



Legislation Details (With Text)

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**On agenda:** 7/10/2017

**Final Action:** 7/14/2017    **Ord. No.** Ord 125339

**Title:** AN ORDINANCE imposing an income tax on high-income residents; providing solutions for lowering the property tax burden and the impact of other regressive taxes, replacing federal funding potentially lost through federal budget cuts, providing public services, including housing, education, and transit, and creating green jobs and meeting carbon reduction goals; and adding a new Chapter 5.65 to the Seattle Municipal Code.

**Sponsors:** Lisa Herbold, Kshama Sawant

**Indexes:**

**Attachments:** 1. Summary and Fiscal Note v2, 2. Summary and Fiscal Note v1, 3. Proposed Amendment 1 (added; 7/11/17), 4. High Income Tax Information Sheet (added; 7/11/17), 5. Proposed Amendment 3, 6. Proposed Substitute CB 119002, 7. Proposed Amendment 4, 8. Proposed Amendment 5, 9. Proposed Amendment 6, 10. Proposed Amendment 7, 11. Proposed Amendment 8, 12. Proposed Amendment 9, 13. Proposed Amendment 10, 14. Central Staff Memo (6/21/17), 15. Signed Ordinance 125339, 16. Affidavit of Publication

Date	Ver.	Action By	Action	Result
7/14/2017	3	City Clerk	attested by City Clerk	
7/14/2017	3	Mayor	returned	
7/14/2017	3	Mayor	Signed	
7/12/2017	3	City Clerk	submitted for Mayor's signature	
7/10/2017	2	City Council	passed as amended	Pass
7/5/2017	1	Affordable Housing, Neighborhoods, and Finance Committee	pass as amended	Pass
6/30/2017	1	Affordable Housing, Neighborhoods, and Finance Committee	discussed	
6/21/2017	1	Affordable Housing, Neighborhoods, and Finance Committee	discussed	
6/19/2017	1	City Council	referred	
6/19/2017	1	Council President's Office	sent for review	
6/19/2017	1	City Clerk	sent for review	

CITY OF SEATTLE

ORDINANCE \_\_\_\_\_

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

AN ORDINANCE imposing an income tax on high-income residents; providing solutions for lowering the property tax burden and the impact of other regressive taxes, replacing federal funding potentially lost through federal budget cuts, providing public services, including housing, education, and transit, and creating green jobs and meeting carbon reduction goals; and adding a new Chapter 5.65 to the Seattle Municipal Code.

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

Section 1. The City Council finds and declares as follows:

1. Seattle is a growing and prosperous city that can offer great schools, good jobs, and healthy communities for all. However, Seattle faces many urgent challenges, including a homelessness state of emergency; an affordable housing crisis; inadequate provision of mental and public health services; the growing demand for transit; education equity and racial achievement gaps; escalating threats from climate change; and the threat of imminent and drastic reductions in federal funding.

2. Seattle's robust economic growth has created significant opportunity and wealth, but it has also increased the lack of affordable housing, which is a significant financial strain on low- and middle-income households.

3. Seattle is experiencing three-percent population growth, making it the fastest growing major city in the United States and pushing our population over 700,000, which has increased the public need and demand for City services, including housing, education, and transit.

4. Despite increased City funding and intensely focused efforts by City staff and non-profit agencies, the scope and nature of homelessness has grown and worsened since the Mayor declared a state of emergency on November 2, 2015, and the City Council ratified that declaration. There are now over 3,000 homeless students in Seattle Public Schools. The 2017 Seattle/King County Point-in-Time Count of Persons Experiencing Homelessness found over 8,500 homeless individuals in Seattle. Substantially more resources are necessary to address this crisis.

5. Washington State has among the most regressive tax systems in the United States. According to the Institute on Taxation and Economic Policy, Washington State households with incomes below \$21,000 paid on average 16.8 percent of their income in state and local taxes in 2015, whereas households with income in

excess of \$500,000 paid only 2.4 percent. Seattle's sales tax, which is a highly regressive method of taxation, is among the highest in Washington State, with its total sales tax rate exceeding 10 percent. Regressive taxes such as the sales tax unfairly burden those who are least able to pay the taxes. As a result, regressive taxes contribute to the financial strain on low- and middle-income households, deepen poverty, diminish opportunity for low and middle-income families, disproportionately harm communities of color, hinder efforts toward establishing a more equitable city, and protect and reinforce the privilege of the wealthy.

6. The President of the United States has proposed to imminently eliminate millions of dollars per year from Seattle's budget both directly and indirectly through cuts to state funding. Without additional revenue tools, Seattle is in a weak position to respond to proposed federal budget cuts.

7. Additional revenue tools are necessary to address the City's education equity and racial achievement gaps, recognizing that dedicated City funding for the Seattle Preschool Program is insufficient to meet the goals for universal pre-K, as approved by the voters, and that the City's funding for Seattle Colleges' 13th Year Promise Scholarship program falls short in providing community college tuition for all qualified and interested high school graduates and GED certificate achievers.

