Legislation Details (With Text)

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Type:	Ordinance (Ord)	**Status:**	Passed
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On agenda:	7/6/2020		
Final Action:	7/17/2020	**Ord. No.**	Ord 126108

Title: AN ORDINANCE relating to taxation; imposing a payroll expense tax on persons engaging in business in Seattle; adding a new Chapter 5.38 to the Seattle Municipal Code; and amending Sections 5.30.010, 5.30.060, 5.55.010, 5.55.040, 5.55.060, 5.55.150, 5.55.165, 5.55.220, 5.55.230, and 6.208.020 of the Seattle Municipal Code.

Sponsors: Teresa Mosqueda, M. Lorena González, Lisa Herbold, Dan Strauss, Andrew Lewis

Indexes:

Attachments: 1. Summary and Fiscal Note, 2. Central Staff Presentation - List of Proposed Amendments, 3. Amendment 1 v3 - Mosqueda (added; 7/6/20), 4. Amendment 2 - Lewis (added; 7/6/20), 5. Amendment 21 (Mosqueda) - Technical Definition, 6. Amendment 20 (Mosqueda and Morales) - Rates, 7. Amendment 20A to 20 (added 7/2/20), 8. Amendment 20B to 20 (added 7/2/20), 9. Amendment 20C to 20 (added 7/2/20), 10. Amendment 11 (Sawant) - Rates, 11. Amendment 15 (Sawant) - Rates, 12. Amendment 16 (Sawant) - Rates - Black Lives Matter, 13. Amendment 17 (Sawant) - Rates - Green New Deal, 14. Amendment 1 (Herbold and Sawant) - Effective Date, 15. Amendment 5 (Juarez and Pedersen) - Ballot Measure, 16. Amendment 8 (Pedersen) - Exempt Nonprofits, 17. Amendment 14 (Mosqueda) - 5-year Exempt Nonprofit Healthcare Providers, 18. Amendment 7 (Pedersen) - 2-Year Exemption for Hospitals and Healthcare Entities, 19. Amendment 3 (Sawant) - Sunset, 20. Amendment 4 (Pedersen) - Sunset, 21. Amendment 6 (Pederson) - Level Playing Field, 22. Amendment 12 (Mosqueda and Strauss) - Strengthen Level Playing Field Provisions, 23. Amendment 18 (Morales) - Maintain a Level Playing Field, 24. CB 119772 - Payroll Expense Tax (Sawant / Morales), 25. CB 119773 - Interfund Loan (Sawant / Morales), 26. CB 119774 - Spending Plan (Sawant / Morales), 27. Mayor's Letter on Returning Unsigned, 28. Signed Ordinance 126108, 29. Affidavit of Publication

Date	Ver.	Action By	Action	Result
7/17/2020	3	City Clerk	attested by City Clerk	
7/17/2020	3	Mayor	returned	
7/17/2020	3	Mayor	returned unsigned	
7/8/2020	3	City Clerk	submitted for Mayor's signature	
7/6/2020	1	City Council	passed as amended	Pass
7/1/2020	1	Select Budget Committee	pass as amended	Pass
6/22/2020	1	City Council	referred	
6/19/2020	1	Council President's Office	sent for review	
6/19/2020	1	City Clerk	sent for review	

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to taxation; imposing a payroll expense tax on persons engaging in business in Seattle; adding a new Chapter 5.38 to the Seattle Municipal Code; and amending Sections 5.30.010, 5.30.060, 5.55.010, 5.55.040, 5.55.060, 5.55.150, 5.55.165, 5.55.220, 5.55.230, and 6.208.020 of the Seattle Municipal Code.

