	Title 84 RCW;
Alcoholic beverages licenses and stamp taxes (Breweries, distillers, distributors and wineries)	chapter 66.24 RCW;
Aviation fuel tax when not collected as agent for the state	chapter 82.42 RCW;
Boxing, sparring and wrestling tax	chapter 67.08 RCW;
Business and occupation tax	chapter 82.04 RCW;
Cigarette tax	chapter 82.24 RCW;
Gift and inheritance taxes	Title 83 RCW;

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Insurance premiums tax	chapter 48.14 RCW;
Hazardous substance tax	chapter 82.21 RCW;
Litter tax	chapter 82.19 RCW;
Pollution liability insurance fee	RCW 70.149.080;
Parimutuel tax	RCW 67.16.100;
Petroleum products - underground storage tank tax	chapter 82.23A RCW;
Public utility tax	chapter 82.16 RCW;
Real estate excise tax	chapter 82.45 RCW;
Tobacco products tax	chapter 82.26 RCW;
Use tax when not collected as agent for state	chapter 82.12 RCW;
MUNICIPAL --	
Local use tax when not collected as agent for cities or counties	chapter 82.14 RCW;
Municipal utility taxes	SMC 5.48.050;
Municipal and county real estate excise taxes	chapter 82.46 RCW;
Employee hours tax	SMC 5.37.030;
City business license tax	SMC 4.45.050.

Effective: May 15, 2007.

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DIRECTOR'S CERTIFICATION

I Dwight D. Dively, Director of the Department of Finance of the City of Seattle, do hereby certify under penalty of perjury of law, that the within and foregoing is a true and correct copy as adopted by the City of Seattle, Department of Finance.

DATED this 14th day of May, 2007.

CITY OF SEATTLE,
a Washington municipality

By:



Dwight D. Dively, Director
Department of Finance

STATE OF WASHINGTON – KING COUNTY

--SS.

209880
CITY OF SEATTLE:REVENUE &

No. MAKING HEARING

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.

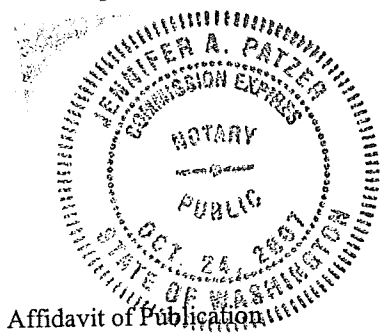
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a


CT:NOTICE PROPOSED RULE

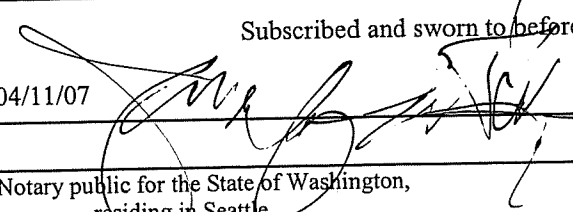
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04/11/07

The amount of the fee charged for the foregoing publication is the sum of \$ 139.50, which amount has been paid in full.





Subscribed and sworn to before me on
04/11/07 

Notary public for the State of Washington,
residing in Seattle

Affidavit of Publication

State of Washington, King County

City of Seattle

NOTICE OF PROPOSED RULE MAKING HEARING

AND OPPORTUNITY TO COMMENT

The Director of Finance, acting under the authority of Seattle Municipal Code Chapters 3.02 and 5.55, proposes to adopt new rules for implementing the Seattle Business License Tax Ordinance (Seattle Municipal Code, Chapter 5.45). Please note that although these rules are applicable to SMC 5.45, the individual rules may also apply to other chapters of the City's Tax Code, including, but not limited to, SMC 5.30 (Definitions), SMC 5.32 (Revenue Code), SMC 5.35 (Commercial Parking Tax), SMC 5.37 (Employee Hours Tax), SMC 5.40 (Admissions Tax), SMC 5.48 (Business Tax - Utilities), SMC 5.52 (Gambling Tax), and SMC 5.55 (General Administrative Provisions). The following rules are proposed for adoption and will become effective as of May 15, 2007:

Seattle Rule 5-000 Rules adopted.

Seattle Rule 5-002 Business license requirements.

Seattle Rule 5-007 Penalties.

Seattle Rule 5-008 Recordkeeping requirements.

Seattle Rule 5-009 Limitations on tax assessments.

Seattle Rule 5-033 When tax liability arises.

Seattle Rule 5-034 Finance charges, carrying charges, interest, and penalties.

Seattle Rule 5-037 Accounting methods.

Seattle Rule 5-039 Employees distinguished from persons engaging in business.

Seattle Rule 5-042 Successor liability.

Seattle Rule 5-044 Value of products.

Seattle Rule 5-064 Credit losses, bad debts, recoveries.

Seattle Rule 5-065 Taxes, deductible and nondeductible.

Seattle Rule 5-067 Accommodation sales.

Seattle Rule 5-068 Pool purchases.

Seattle Rule 5-125 Casual or isolated sales.

Seattle Rule 5-275 Installing, cleaning, repairing or otherwise altering or improving personal property of consumers.

Seattle Rule 5-276 Constructing and repairing of new or existing buildings or other structures upon real property.

Seattle Rule 5-500 Computer software.

Seattle Rule 5-501 Computer hardware.

Seattle Rule 5-502 Taxation of information services and computer related services.

Seattle Rule 5-804 Staffing businesses, staffing services.

Seattle Rule 5-921 Exemptions, deductions and credits available under the employee hours tax.

PUBLIC HEARING AND COMMENT:

The Department of Executive Administration has scheduled a public hearing on the proposed rule changes for 1:00 p.m. to 3:00 p.m., on Monday, April 30, 2007. The hearing will be held in a conference room on the 40th floor of the Seattle Municipal Tower, Suite 4096, located at 700 Fifth Avenue. All interested persons are invited to present data, views, or arguments, with regard to the proposed rules, orally at the hearing, or in writing at or before the hearing.

Written comments should be mailed or delivered to:

Department of Executive Administration Attn.: Mel McDonald, Deputy Director Revenue and Consumer Affairs 700 Fifth Avenue - Suite 4250 P.O. Box 34214 Seattle, Washington 98124-4214

The public may inspect copies of the proposed rules at the Revenue and Consumer Affairs offices, 700 Fifth Avenue, Suite 4250. If you would like a copy of the proposed rules, please call (206) 233-0071, FAX (206) 684-5170, email: rca.bizlictr@seattle.gov, or submit a written request to the address above.

Dwight D. Dively, Director, Department of Finance

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