8. In recognition of the serious threat of worsening climate change, Seattle has adopted a goal of achieving zero net greenhouse gas emissions by 2050, and a Climate Action Plan to achieve that goal, and additional resources are needed to meet this goal. Meanwhile, the United States has indicated its intent to withdraw from the Paris Agreement and demonstrated no commitment to slowing climate change, heightening the urgency of local action.

9. Seattle's urgent funding needs should be met through a tax on individual residents with total income above \$250,000 per year (\$500,000 for joint filers).

10. According to the Tax Foundation, as of 2011, nearly 5,000 local governments levied local income taxes, providing a critical source of revenue to meet local needs.

11. An income tax on high-income residents provides a progressive revenue source to fund the

crucial needs listed above and will help the City continue to grow and thrive for all of its citizens.

12. Based on information and data from the City Budget Office, testimony and other information and materials provided and available to the City Council and its committees, the City Council has determined that a tax on total income in excess of \$250,000 per year for an individual (and \$500,000 for joint filers) does not interfere with the right to earn wages within the City or with the ability of individuals and households to amply provide for a high quality of life.

13. Individuals earning total income above \$250,000 per year tend to have a diversified income base; typically derive income from ownership, managerial, and/or profit-sharing interests in businesses; and are not solely or primarily dependent on wages for their income.

14. The City of Seattle, as a Washington first-class city with extensive powers, including without limitation all the powers which are conferred upon other classes of cities and towns, possesses in the legislative body of the City Council “all powers of taxation for local purposes except those which are expressly preempted by the state” and also has the authority to impose excise taxes for any lawful purpose and on any lawful activity, as provided by RCW 35A.11.020, 35.22.280(32), 35A.82.020, and 35.22.570.

Section 2. A new Chapter 5.65 is added to the Seattle Municipal Code as follows:

## **Chapter 5.65 INCOME TAX ON HIGH-INCOME RESIDENTS**

### **5.65.010 Use of tax receipts**

A. All receipts from the tax levied in this Chapter 5.65 shall be restricted in use and shall be used only for the following purposes: (1) lowering the property tax burden and the impact of other regressive taxes, including the business and occupation tax rate; (2) addressing the homelessness crisis; (3) providing affordable housing, education, and transit; (4) replacing federal funding potentially lost through federal budget cuts, including funding for mental health and public health services, or responding to changes in federal policy; (5) creating green jobs and meeting carbon reduction goals; and (6) administering and implementing the tax levied by this Chapter 5.65.

B. Any changes to the permitted purposes for the use of income tax revenues as provided in subsection 5.65.010.A must be approved by ordinance and be subject to a public hearing and any applicable race and social justice initiative analysis.

### **5.65.020 Definitions**

The definitions contained in Chapter 5.30 of the Seattle Municipal Code shall be fully applicable to this Chapter 5.65, except as may be expressly stated to the contrary herein. The following additional definitions shall apply throughout this Chapter 5.65:

A. “Domicile” means a place where a natural person has a true, fixed, and permanent home, to which the person intends to return after being away for temporary or transitory purposes, including but not limited to vacation, business assignment, educational leave, or military assignment.

B. “Internal Revenue Code” means the United States Internal Revenue Code of 1986, and amendments thereto, and other provisions of the laws of the United States relating to federal income taxes, as the same may be or become effective at any time, or from time to time, for the tax year. References to Internal Revenue Service forms and schedules are for tax year 2016.

C. “Permanent place of abode” means a building or structure where a natural person can live that the person permanently maintains, whether the person owns it or not, and is suitable for year-round use.

D. “Resident” means a natural person who:

1. Has a domicile in the City for the entire tax year; or
2. Does not have a domicile in the City for the entire tax year, but maintains a permanent place of abode and spends in the aggregate more than 183 days or any part of a day of the tax year in the City, unless the person establishes to the satisfaction of the Director that the person is in the City only for temporary or transitory purposes including but not limited to interstate travel days.

E. “Resident taxpayer” or “taxpayer” means a resident or a trust or a portion of a trust that is not taxable to the grantor under Subtitle A, Chapter 1, Subchapter J, Part I, Subpart E of the Internal Revenue Code

consisting of property transferred to the trust (i) by a resident if such trust or portion of a trust was then irrevocable, or (ii) by a person who was a resident at the time such trust, or portion of a trust, became irrevocable, if it was revocable when such property was transferred to the trust but has subsequently become irrevocable.

F. “Tax year” means the calendar year during which tax liability is accrued.

G. “Total income” means the amount reported as income before any adjustments, deductions, or credits on a resident taxpayer’s United States individual income tax return for the tax year, listed as “total income” on line 22 of Internal Revenue Service Form 1040, “total income” on line 15 of Internal Revenue Service Form 1040A, “total income” on line 9 of Internal Revenue Service Form 1041, or the equivalent on any form issued by the Internal Revenue Service that is not reported on Schedule K-1 for a beneficiary.

**5.65.030 Tax imposed-Rates**

A. This Chapter 5.65 applies to income required to be included in total income under the Internal Revenue Code received on and after January 1, 2018.