WHEREAS, the City Council intends to revisit the tax imposed by this new Chapter 5.38 in the event that an organization with overlapping jurisdiction implements a progressive revenue source that provides City of Seattle ("City") funding at levels equivalent to those generated through this payroll expense tax; and

WHEREAS, on March 11, 2020, the World Health Organization announced that the novel coronavirus (COVID -19) is officially a global pandemic; and

WHEREAS, on February 29, 2020, the Washington Governor issued Proclamation 20-05, proclaiming a state of emergency for all counties throughout the state of Washington in response to new cases of COVID-19, and

WHEREAS, on March 25, 2020, the Washington Governor issued Proclamation 20-25, prohibiting all people in Washington from leaving their homes and all non-essential businesses in Washington from conducting business ("Stay Home, Stay Healthy Proclamation"); and

WHEREAS, these actions are appropriate for public health reasons but result in severe economic impacts on families and individuals in Seattle; and

WHEREAS, these impacts are felt most strongly by people with low incomes who have become unemployed or had their work hours severely reduced; and

WHEREAS, federal and state assistance to people with low incomes will not be sufficient to meet their basic needs during this public health and financial crisis; and

WHEREAS, without additional support, many people with low incomes will face severe financial hardship that will have significant negative impacts, including but not limited to public health impacts and greater housing insecurity, as well as impacts to small businesses and the local economy; and

WHEREAS, on November 2, 2015, the Mayor of Seattle issued a Proclamation of Civil Emergency related to

homelessness; on November 3, 2015, the City Council adopted Resolution 31630 ratifying and confirming the Mayoral Proclamation of Civil Emergency; and the civil emergency remains in effect. As of 2019 there were roughly 11 percent more people experiencing homelessness in the region than in 2015; and

WHEREAS, a national study published in the *Journal of Urban Affairs* established the correlation between increasing rent and homelessness, finding that an increase of $100 in median rent for an area results in a 15 percent (metro areas) and a 39 percent (nearby suburbs and rural areas) increase in homelessness; and

WHEREAS, average rents in Seattle rose 69 percent between 2010 and 2018, far beyond the rate of inflation and more than double the national average; and

WHEREAS, the 2019 Seattle-King County Point in Time Count of persons experiencing homelessness estimates there are 11,199 individuals experiencing homelessness in the region; and

WHEREAS, the October 2019 Report and Recommendations of the King County Regional Affordable Housing Task Force found that 156,000 affordable homes were needed immediately, and another 88,000 affordable homes by 2040, to ensure that no low-income or working households were cost-burdened; and

WHEREAS, the Third Door Coalition proposal advocates for the creation of 6,500 permanent supportive housing units as a proven solution for meeting the housing and services needs of those who are chronically homelessness; and

WHEREAS, the City recognizes the importance of using a “Housing First” approach in the development of permanent housing for those experiencing homelessness, which prioritizes providing access to low- or no-barrier housing for such persons; and

WHEREAS, the affordable housing crisis, homelessness emergency, and now the COVID-19 pandemic and related economic and unemployment emergencies in Seattle are deeply impacting the lives of people

throughout Seattle and the region, and disproportionately harm people of color, immigrants, the LGBTQ community, indigenous peoples' communities, disabled community members, and women, who already struggle against entrenched inequality; and

WHERAS, the International Monetary Fund's recent World Economic Outlook forecasts the worst global recession since the Great Depression; and

WHEREAS, the City Budget Office's recent economic forecast for the Seattle metropolitan area predicts significant job loss, high unemployment, and declining per capita income; and

WHEREAS, the City Budget Office projects the City's revenue will be impacted by between $210 million and $300 million in 2020; and

WHEREAS, a significant decline in revenue will impact the City's ability to provide necessary support to communities facing hardship due to the COVID-19 public health crisis and recession and to adequately address the ongoing homelessness crisis; and

WHEREAS, the period of economic recovery from the 2007-2009 Great Recession resulted in worsening economic disparities in Washington, and households experiencing deep poverty increased by 15,000 in the state; and

WHEREAS, the economic hardships and loss of wealth resulting from the Great Recession disproportionately impacted households of color, in particular Black households and Hispanic and Latinx households; and

WHEREAS, the gains in income growth associated with the period of economic recovery and growth in Washington leading up to the COVID-19 recession have been concentrated among the wealthiest households; and

WHEREAS, public investments have not kept pace with the growing economy, and in fact have declined from pre-Great Recession levels; and

WHEREAS, austerity measures and spending cuts made in response to the Great Recession resulted in uneven and slow economic recovery, and prolonged hardship for vulnerable and marginalized communities; and

WHEREAS, Washington ranks as the worst in the nation for regressive state and local tax systems; and

