

Amendment 21
to
CB #119810 – Payroll Expense Tax
Sponsor: Mosqueda

On line 1 of page 6, amend the following as shown:

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” has the same meaning as that term is defined in Section 5.30.020. Depending on the context, “business” may also mean a person engaging in business in Seattle.

“Compensation” means remuneration as that term is defined in RCW 50A.05.010. —, net distributions, or incentive payments, including guaranteed payments, whether based on profit or otherwise, earned for services rendered or work performed, whether paid directly or through an agent, and whether in cash or in property or the right to receive property. “Compensation” does not include payments to an owner of a pass-through entity that are not earned for services rendered or work performed, such as return of capital, investment income, or other income from passive activities.

“Employee” means any individual who performs work, labor, or personal services of any nature for compensation paid by a business. For purposes of this Chapter 5.38, the term “employee”:

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1. Includes individuals who are members of limited liability companies, members of professional limited liability companies, partners, other owners of pass-through entities, and sole proprietors; and

2. Includes individuals who would be considered to be independent contractors for purposes of the business license tax under subsection 5.45.090.S.

“Grocery business” means:

1. A business whose primary business is making retail sales of food and food ingredients to consumers that are exempt from the retail sales tax under RCW 82.08.0293; and

2. A business whose primary business is making wholesale sales of food and food ingredients that will be exempt from the retail sales tax under RCW 82.08.0293 when resold by the purchaser.

For subsections (1) and (2) of this definition, “primary business” means that 70 percent of the gross income of the business for purposes of calculating the business license tax under Chapter 5.45 is attributable to that business activity.

“Local government entity” has the same meaning as that term is defined in RCW 4.96.010.

“Net distribution” means the draws from net income by any owner of a pass-through entity. Taxable distributions are limited by the amount of draws or net income for that owner, whichever is less. If the owner’s draw exceeds that individual’s net profit, the excess draw is a return of capital. A return of capital is not taxable because it is a liquidation of an owner’s assets.

“Pass-through entity” includes a trust, partnership, corporation described in Subchapter S of the Internal Revenue Code of 1986, as amended, limited liability company, limited liability partnership, professional corporation, and any other person or entity which is not subject to the

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income tax imposed by Subtitle A, Chapter 1 of the Internal Revenue Code of 1986, as amended, or which is allowed a deduction in computing such tax for distributions to the owners or beneficiaries of such person or entity.

“Payroll expense” means the compensation paid in Seattle to employees. Compensation is paid in Seattle to an employee if:

1. The employee is primarily assigned within Seattle;
2. The employee is not primarily assigned to any place of business for the tax period and the employee performs 50 percent or more of their service for the tax period in Seattle; or
3. The employee is not primarily assigned to any place of business for the tax period, the employee does not perform 50 percent or more of their service in any city, and the employee resides in Seattle.

“Primarily assigned” means the business location of the taxpayer where the employee performs their duties.

“Remuneration” has the same meaning as that term is defined in RCW 50A.05.010.

“Taxpayer” means any person who engages in any business in Seattle or who performs any act for which a tax is imposed under this Chapter 5.38.

<p>Effect: This technical amendment would modify the definition of compensation to match the sponsor’s intent during the drafting process. It adds the following when they are earned for services rendered: net distributions that are payments to an owner, partner, or LLC member; stock grants; and, bonuses.</p>
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