B. There is imposed a tax on the total income of every resident taxpayer in the amount of their total income multiplied by the applicable rates as follows:

<b>Tax Filing Status</b>	<b>Total Income</b>	<b>Rate</b>
Resident taxpayers whose Internal Revenue Service filing status was “single,” “head of household,” “qualifying widow (er) with dependent child,” or “married filing separately” for the tax year, including individuals making the election in subsection 5.65.040.A.1, or a trust	Total income in the tax year up to \$250,000	0%
	Amount of total income in the tax year in excess of \$250,000	2.25%
Resident taxpayers whose Internal Revenue Service filing status was “married filing jointly” for the tax year and not calculating total income based on “married filing separately” status as provided for under subsection 5.65.040.A.1	Total income in the tax year up to \$500,000	0%
	Amount of total income in the tax year in excess of \$500,000	2.25%

C. All total income amounts in the table in subsection 5.65.030.B shall be adjusted annually on January 1,

2019, and on January 1 of every year thereafter by 100 percent of the average annual growth rate of the bi-monthly Consumer Price Index (CPI-U) for the Seattle-Tacoma-Bremerton area as published by the United States Department of Labor for the 12-month period ending in June of the prior year. To calculate the new total income amount, the prior year's total income amount will be multiplied by the sum of one and the annual percent change in the CPI-U. If the average annual growth rate is negative, no adjustment shall be made for the year.

#### **5.65.040 Non-resident spouses and beneficiaries**

A. If a resident taxpayer is a natural person married to a non-resident who has chosen "married filing jointly" status on their federal tax return form for the tax year, the resident taxpayer may either:

1. Calculate total income based on the amount of total income that would have been reported on the resident taxpayer's federal tax return form for the tax year had the resident taxpayer chosen "married filing separately" status; or

2. Treat the non-resident spouse as a resident for purposes of taxes imposed under this Chapter 5.65 for the tax year.

B. If the resident taxpayer chooses to calculate total income as provided for under subsection 5.65.040.A.1, the resident taxpayer must include with their return filed with the City documentation sufficient to show how the resident taxpayer allocated income reported on the federal tax return between the resident taxpayer and the non-resident spouse. The resident taxpayer may complete and submit to the City Internal Revenue Service Form 8958 or the equivalent to satisfy this documentation requirement.

#### **5.65.050 Preempted sources of income**

Any sources of income included in income reported on a resident taxpayer's federal tax return that the laws of the United States prohibit cities from taxing, or that a final judgment of a court with jurisdiction to bind the City has determined cannot lawfully be included, shall not be included in a resident taxpayer's total income for

purposes of calculating taxes due under this Chapter 5.65.

#### **5.65.060 Credit for income taxed in other jurisdictions**

A. A resident taxpayer shall be allowed a credit against the income tax owed under this Chapter 5.65 for a tax year in the amount determined under subsection 5.65.060.B, where:

1. The taxpayer's total income for the year includes (a) revenue from a business, profession, or rental of real or tangible personal property outside the City; (b) gains from the sale or exchange of real or tangible personal property outside the City; (c) salaries, wages, commissions, or other compensation for work done or services performed or rendered outside the City; or (d) if the taxpayer has a domicile in the City for the entire tax year, income from intangible property; and

2. The taxpayer is subject to and has paid an income tax on such income to another state or local government.

B. The amount of the credit shall be the amount of actual tax that the taxpayer paid on the income described in subsection 5.65.060.A.1 to any other state or local government; provided, however, that the tax owed after the credit shall not be less than the amount of tax that would be payable if the income described in subsection 5.65.060.A.1 were disregarded.

#### **5.65.070 Who files-When due and payable-Reporting-Failure to file returns-Amended returns**

A. Tax returns under this Chapter 5.65 must be filed by resident taxpayers whose total income is subject to a rate above zero percent in subsection 5.65.030.B, regardless of whether any tax is owed.

B. The return for any deceased individual who would have to file under subsection 5.65.070.A shall be made and filed by their executor, administrator, or other person charged with administering their estate.

C. Taxes shall be paid as provided in this Chapter 5.65 and accompanied by a return on forms as prescribed by the Director. The return shall be signed by the taxpayer personally or by a responsible officer, executor, administrator, or other agent of the taxpayer. The individual signing the return shall swear or affirm that the information in the return is true and complete. The Director is authorized, but not required, to make



electronically available tax return forms to taxpayers, but failure of the taxpayer to receive any such forms shall not excuse the taxpayer from filing returns and making payment of the taxes, when and as due under this Chapter 5.65.

D. All taxes imposed under this Chapter 5.65 shall be due and payable annually. Tax returns and payments are due on or before April 15 of the year following the tax year. The Director may extend the time for filing the annual return for a period of not more than one year upon written request by the taxpayer showing good cause why an extension is necessary. A taxpayer is entitled to one automatic six-month extension of the due date for a tax year by filing with the City a copy of Internal Revenue Service Form 4868 or the equivalent on or before the due date. Interest and penalties shall not be assessed if the return is filed and the tax due is paid within the extended time and all other filing and payment requirements of this Chapter 5.65 are satisfied.