WHEREAS, the U.S. Internal Revenue Service states that "a progressive tax takes a larger percentage of income from high-income groups than from low-income groups and is based on the concept of ability to pay"; and

WHEREAS, on November 20, 2017, the City Council unanimously adopted Resolution 31782, "establishing a process by which [T]he City of Seattle will determine new progressive revenues including an Employee Hours Tax, expressing the City Council's intent to impose such potential revenues, and expressing the City Council's intent to make investments with these revenues that would assist people who are homeless or at a high risk of becoming homeless in obtaining and retaining stable housing"; and

WHEREAS, Resolution 31782 established a Progressive Revenue Task Force ("Task Force") and requested that the Task Force evaluate and determine "appropriate tax rates and possible exemption levels that are expected to yield between $25 million and $75 million in revenue per year"; and

WHEREAS, the Progressive Revenue Task Force's March 9, 2018, final report recommended that the City seek to collect $75 million from a new employee hours tax, a new payroll tax, or both to address homelessness and affordable housing; and

WHEREAS, the City imposed an employee hours tax through Ordinance 125578 that would have raised $47 million annually plus a measure of inflation; and

WHEREAS, the City repealed the employee hours tax through Ordinance 125592; and

WHEREAS, The City of Seattle intends to exercise its taxing authority, as granted by the Washington State Constitution and as authorized by the Washington State Legislature; NOW, THEREFORE,

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 PAYROLL EXPENSE TAX

5.38.010 Administrative provisions

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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" 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":

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.

"Non-profit healthcare entity" means (a) a non-profit entity engaged primarily in the provision of comprehensive healthcare services, including primary and specialty care, and other non-profit healthcare entities that provide at least 50 percent of their services to patients covered by Apple Health and TRICARE, and to patients who have no third-party payor; (b) a non-profit entity that conducts life sciences research and development; or (c) a predominately capitated provider group within an integrated delivery system operated by a fully non-profit carrier licensed under chapter 48.44 or 48.46 RCW.

"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 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.

5.38.030 Tax imposed-Rate

A. A payroll expense tax is hereby levied upon and shall be collected from every person engaging in business within Seattle.

B. The amount of the payroll expense tax due shall be the payroll expense of the business, subject to any deductions authorized under this Chapter 5.38, multiplied by the following rates:

1. For businesses with payroll expense up to $99,999,999.99, the rate shall be:

a. Seven-tenths percent of the payroll expense of employees with annual compensation of $150,000 to $399,999.99; and

b. One and seven-tenths percent of the payroll expense of employees with annual compensation of $400,000 or more.

2. For businesses with payroll expense of $100 million to $999,999,999.99, the rate shall be:

a. Seven-tenths percent of the payroll expense of employees with annual compensation of $150,000 to $399,999.99; and

b. One and nine-tenths percent of the payroll expense of employees with annual compensation of $400,000 or more.

3. For businesses with payroll expense of $1 billion or greater, the rate shall be:

a. One and four-tenths percent of the payroll expense of employees with annual compensation of $150,000 to $399,999.99; and

b. Two and four-tenths percent of the payroll expense of employees with annual compensation of $400,000 or more.

C. The tax imposed by this Chapter 5.38 is levied on businesses. A business may not make any deductions from employees' compensation to pay for this tax.

5.38.040 Exemptions from the payroll expense tax

A. The following are exempt from the payroll expense tax:

1. Any business having payroll expense, as defined under Section 5.38.020, of less than $7 million in the most recent complete calendar year.

2. Any business engaged in business in Seattle as a grocery business.

3. Any individual who is an independent contractor for purposes of the business license tax under subsection 5.45.090.S and whose compensation is included in the payroll expense of another business subject to the tax imposed by Section 5.38.030.

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

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

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

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

d. Federal and state government agencies and any local governmental entity.

5.38.045 Deductions from the payroll expense tax

For the period from January 1, 2021 through December 31, 2023, taxpayers that are non-profit healthcare entities may deduct from the measure of the tax the payroll expense of employees with annual compensation of $150,000 to $399,999.99.

5.38.050 Allocation and apportionment

A. The Director may adopt procedures to allow taxpayers who have payroll expenses consisting of work done and services provided within and outside Seattle to use a representative test period or conduct a survey based on factual data to arrive at a formula with which to calculate the percentage of payroll expense attributable to Seattle. Any formula so established will be subject to review and correction by the Director.

