

**Attachment A**

**CITY OF SEATTLE**

**ORDINANCE \_\_\_\_\_**

**COUNCIL BILL \_\_\_\_\_**

..title

AN ORDINANCE relating to taxation; imposing an employee hours tax; adding a new Chapter 5.38 to Title 5 of the Seattle Municipal Code; and amending Sections 5.30.010, 5.55.010, 5.55.040, 5.55.060, 5.55.150, 5.55.165, 5.55.220, and 5.55.230 of the Seattle Municipal Code.

..body

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

Section 1. A new Chapter 5.38 is added to the Seattle Municipal Code as follows:

**Chapter 5.38 - EMPLOYEE HOURS TAX**

**5.38.010 - Administrative provisions**

All of the provisions contained in Chapter 5.55 shall have full force and application with respect to taxes imposed under the provisions of this Chapter 5.38 except as may be expressly stated to the contrary herein.

**5.38.020 - Definitions**

The definitions contained in Chapter 5.30 shall be fully applicable to this Chapter 5.38 except as may be expressly stated to the contrary herein. The following additional definitions shall apply throughout this Chapter 5.38:

“Business” means any person engaging in business as defined in Section 5.30.030.

“Employee” means any person who performs work, labor, or services for a business, is on the business’s payroll, and performs any part of their duties within the City of Seattle. For purposes of this Chapter 5.38, the term “employee” also includes all full-time, part-time, and temporary employees or workers on the business’ payroll. A business’s payroll includes the

1 payroll of any related company that acts as a paymaster for the related entities. Sole proprietors  
2 and partners shall be considered employees.

3 “Full-time employee” means an employee who works at least 1,920 hours in a calendar  
4 year.

5 “Part-time employee” means an employee who works fewer than 1,920 hours in a  
6 calendar year.

7 "Payroll" means the regular remuneration by a business to the individuals who perform  
8 work, labor, services, or make other similar contributions for the business. Payroll includes, but  
9 is not limited to, salaries, wages, or other draws or distributions made to employees, officers,  
10 partners, or members of Limited Liability Companies and Professional Limited Liability  
11 Companies as compensation for their labor and services.

12 **5.38.030 - Tax imposed – Measure of the tax**

13 A. Beginning on January 1, 2019, an employee hours tax is hereby levied upon and shall be  
14 collected from every person for the act or privilege of engaging in business activities within  
15 the City. The tax shall be measured by the number of employee hours of work conducted  
16 within the City during the calendar year.

17 B. The amount of the tax shall be equal to the employee hours worked within the City during  
18 the calendar year, multiplied by the rate of \$0.052083 per hour worked. The employee hours  
19 worked excludes vacation and sick leave hours. If an employee works within and outside the  
20 City, it will be the responsibility of the business to calculate and report the number of hours  
21 worked within the City.

1 C. Alternative Full Time Equivalent (FTE) calculation method. A business may choose to  
2 calculate its annual employee hours tax based on the number of its FTE employees as  
3 follows:

- 4 1. Calculation of FTEs. The number of FTE employees for the calendar year is (i) the  
5 number of a business' full time employees for the calendar year, plus (ii) the sum of  
6 the hours worked by part-time employees in the calendar year divided by 1,920 hours.
- 7 2. Tax. Any fractional FTE remaining after the determination of FTE employees under  
8 subsection 5.38.030.C.1 shall be rounded up to the nearest whole number. Once the  
9 number of FTE employees is thus determined, that number shall be multiplied by  
10 \$100 to determine the annual employee hours tax. Once the FTE alternative method  
11 is used, it must be used for all future reporting periods, unless a change is approved  
12 by the Director.

13 D. Businesses with more than one place of business must use the same method of calculation for  
14 all places of business.

15 E. The tax applies to employee hours worked or FTEs inside the City regardless of whether the  
16 place of business is located within or outside of the City.

17 F. Temporary employment agencies that supply temporary employees to business engaging in  
18 business activities within the City, and pay the temporary employee's salary, shall report and  
19 pay the tax on all such temporary employees. Businesses engaging temporary employees  
20 who are on the business' payroll shall report and pay the tax on the employee hours of such  
21 temporary employees, whether or not they are from an employment agency.

22 **5.38.040 - Employee hours tax – When due**

1           The employee hours tax shall be reported and paid on an annual calendar year basis, at  
2 the same time as the fourth quarter or annual tax return is due in accordance with Section  
3 5.55.040, and on forms as prescribed by the Director. Persons discontinuing their business  
4 activities in Seattle shall report and pay the tax at the same time as their final business tax return  
5 is due.