E. If April 15 or any other date computed in this subsection is a Saturday, Sunday, or City or federal legal holiday, the date of such event or action shall be the next succeeding day which is not a Saturday, Sunday, or City or federal legal holiday. The Director may extend the filing deadline for a tax year in the event of a natural disaster or other emergency. Tax returns and taxes not received on or before the due date are subject to penalties and interest in accordance with this Chapter 5.65, in addition to any other civil or criminal sanction or remedy that may be available.

F. Any return or remittance which is transmitted to the City by United States mail is deemed filed or received on the date stamped by the United States Postal Service upon the envelope containing it. The Director may allow electronic filing of returns or remittance from any taxpayer. A return or remittance that is transmitted to the City electronically shall be deemed filed or received according to procedures set forth by the Director. The reference to the United States Postal Service shall be treated as including any delivery service designated by the Secretary of the Treasury of the United States pursuant to § 7502 of the Internal Revenue Code.

G. If any taxpayer fails, neglects, or refuses to file a return as and when required in this Chapter

5.65, the Director is authorized to determine and assess the amount of the tax due by obtaining facts and information upon which to base their estimate of the tax due. Such assessment shall be deemed prima facie correct and shall be the amount of tax owed to the City by the taxpayer. The Director shall notify the taxpayer by mail of the amount of tax so determined, together with any penalty and interest due; the total of such amounts shall thereupon become immediately due and payable.

H. Within 60 days after the final determination of any federal, state, or local tax liability affecting the amount of tax owed under this Chapter 5.65, that taxpayer shall make and file an amended return with the City based upon such final determination stating whether the federal, state, or local tax changes are correct or state wherein it is erroneous and pay any additional municipal income tax shown due thereon or make a claim for refund of any overpayment, unless the tax or overpayment is less than \$10. Interest and penalties shall not be imposed on any additional tax owed under this subsection if the amended return is timely filed and the additional tax owed is timely paid. Any additional tax due as a result of a federal, state, or local change in tax liability may be assessed at any time if no return showing such change has been filed.

#### **5.65.080 Payment methods**

A. Taxes, interest, and penalties shall be paid to the Director in United States currency by bank draft, certified check, cashier's check, personal check, money order, or cash, or by wire transfer or electronic payment if such wire transfer or electronic payment is authorized by the Director. If payment so received is not paid by the bank on which it is drawn, the taxpayer, by whom such payment is tendered, shall remain liable for payment of the tax, interest, and/or penalties, the same as if such payment had not been tendered. Acceptance of any sum by the Director shall not discharge the tax due unless the amount paid is the full amount due.

B. The Director shall keep full and accurate records of all funds received or refunded. The Director shall apply payments first against all penalties, then interest owing, and finally upon the tax, unless the taxpayer directs otherwise in writing on a form approved by the Director on the date the payment is made.

C. Any payment made that is returned for lack of sufficient funds or for any other reason will not

be considered received until payment by certified check, money order, or cash of the original amount due, plus a “non-sufficient funds” (NSF) charge in an amount to be set by the Director.

D. The Director is authorized, but not required, to mail tax return forms or written reminders to taxpayers, but failure of the taxpayer to receive any such forms or reminders shall not excuse the taxpayer from filing returns and making payment of the taxes, when and as due under this Chapter 5.65.

#### **5.65.090 Records to be preserved-Examination-Estoppel to question assessment**

A. Every taxpayer who is liable for, or who the Director believes to be liable for, any tax owed under this Chapter 5.65 shall keep and preserve, for a period of three years after filing a tax return or two years after the date the tax was paid, whichever is later, such records as may be necessary to determine taxpayer’s domicile and residence and the amount of any tax for which the taxpayer may be liable; which records shall include copies of all federal, state, and local income tax returns and reports made by the taxpayer.

B. Upon written request by the Director or a duly authorized agent, the taxpayer is required to furnish the opportunity for the Director or authorized agent to investigate and examine the records as defined in subsection 5.65.090.A, at a reasonable time and place designated in the request.

C. If a taxpayer does not keep the necessary records within the City, it shall be sufficient if that taxpayer:

1. Produces within the City such records as may be required by the Director, or
2. Bears the cost of examination by the Director or duly authorized agent at the place where the pertinent records are kept; provided that the taxpayer electing to bear such cost shall pay in advance to the Director the estimated amount thereof including round-trip fare, lodging, meals, and incidental expenses, subject to adjustment upon completion of the examination.

D. Where a taxpayer fails, or refuses a Department request, to provide or make available records, the Director is authorized to determine the amount of the tax due by obtaining facts and information upon which to base the estimate of the tax due. Such tax assessment shall be deemed prima facie correct and shall be

the amount of tax owing the City by the taxpayer. The Director shall notify the taxpayer by mail of the amount of tax so determined, together with any penalty and interest due; the total of such amounts shall thereupon become immediately due and payable.