B. If payroll expense as defined in Section 5.38.020 does not fairly represent the extent of the compensation paid by the taxpayer to its employees that is attributable to work performed or services rendered in Seattle, the taxpayer may petition the Director for, or the Director may require, the employment of another method to effectuate an equitable allocation and apportionment.

C. Nothing in this Chapter 5.38 shall be construed as requiring the payment of any tax for engaging in business when such payment would be in violation of the Constitution or a statute of the United States or of the Constitution or a statute of the state of Washington. Notwithstanding anything to the contrary herein, if imposition of the City's tax would place an undue burden upon interstate commerce or violate other constitutional requirements, a taxpayer shall be allowed a credit to the extent necessary to preserve the validity of the City's tax, and still apply the City's tax to as much of the taxpayer's activities as may be subject to the City's taxing authority.

D. Businesses engaging temporary or contracted employees shall report and pay the tax on the payroll expense of such temporary or contracted employees, whether or not they are from an employment agency.

5.38.060 Payroll expense tax-When due

The payroll expense tax imposed by this Chapter 5.38 shall be due and payable on a quarterly basis in

accordance with Section 5.55.040. Notwithstanding Section 5.55.040, the tax due for 2021 shall be payable on the same date that the tax payment for the fourth quarter of 2021 is due. The Director may use discretion to assign businesses to an annual reporting period. Forms for such filings shall be prescribed by the Director. Persons discontinuing their business activities in Seattle shall report and pay the payroll expense tax at the same time as they file their final business license tax return under Chapter 5.45.

5.38.070 Adjustments for inflation

A. Beginning on January 1, 2022, and on January 1 of every year thereafter, the Director shall adjust in the manner described in subsection 5.38.070.B the following dollar amounts:

1. The amount of the dollar thresholds in Section 5.38.030; and

2. The amount of the exemption in subsection 5.38.040.A.1.

B. The amounts listed in subsection 5.38.070.A shall increase commensurate with the rate of growth of the prior year's June-to-June Consumer Price Index (CPI-U) for the Seattle-Tacoma-Bellevue area as published by the United States Department of Labor. The amounts calculated shall be rounded to the nearest whole dollar.

5.38.080 Tax in addition to other license fees or taxes

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

5.38.090 Tax part of operating overhead

It is not the intention of this Chapter 5.38 that the taxes herein levied upon persons engaging in business be construed as taxes upon the customers of such businesses, but that taxes shall be levied upon, and collectible from, the person engaging in the business activities herein designated and that such taxes or fees shall constitute a part of the operating overhead or cost of doing business of such persons.

5.38.100 Maintaining a level playing field

To maintain a level playing field and to provide predictability for the businesses impacted by the payroll

expense tax imposed in this Chapter 5.38, the Council intends to monitor proposals for any taxes imposed by King County or the State of Washington to ensure: a) businesses in its jurisdiction are not subject to additional payroll taxes imposed under Chapter 5.38, b) filings are consolidated and streamlined to reduce administrative burden on taxpayers and Finance and Administrative Services, and c) a sustainable, progressive funding source is maintained for the items as described in Council Bill 119811.

5.38.110 Rules and regulations

The Director shall adopt, publish, and enforce rules and regulations not inconsistent with this Chapter 5.38 for the purpose of carrying out the provisions of this Chapter 5.38, including but not limited to rules to determine the payroll expense attributable to work performed and services rendered by employees in Seattle.

5.38.120 Sunset

For all periods from January 1, 2021, through December 31, 2040, a payroll expense tax as imposed by this Chapter 5.38 is hereby levied. No business shall owe a payroll expense tax for payroll expenses after December 31, 2040, and this Chapter 5.38 shall be limited to determining and collecting the payroll expense tax due for all business activities prior to December 31, 2040.