6 **5.38.050 - Exemptions from the employee hours tax**

7 A. The following are exempt from the employee hour tax:

8           1. Any business having annual gross income subject to tax under SMC Chapter 5.45 of  
9           \$5,000,000 or less.

10           2. Businesses that are preempted from taxation by cities pursuant to federal or state  
11 statutes or regulations, including, but not limited to, the following:

12                   a. Insurance businesses and their agents as defined by RCW 48.01.050 and  
13                   48.17.010, respectively, and whose total revenue is exempt from the business  
14                   license tax per Chapter 5.45.

15                   b. Businesses that only sell, manufacture, or distribute motor vehicle fuel as  
16                   defined in RCW 82.38.020 and exempted under RCW 82.38.080.

17                   c. Businesses that only distribute or sell liquor as defined in RCW 66.04.010 and  
18                   exempted in RCW 66.08.120.

19                   d. Federal and state government agencies and subdivisions.

20           3. Volunteers and persons providing services in return for only aid or sustenance from  
21 religious or charitable organizations.

22 **5.38.060 - Tax in addition to other license fees or taxes**

1           The tax imposed herein shall be in addition to any license fee or tax imposed or levied  
2 under any other law, statute or ordinance whether imposed or levied by the City, State or other  
3 governmental entity or political subdivision.

4           Section 2. Section 5.30.010 of the Seattle Municipal Code, last amended by Ordinance  
5 125324, is amended as follows:

6 **5.30.010 - Definition provisions**

7           The definitions contained in this Chapter 5.30 shall apply to the following chapters of the  
8 Seattle Municipal Code: Chapters 5.32 (Amusement Devices), 5.35 (Commercial Parking Tax),  
9 5.38 (Employee Hours Tax), 5.40 (Admission Tax), 5.45 (Business License Tax), 5.46 (Square  
10 Footage Tax), 5.48 (Business Tax—Utilities), 5.50 (Firearms and Ammunition Tax), 5.52  
11 (Gambling Tax), 5.53 (Sweetened Beverage Tax), and 5.55 (General Administrative Provisions)  
12 unless expressly provided for otherwise therein, and shall also apply to other chapters and  
13 sections of the Seattle Municipal Code in the manner and to the extent expressly indicated in  
14 each chapter or section. Words in the singular number shall include the plural and the plural shall  
15 include the singular. Words in one gender shall include the other genders.

16           Section 3. Section 5.55.010 of the Seattle Municipal Code, which was last amended by  
17 Ordinance 125324, is amended as follows:

18 **5.55.010 - Application of chapter stated**

19           Unless expressly stated to the contrary in each chapter, the provisions of this Chapter  
20 5.55 shall apply with respect to the licenses and taxes imposed under this Chapter 5.55 and  
21 Chapters 5.32 (Amusement Devices), 5.35 (Commercial Parking Tax), ~~((5.37))~~ 5.38 (Employee  
22 Hours Tax~~((es))~~), 5.40 (Admission Tax), 5.45 (Business License Tax), 5.46 (Square Footage  
23 Tax), 5.48 (Business Tax—Utilities), 5.50 (Firearms and Ammunition Tax), 5.52 (Gambling

1 Tax), 5.53 (Sweetened Beverage Tax), and under other titles, chapters and sections in such  
2 manner and to such extent as indicated in each such title, chapter, or section.

3 Section 4. Subsection 5.55.040.A of the Seattle Municipal Code, which section was last  
4 amended by Ordinance 125324, is amended as follows:

5 **5.55.040 - When due and payable—Reporting periods—Monthly, quarterly, and annual**  
6 **returns—Threshold provisions—Computing time periods—Failure to file returns**

7 A. Other than any annual license fee or registration fee assessed under this Chapter 5.55,  
8 the tax imposed by Chapters 5.32 (Amusement Devices), 5.35 (Commercial Parking Tax), 5.40  
9 (Admission Tax), 5.45 (Business License Tax), 5.46 (Square Footage Tax), 5.48 (Business  
10 Tax—Utilities), 5.50 (Firearms and Ammunition Tax), 5.52 (Gambling Tax), and 5.53  
11 (Sweetened Beverage Tax) shall be due and payable in quarterly installments. The Director may  
12 use discretion to assign businesses to a monthly or annual reporting period depending on the tax  
13 amount owing or type of tax. Taxes imposed by subsections 5.52.030.A.2 and 5.52.030.B.2 for  
14 punchboards and pulltabs shall be due and payable in monthly installments. The Employee  
15 Hours Tax imposed by Chapter 5.38 shall be reported and paid on an annual calendar year basis,  
16 at the same time as the fourth quarter or annual tax return is due in accordance with Section  
17 5.55.040. Tax returns and payments are due on or before the last day of the next month following  
18 the end of the assigned reporting period covered by the return.