#### **5.65.100 Underpayment of tax, interest, or penalty**

A. If, upon examination of any returns, or from other information obtained by the Director, the Director determines that a tax, interest, or penalty less than that properly due has been paid, the Director shall assess the additional amount found to be due and shall add thereto interest on the tax and penalties only. The Director shall notify the taxpayer by mail of the additional amount, which shall become due and shall be paid within 30 days from the date of the notice, or within such time as the Director may provide in writing.

B. The Director shall compute interest based on the underpayment rate under the Internal Revenue Code, currently set forth in 26 U.S.C. § 6621.

#### **5.65.110 Time in which assessment may be made**

The Director shall assess, or correct an assessment for, additional taxes, penalties, or interest for a tax year within the later of (1) three years after the tax was due or the return was filed, whichever is later, or (2) one year after a final decision in any administrative or judicial review initiated by the taxpayer under this chapter for the tax year; provided, however, the time limit may be extended if both the Director and the taxpayer consent in writing to the extension. Tax, penalties, or interest, however, may be assessed at any time if no return is filed or a false or fraudulent return is filed.

#### **5.65.120 Overpayment of tax, penalty, or interest-Credit or refund-Interest rate**

A. If, upon receipt of an application for a refund, or during an audit or examination of the taxpayer's tax returns or other records, the Director determines that the amount of tax, penalty, or interest paid is in excess of that properly due, the excess amount shall be credited to the taxpayer's account or shall be refunded to the taxpayer. Except as provided in subsection 5.65.120.B, an application for a refund must be filed within three years after the tax was due or paid, whichever is later.

B. The execution of a written waiver shall extend the time for applying for, or making, a refund or credit of any taxes paid during, or attributable to, the years covered by the waiver if, prior to the expiration of the waiver period, an application for refund of such taxes is made by the taxpayer or the Director discovers that a refund or credit is due.

C. Refunds shall be made by means of vouchers approved by the Director and by the issuance of a City check, warrant, or wire transfer drawn upon and payable from such funds as the City may provide.

D. Any final judgment for which a recovery is granted by any court of competent jurisdiction for tax, penalties, interest, or costs paid by any taxpayer shall be paid in the same manner as provided in subsection 5.65.120.C, upon the filing with the Director a certified copy of the order or judgment of the court.

E. The Director shall compute interest on refunds or credits of amounts paid or other recovery allowed a taxpayer based on the overpayment rate under the Internal Revenue Code, currently set forth in 26 U.S.C. § 6621.

#### **5.65.130 Monetary penalties**

A. A taxpayer who fails to pay tax owed under this Chapter 5.65 when due is liable, in addition to interest, to a penalty of one percent of the amount of the unpaid tax for each month or fraction of a month, not to exceed a total penalty of 25 percent of the unpaid tax. If any part of any underpayment of tax owed under this chapter is due to intentional disregard of this Chapter 5.65 or rules or regulations adopted by the Director under Section 5.65.190, but without intent to defraud, an additional penalty of \$10 or 10 percent of the total amount of the deficiency in the tax, whichever is greater, shall be added. If any part of the underpayment is due to fraudulent intent to evade the tax imposed under this chapter, an additional penalty of 100 percent of the deficiency shall be added.

B. Any taxpayer who fails to file a return with the Director on or before the due date, who fails to include all of the information required to be shown on the return, or who includes incorrect information on a return shall pay a penalty of \$250 for each return with respect to which such a failure occurs; provided,

however, the penalty shall be waived if the failure to include all of the information required or the inclusion of incorrect information is corrected by the taxpayer within 30 days of written notice from the Director as provided for under subsection 5.65.130.D. If the act or omission is due to intentional disregard of this Chapter 5.65 or rules or regulations adopted by the Director under Section 5.65.190, but without intent to defraud, an additional penalty of \$500 shall be added. If the act or omission is due to fraudulent intent to evade the tax imposed under this Chapter 5.65, an additional penalty of \$1,000 shall be added.

C. If a claim for refund or credit under this Chapter 5.65 is made for an excessive amount, unless it is shown that the claim for such excessive amount is due to reasonable cause, the taxpayer making such claim shall be liable for a penalty in an amount equal to 20 percent of the excessive amount. For purposes of this Section 5.65.130, the term “excessive amount” means, in the case of any taxpayer, the amount of the claim for refund or credit for any tax year exceeds by at least 50 percent the amount of such claim allowable under this Chapter 5.65 for such tax year.

D. The Director shall notify a taxpayer by mail of any penalties, which shall become due and shall be paid within 30 days from the date of the notice, or within such time as the Director may provide in writing.

E. Upon demonstrating to the Director that a penalty has been imposed on an innocent spouse, the Director is authorized to cancel such penalty with respect to the innocent spouse.

#### **5.65.140 Cancellation of penalties**

A. The Director may cancel any penalties assessed under subsection 5.65.130.A or 5.65.130.B if the taxpayer shows that the act or omission giving rise to the penalty was due to reasonable cause and not willful neglect. Willful neglect is presumed unless the taxpayer shows that they exercised ordinary care and prudence in making arrangements to complete and file an accurate return and pay the tax owed by the due date but, nevertheless, failed to do so due to circumstances beyond their control.