Section 2. Section 5.30.010 of the Seattle Municipal Code, last amended by Ordinance 125934, is amended as follows:

5.30.010 Definition provisions

The definitions contained in this Chapter 5.30 shall apply to the following chapters of the Seattle Municipal Code: Chapters 5.32 (Amusement Devices), 5.35 (Commercial Parking Tax), 5.38 (Payroll Expense Tax), 5.39 (Transportation Network Company Tax), 5.40 (Admission Tax), 5.45 (Business License Tax), 5.46 (Square Footage Tax), 5.47 (Heating Oil Tax), 5.48 (Business Tax-Utilities), 5.50 (Firearms and Ammunition Tax), 5.52 (Gambling Tax), 5.53 (Sweetened Beverage Tax), and 5.55 (General Administrative Provisions) unless expressly provided for otherwise therein, and shall also apply to other chapters and sections of the Seattle Municipal Code in the manner and to the extent expressly indicated in each chapter or section. Words in the

singular number shall include the plural and the plural shall include the singular. Words in one gender shall include all other genders.

Section 3. Subsections 5.30.060.B and 5.30.060.C of the Seattle Municipal Code, which section was last amended by Ordinance 125934, are amended as follows:

5.30.060 Definitions, T-Z

* * *

B. "Taxable gross income of the business and the value of products," as used in Section 5.55.030 to determine the business license tax certificate fee, and "taxable gross income" ((~~means~~)) mean the taxpayer's total amount of gross proceeds of sale, gross income of the business, and the value of products, less any deductions available to the taxpayer under Chapter 5.45.

C. "Taxpayer" means any "person," as herein defined, required by Chapter 5.55 to have a business license tax certificate, or liable for any license, tax, or fee, or for the collection of any tax or fee, under Chapters 5.32 (Revenue Code), 5.35 (Commercial Parking Tax), 5.38 (Payroll Expense Tax), 5.39 (Transportation Network Company Tax), 5.40 (Admission Tax), 5.45 (Business License Tax), 5.46 (Square Footage Tax), 5.47 (Heating Oil Tax), 5.48 (Business Tax-Utilities), 5.50 (Firearms and Ammunition Tax), 5.52 (Gambling Tax), and 5.53 (Sweetened Beverage Tax), or who engages in any business or who performs any act for which a tax or fee is imposed under those chapters.

* * *

Section 4. Section 5.55.010 of the Seattle Municipal Code, last amended by Ordinance 125934, is amended as follows:

5.55.010 Application of chapter stated

Unless expressly stated to the contrary in each chapter, the provisions of this Chapter 5.55 shall apply with respect to the licenses and taxes imposed under this Chapter 5.55 and Chapters 5.32 (Amusement Devices), 5.35 (Commercial Parking Tax), 5.38 (Payroll Expense Tax), 5.39 (Transportation Network Company Tax),

5.40 (Admission Tax), 5.45 (Business License Tax), 5.46 (Square Footage Tax), 5.47 (Heating Oil Tax), 5.48 (Business Tax-Utilities), 5.50 (Firearms and Ammunition Tax), 5.52 (Gambling Tax), 5.53 (Sweetened Beverage Tax), and under other titles, chapters, and sections in such manner and to such extent as indicated in each such title, chapter, or section.

Section 5. Subsection 5.55.040.A of the Seattle Municipal Code, which section was last amended by Ordinance 125934, is amended as follows:

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

A. Other than any annual license fee or registration fee assessed under this Chapter 5.55, the taxes imposed by Chapters 5.32 (Amusement Devices), 5.35 (Commercial Parking Tax), 5.38 (Payroll Expense Tax), 5.39 (Transportation Network Company Tax), 5.40 (Admission Tax), 5.45 (Business License Tax), 5.46 (Square Footage Tax), 5.47 (Heating Oil Tax), 5.48 (Business Tax-Utilities), 5.50 (Firearms and Ammunition Tax), 5.52 (Gambling Tax), and 5.53 (Sweetened Beverage Tax) shall be due and payable in quarterly installments. The Director may use discretion to assign businesses to a monthly or annual reporting period depending on the tax amount owing or type of tax. Taxes imposed by subsections 5.52.030.A.2 and 5.52.030.B.2 for punch boards and pull-tabs shall be due and payable in monthly installments. Tax returns and payments are due on or before the last day of the next month following the end of the assigned reporting period covered by the return.