19 \* \* \*

20 Section 5. Subsection 5.55.060.A of the Seattle Municipal Code, which section was last  
21 amended by Ordinance 125324, is amended as follows:

22 **5.55.060 - Records to be preserved—Examination—Inspection—Search warrants—**  
23 **Estoppel to question assessment**

1           A. Every person liable for any fee or tax imposed by this Chapter 5.55 and Chapters  
2 5.32, 5.35, 5.38, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, and 5.53 shall keep and preserve, for a period  
3 of five years after filing a tax return, such records as may be necessary to determine the amount  
4 of any fee or tax for which the person may be liable; which records shall include copies of all  
5 federal income tax and state tax returns and reports made by the person. All books, records,  
6 papers, invoices, ticket stubs, vendor lists, gambling games, and payout information, inventories,  
7 stocks of merchandise, and other data, including federal income tax and state tax returns, and  
8 reports needed to determine the accuracy of any taxes due, shall be open for inspection or  
9 examination at any time by the Director or a duly authorized agent. Every person's business  
10 premises shall be open for inspection or examination by the Director or a duly authorized agent.  
11 For the purposes of this Section 5.55.060, for the tax imposed by Chapter 5.53, "business  
12 premises" means wherever the person's business records and tax documents are maintained and  
13 does not mean every site owned or operated by the person.

14   \* \* \*

15           Section 6. Subsection 5.55.150.E of the Seattle Municipal Code, which section was last  
16 amended by Ordinance 125324, is amended as follows:

17 **5.55.150 - Appeal to the Hearing Examiner**

18   \* \* \*

19           E. The Hearing Examiner shall ascertain the correct amount of the tax, fee, interest, or  
20 penalty due either by affirming, reversing, or modifying an action of the Director. Reversal or  
21 modification is proper if the Director's assessment or refund denial violates the terms of this  
22 Chapter 5.55, or Chapters 5.30, 5.32, 5.35, (~~5.37,~~) 5.38, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, or  
23 5.53.

\* \* \*

Section 7. Section 5.55.165 of the Seattle Municipal Code, last amended by Ordinance 125324, is amended as follows:

**5.55.165 - Director of Finance and Administrative Services to make rules**

The Director of Finance and Administrative Services shall have the power and it shall be the Director's duty, from time to time, to adopt, publish and enforce rules and regulations not inconsistent with this Chapter 5.55, Chapters 5.30, 5.32, 5.35, 5.38, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, or 5.53, or with law for the purpose of carrying out the provisions of such chapters, and it shall be unlawful to violate or fail to comply with any such rule or regulation.

Section 8. Subsections 5.55.220.A and 5.55.220.B of the Seattle Municipal Code, which section was last amended by Ordinance 125324, are amended as follows:

**5.55.220 - Unlawful actions—Violation—Penalties**

A. It shall be unlawful for any person subject to the provisions of this Chapter 5.55 or Chapters 5.32, 5.35, 5.38, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, and 5.53:

1. To violate or fail to comply with any of the provisions of this Chapter 5.55, or Chapters 5.32, 5.35, 5.38, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, and 5.53, or any lawful rule or regulation adopted by the Director;
2. To make or manufacture any license required by this Chapter 5.55 except upon authority of the Director;
3. To make any false statement on any license, application, or tax return;
4. To aid or abet any person in any attempt to evade payment of a license fee or tax;
5. To refuse admission to the Director to inspect the premises and/or records as required by this Chapter 5.55, or to otherwise interfere with the Director in the performance of



1 duties imposed by Chapters 5.32, 5.35, 5.38, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, and  
2 5.53;

3 6. To fail to appear or testify in response to a subpoena issued pursuant to Section  
4 3.02.120 in any proceeding to determine compliance with this Chapter 5.55 and  
5 Chapters 5.32, 5.35, 5.38, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, and 5.53;

6 7. To testify falsely in any investigation, audit, or proceeding conducted pursuant to this  
7 Chapter 5.55;

8 8. To continue to engage in any business activity, profession, trade, or occupation after  
9 the revocation of or during a period of suspension of a business license tax certificate  
10 issued under Section 5.55.030; or

11 9. In any manner, to hinder or delay the City or any of its officers in carrying out the  
12 provisions of this Chapter 5.55 or Chapters 5.32, 5.35, 5.38, 5.40, 5.45, 5.46, 5.48,  
13 5.50, 5.52, and 5.53.