B. A request for cancellation of penalties must be received by the Director within 60 days after the date the Director mails the notice that the penalties are due. The request must be in writing and contain

competent proof of all pertinent facts supporting a reasonable cause determination. In all cases the burden of proving the facts rests upon the taxpayer.

### **5.65.150 Amnesty**

The Director may from time to time declare periods of amnesty in which penalties assessed under subsections 5.65.130.A, 5.65.130.B, or 5.65.130.C, or any combination thereof, may be waived. Such periods of amnesty and the terms thereof may be established upon a finding by the Director that they are likely to have the effect of increasing revenues to the City.

### **5.65.160 Review of Director's assessment or denial of refund**

A. Any taxpayer aggrieved by the amount of the tax, interest, or penalty assessed by the Director or by the denial of a refund by the Director may:

1. Appeal the Director's assessment or refund denial to the Hearing Examiner by filing a petition for review with the Office of the Hearing Examiner pursuant to Section 5.65.170; or
2. File a complaint in King County Superior Court to appeal the Director's assessment or refund denial.

The petition or complaint shall be filed within 30 days from the date that the assessment or denial notice was mailed to the taxpayer, or within the period covered by any extension of said due date granted in writing by the Director whichever is later. The Director may extend the due date for filing an appeal with the Hearing Examiner or a refund suit with the Superior Court only if the taxpayer, within the 30-day period, makes written application showing good cause why an extension is necessary.

B. The Director's assessment or refund denial shall be regarded as prima facie correct, and the taxpayer shall have the burden to prove that the tax assessed or paid by them is incorrect, either in whole or in part, and to establish the correct amount of tax.

C. Assessments may be appealed to the Hearing Examiner without prior payment; provided, however, that interest shall continue to accrue on unpaid taxes and penalties to the full extent permitted by law.

D. The methods for obtaining review of the Director's assessment or refund denial set forth in this Section 5.65.160 and Sections 5.65.170 and 5.65.180 are the exclusive remedies for reviewing an assessment or refund denial, and must be strictly complied with.

#### **5.65.170 Appeal to the Hearing Examiner**

A. A taxpayer electing to appeal to the Hearing Examiner pursuant to Section 5.65.160 must provide a copy of the petition to the Director and the City Attorney on or before the date the petition is filed with the Hearing Examiner. If no such petition is filed with the Hearing Examiner and provided to the Director and City Attorney within the 30-day period, and a complaint is not filed, the assessment covered by the notice shall become final and no refund request may be made for the audit period covered in that assessment.

B. The petition shall set forth the reasons why the assessment should be reversed or modified. The petition shall also include the amount of the tax, interest, or penalties that the taxpayer believes to be due. If the appeal is from the denial of a refund, the petition shall set forth the amount of refund or credit believed to be due.

C. The Hearing Examiner shall fix the time and place of the hearing and notify the taxpayer thereof by mail or other means provided in regulations. The hearing shall be conducted in accordance with the procedures for hearing contested cases in Chapter 3.02.

D. The Hearing Examiner may, by subpoena, require the attendance of any person at the hearing, and may also require them to produce pertinent records. Any person served with such a subpoena shall appear at the time and place therein stated and produce the records required, if any, and shall testify truthfully under oath administered by the Hearing Examiner as to any matter required of them pertinent to the appeal; and to fail or refuse to do so is sanctionable. The City Attorney shall seek enforcement of a Hearing Examiner subpoena in an appropriate court.

E. The Hearing Examiner shall ascertain the correct amount of the tax, interest, or penalty due either by affirming, reversing, or modifying an action of the Director. Reversal or modification is proper if the



Director's assessment or refund denial violates the terms of this Chapter 5.65 or rules or regulations adopted by the Director under Section 5.65.190.

#### **5.65.180 Judicial review of the Hearing Examiner's decision**

A. The taxpayer, authorized agent, any other person or entity beneficially interested or aggrieved, or the Director of Finance and Administrative Services, may obtain judicial review of the decision of the Hearing Examiner by applying for a writ of review in the King County Superior Court within 30 days from the date of the decision in accordance with the procedure set forth in Chapter 7.16 RCW, other applicable law and court rules.

B. The decision of the Hearing Examiner shall be final and conclusive unless review is sought in compliance with this Section 5.65.180.

#### **5.65.190 Director of Finance and Administrative Services to make rules**

A. The Director 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 5.65 or with law for the purpose of carrying out the purposes and provisions of this Chapter 5.65, and it shall be unlawful to violate or fail to comply with any such rule or regulation.

B. In order to ensure a fair and equitable base for taxation and to avoid the tax under this Chapter 5.65 being imposed on the same income twice, the Director is authorized to issue rules and regulations to make equitable adjustments in order to properly reflect the income of a resident taxpayer.

#### **5.65.200 Ancillary authority of Director**

The Director is authorized to enter into agreements with any other taxing jurisdiction, including the Internal Revenue Service of the United States and state and other local jurisdictions that impose taxes on personal income, earned or unearned:

A. To acquire such taxpayer information necessary to most effectively collect the taxes imposed by this Chapter 5.65, determine whether taxpayers are or are not required to file a return for taxes under this

Chapter 5.65, determine the amount of taxes due under this Chapter 5.65, conduct audits, and otherwise enact the provisions of this Chapter 5.65; or

B. To conduct an audit or a joint audit of a taxpayer by using an auditor employed by The City of Seattle, another public entity, or a contract auditor; provided that such contract auditor's pay is not in any manner based upon the amount of tax assessed.

#### **5.65.210 Mailing of notices**

A. Any notice required by this Chapter 5.65 to be mailed to any taxpayer shall be sent by ordinary mail, addressed to the last known address of the taxpayer as shown by the records of the Director.

B. Failure of the taxpayer to receive any mailed notice shall not release the taxpayer from any tax, interest, or penalties, nor shall such failure operate to extend any time limit set by the provisions of this Chapter 5.65. It is the responsibility of the taxpayer to inform the Director in writing of a change in the taxpayer's address.

C. Nothing in this Section 5.65.210 prohibits the Director or duly authorized agent from delivering an assessment by a tax administrator by personal service.

#### **5.65.220 Tax declared additional**

The tax on income levied by this Chapter 5.65 shall be additional to any other tax imposed or levied under any law or any other ordinance of The City of Seattle except as herein otherwise expressly provided.

#### **5.65.230 Public disclosure-Confidentiality-Information sharing**

A. For purposes of this Section 5.65.230:

1. "Disclose" means to make known to any person in any manner whatever a return or tax information.

2. "Return" means a tax or information return or claim for refund required by, or provided for or permitted under, this Chapter 5.65 which is filed with the Director by, on behalf of, or with respect to a taxpayer, and any amendment or supplement thereto, including supporting schedules, attachments, or lists that

are supplemental to, or part of, the return so filed.

3. “Tax information” means:

a. A taxpayer’s identity;

b. The nature, source, or amount of the taxpayer’s income, payments, receipts, exclusions, credits, assets, liabilities, net worth, tax liability deficiencies, overassessments, or tax payments, whether taken from the taxpayer’s returns, records, or any other source;

c. Whether the taxpayer’s return was, is being, or will be examined or subject to other investigation or processing; and

d. Other data received by, recorded by, prepared by, furnished to, or collected by the Director with respect to the determination of the existence, or possible existence, of liability, or the amount thereof, of a taxpayer under this Chapter 5.65 for a tax, penalty, interest, or criminal offense.

However, data, material, or documents that do not disclose information related to an identifiable taxpayer do not constitute tax information under this Section 5.65.230.

4. “City agency” means every City office, department, division, bureau, board, commission, or other City agency.

5. “Taxpayer identity” means the taxpayer’s name, address, telephone number, social security number, or any combination thereof, or any other information disclosing the identity of the taxpayer.

B. Returns and tax information are confidential and privileged to the full extent permitted by law, and except as authorized by this Section 5.65.230 or applicable law, neither the Director nor any other person shall disclose any return or tax information.

C. This Section 5.65.230 does not prohibit the Director or an authorized designee from:

1. Disclosing such return or tax information in a civil or criminal judicial proceeding or an administrative proceeding (a) in respect to any tax imposed under this Chapter 5.65 if the taxpayer is a party in the proceeding; or (b) in which the taxpayer about whom such return or tax information is sought and the City

or a City agency are adverse parties in the proceeding; or (c) in accordance with a final judicial order of a court of competent jurisdiction.

2. Disclosing, subject to such requirements and conditions as the Director prescribes by rules or regulations adopted pursuant to Section 5.65.190, such return or tax information regarding a taxpayer to (a) such taxpayer or, in the case of a jointly filed return, either of the spouses with respect to whom the return is filed; (b) to such person or persons as that taxpayer may designate in a request for, or consent to, such disclosure; (c) to any other person, at the taxpayer's request, to the extent necessary to comply with a request for information or assistance made by the taxpayer to such other person; or (d) to the administrator, executor, or trustee of a deceased taxpayer's estate, or any heir at law, next of kin, or beneficiary under the will of such decedent. However, tax information not received from the taxpayer must not be so disclosed if the Director determines that such disclosure would compromise any investigation or litigation by any federal, state, or local government agency in connection with the civil or criminal liability of the taxpayer or another person, or that such disclosure is contrary to any agreement entered into by the Director that provides for the reciprocal exchange of information with other government agencies, which agreement requires confidentiality with respect to such information, unless such information is required to be disclosed to the taxpayer by the order of any court;

3. Publishing statistics in a form that does not disclose information with respect to identifiable taxpayers;

4. Disclosing such return or tax information for official purposes only if the Director determines that it is necessary for the implementation, administration or enforcement of this Chapter 5.65, and then only to the extent necessary for such purposes, to the City Attorney or a City agency dealing with matters of taxation or revenue or their authorized designees;

5. Permitting the Director's records to be audited and examined by the proper City, state, or federal officer, their agents and employees;

6. Disclosing any such return or tax information in response to, or in support of a request for, a search warrant, subpoena, or other order issued by hearing examiner or a court of competent jurisdiction; or

7. Disclosing any such return or tax information to the proper officer of the Internal Revenue Service or the tax department of any state or local jurisdiction, for official purposes including but not limited to disclosure pursuant to information sharing agreements containing confidentiality provisions equivalent to section 5.65.230.