14 B. Each violation of or failure to comply with the provisions of this Chapter 5.55, or Chapters  
15 5.32, 5.35, 5.37, (~~5.37~~), 5.38, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, or 5.53 shall constitute a  
16 separate offense. Except as provided in subsection 5.55.220.C, any person who commits an  
17 act defined in subsection 5.55.220.A is guilty of a gross misdemeanor, punishable in  
18 accordance with Section 12A.02.070. The provisions of Chapters 12A.02 and 12A.04 apply  
19 to the offenses defined in subsection 5.55.220.A, except that liability is absolute and none of  
20 the mental states described in Section 12A.04.030 need be proved.

21 \* \* \*

22 Section 9. Subsection 5.55.230.A of the Seattle Municipal Code, which section was last  
23 amended by Ordinance 125324, is amended as follows:

1 **5.55.230 - Denial, revocation of, or refusal to renew business license tax certificate**

2 A. The Director, or the Director's designee, has the power and authority to deny, revoke,  
3 or refuse to renew any business license tax certificate or amusement device license issued under  
4 the provisions of this Chapter 5.55. The Director, or the Director's designee, shall notify such  
5 applicant or licensee in writing by mail in accordance with Section 5.55.180 of the denial,  
6 revocation of, or refusal to renew the license and on what grounds such a decision was based.  
7 The Director may deny, revoke, or refuse to renew any business license tax certificate or other  
8 license issued under this Chapter 5.55 on one or more of the following grounds:

- 9 1. The license was procured by fraud or false representation of fact.  
10 2. The licensee has failed to comply with any provisions of this Chapter 5.55.  
11 3. The licensee has failed to comply with any provisions of Chapters 5.32, 5.35, 5.38,  
12 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, or 5.53.  
13 4. The licensee is in default in any payment of any license fee or tax under Title 5 or  
14 Title 6.

15 \* \* \*

16

1           Section 10. Severability. If any part, provision or section of this ordinance is held to be  
2 void or unconstitutional, all other parts, provisions, and sections of this ordinance not expressly  
3 so held to be void or unconstitutional shall continue in full force and effect.

4           Section 11. Pursuant to RCW 35.21.706, this ordinance is subject to the referendum  
5 procedure specified in that state law. A referendum petition may be filed within seven days of  
6 the passage of the ordinance with the filing officer of the City, which is hereby designated to be  
7 the City Clerk, located on the third floor of City Hall, 600 Fourth Avenue, Seattle, Washington.  
8 Within ten days of filing the petition, the City Clerk shall confer with the petitioner concerning  
9 the form and style of the petition, issue the petition an identification number, and secure an  
10 accurate, concise, and positive ballot title from the City Attorney. The petitioner shall then have  
11 thirty days in which to secure the signatures of not less than fifteen percent of the registered  
12 voters of the City, as of the last municipal general election, upon petition forms which contain  
13 the ballot title and the full text of the measure to be referred. Signed petition forms that are  
14 timely submitted to the City Clerk shall be transmitted to the King County Director of Records  
15 and Elections who shall verify the sufficiency of the signatures on the petition and report to the  
16 City Clerk. If sufficient valid signatures are properly submitted, the City Clerk shall so inform  
17 the City Council, which shall submit the referendum measure to the voters at a special election to  
18 be held on the next City election date, as provided in RCW 29A.04.330, that occurs not less than  
19 forty-five days after the county's report of sufficiency is received by the City Clerk, unless a  
20 general election will occur within ninety days of receipt of that report, in which event the  
21 proposed ordinance will be submitted at the general election. State law, RCW 35.21.706,  
22 provides that the referendum procedure in this section is exclusive and that this ordinance is not  
23 subject to any other referendum or initiative process.

1 Section 12. Sections 1 through 9 of this ordinance shall take effect on January 1, 2019.

2 Section 13. This ordinance shall take effect and be in force 30 days after its approval by  
3 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it  
4 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

5 Passed by the City Council the \_\_\_\_\_ day of \_\_\_\_\_, 2017,  
6 and signed by me in open session in authentication of its passage this \_\_\_\_\_ day of  
7 \_\_\_\_\_, 2017.

8 \_\_\_\_\_  
9 President \_\_\_\_\_ of the City Council

10 Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

11 \_\_\_\_\_  
12 \_\_\_\_\_, Mayor

13 Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

14 \_\_\_\_\_  
15 Monica Martinez Simmons, City Clerk

16 (Seal)