D. Any person acquiring knowledge of any return or tax information in the course of their employment with the Director and any person acquiring knowledge of any return or tax information as provided under subsection 5.65.230.C.4, 5.65.230.C.5, 5.65.230.C.6, or 5.65.230.C.7, who discloses any such return or tax information to another person not entitled to knowledge of such return or tax information under the provisions of this Section 5.65.230, is guilty of a misdemeanor. If the person guilty of such violation is an officer or employee of the City, such person must forfeit such office or employment and is incapable of holding any public office or employment in this City for a period of two years thereafter.

#### **5.65.240 Tax constitutes debt**

Any tax due and unpaid under this Chapter 5.65, and all interest and penalties thereon, shall constitute a debt to the City and may be collected in the same manner as any other debt in like amount, which remedy shall be in addition to all other existing remedies.

#### **5.65.250 Unlawful actions-Criminal offenses**

A. It shall be unlawful for any person subject to the provisions of this Chapter 5.65:

1. To violate or fail to comply with any of the provisions of this Chapter 5.65, or any rule or regulation adopted by the Director;
2. To make any false statement on any return;
3. To aid or abet any taxpayer in any attempt to evade payment of a tax owed under this

Chapter 5.65;

4. To fail to appear or testify in response to a subpoena issued pursuant to Section 3.02.120 in any proceeding to determine compliance with this Chapter 5.65;

5. To testify falsely in any investigation, audit, or proceeding conducted pursuant to this Chapter 5.65;

6. In any manner to hinder or delay the City or any of its officers in carrying out the provisions of this Chapter 5.65.

B. Each violation of or failure to comply with the provisions of this Chapter 5.65 shall constitute a separate offense. Any person who willfully engages in an act or acts or willfully causes another to engage in an act or acts defined in subsection 5.65.250.A is guilty of a gross misdemeanor, punishable in accordance with Section 12A.02.070. The provisions of Chapters 12A.02 and 12A.04 apply to the offenses defined in subsection 5.65.250.A.

C. Prosecution pursuant to this Section 5.65.250 shall not be commenced more than three years after the Director knew or should have known that the act(s) constituting the offense occurred. The penalties and punishments established by this Section 5.65.250 shall be in addition to all other penalties provided by law.

D. Upon a determination that a person is subject to criminal prosecution under this Section 5.65.250, the Director and agents of the Director, who are commissioned as non-uniformed special police officers pursuant to Section 5.55.225, may issue citations and make arrests for criminal violations of this Section 5.65.250.

#### **5.65.260 Closing agreement provisions**

The Director may enter into an agreement in writing with any taxpayer relating to the liability of such taxpayer in respect of any tax imposed by this Chapter 5.65 and administered by the Director for any taxable period(s). Upon approval of such agreement, evidenced by execution thereof by the Director and to the taxpayer so agreeing, the agreement shall be final and conclusive as to the tax liability or tax immunity covered thereby

and, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact:

A. The case shall not be reopened as to the matters agreed upon, or the agreement modified, by the Director or the taxpayer; and

B. In any suit, action, or proceeding, such agreement, or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance therewith, shall not be annulled, modified, set aside, or disregarded.

#### **5.65.270 Charge-off of uncollectible taxes**

The Director may charge off any tax, penalty, or interest that is owed by a taxpayer, if the Director ascertains that the cost of collecting such amounts would be greater than the total amount that is owed or likely to be collected from the taxpayer.

#### **5.65.280 Reporting**

A. The Department shall submit to the Council and Executive, and make available to the public, a report that indicates how revenues raised by the tax imposed in this Chapter 5.65 were expended within six months of the end of any tax year in which expenditures of such revenues were made.

B. The Department annually shall submit to the Council and Executive, and make available to the public, a report that makes recommendations for improvements and amendments to this Chapter 5.65, including but not limited to code changes required to enhance enforcement and collection of the tax imposed.

#### **5.65.290 Severability**

The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance, or the invalidity of its application to any taxpayer or other person or circumstance, does not affect the validity of the remainder of this ordinance or the validity of its application to other taxpayers or other persons or circumstances.

Section 3. No later than November 15, 2018, the Director of Finance shall submit to the Council and file with the City Clerk a report summarizing the rules adopted by the Director under Section 5.65.190 of

the Seattle Municipal Code. A complete set of rules shall be submitted along with the report. The Council intends to review the rules to ensure that they are consistent with legislative intent.

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

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

\_\_\_\_\_  
President \_\_\_\_\_ of the City Council

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

\_\_\_\_\_  
Edward B. Murray, Mayor

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

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

(Seal)