* * *

Section 6. Subsection 5.55.060.A of the Seattle Municipal Code, which section was last amended by Ordinance 125934, is amended as follows:

5.55.060 Records to be preserved-Examination-Inspection-Search warrants-Estoppel to question assessment

A. Every person liable for any fee or tax imposed by this Chapter 5.55 and Chapters 5.32, 5.35, 5.38, 5.39, 5.40, 5.45, 5.46, 5.47, 5.48, 5.50, 5.52, and 5.53 shall keep and preserve, for a period of five years after

filing a tax return, such records as may be necessary to determine the amount of any fee or tax for which the person may be liable; which records shall include copies of all federal income tax and state tax returns and reports made by the person. All books, records, papers, invoices, ticket stubs, vendor lists, gambling games, and payout information, inventories, stocks of merchandise, and other data, including federal income tax and state tax returns, and reports needed to determine the accuracy of any taxes due, shall be open for inspection or examination at any time by the Director or a duly authorized agent. Every person's business premises shall be open for inspection or examination by the Director or a duly authorized agent. For the purposes of this Section 5.55.060, for the tax imposed by Chapter 5.53, "business premises" means wherever the person's business records and tax documents are maintained and does not mean every site owned or operated by the person.

* * *

Section 7. Subsection 5.55.150.E of the Seattle Municipal Code, which section was last amended by Ordinance 125934, is amended as follows:

5.55.150 Appeal to the Hearing Examiner

* * *

E. The Hearing Examiner shall ascertain the correct amount of the tax, fee, 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 5.55, or Chapters 5.30, 5.32, 5.35, 5.38, 5.39, 5.40, 5.45, 5.46, 5.47, 5.48, 5.50, 5.52, or 5.53.

* * *

Section 8. Section 5.55.165 of the Seattle Municipal Code, last amended by Ordinance 125934, 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,

with Chapters 5.30, 5.32, 5.35, 5.38, 5.39, 5.40, 5.45, 5.46, 5.47, 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 9. Subsections 5.55.220.A and 5.55.220.B of the Seattle Municipal Code, which section was last amended by Ordinance 125934, 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, 5.39, 5.40, 5.45, 5.46, 5.47, 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, 5.39, 5.40, 5.45, 5.46, 5.47, 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 duties imposed by Chapters 5.32, 5.35, 5.38, 5.39, 5.40, 5.45, 5.46, 5.47, 5.48, 5.50, 5.52, and 5.53;

6. 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 5.55 and Chapters 5.32, 5.35, 5.38, 5.39, 5.40, 5.45, 5.46, 5.47, 5.48, 5.50, 5.52, and 5.53;

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

8. To continue to engage in any business activity, profession, trade, or occupation after the

revocation of or during a period of suspension of a business license tax certificate issued under Section 5.55.030; or

9. In any manner, to hinder or delay the City or any of its officers in carrying out the provisions of this Chapter 5.55 or Chapters 5.32, 5.35, 5.38, 5.39, 5.40, 5.45, 5.46, 5.47, 5.48, 5.50, 5.52, and 5.53.

B. Each violation of or failure to comply with the provisions of this Chapter 5.55, or Chapters 5.32, 5.35, 5.38, 5.39, 5.40, 5.45, 5.46, 5.47, 5.48, 5.50, 5.52, or 5.53 shall constitute a separate offense. Except as provided in subsection 5.55.220.C, any person who commits an act defined in subsection 5.55.220.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 5.55.220.A, except that liability is absolute and none of the mental states described in Section 12A.04.030 need be proved.

* * *

Section 10. Subsection 5.55.230.A of the Seattle Municipal Code, which section was last amended by Ordinance 125934, is amended as follows:

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

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

1. The license was procured by fraud or false representation of fact.

2. The licensee has failed to comply with any provisions of this Chapter 5.55.

3. The licensee has failed to comply with any provisions of Chapters 5.32, 5.35, 5.38, 5.39, 5.40, 5.45, 5.46, 5.47, 5.48, 5.50, 5.52, or 5.53.

4. The licensee is in default in any payment of any license fee or tax under Title 5 or Title 6.

* * *

Section 11. Subsection 6.208.020.A of the Seattle Municipal Code, which section was last amended by Ordinance 125934, is amended as follows:

6.208.020 Denial, revocation of, or refusal to renew business license

A. In addition to any other powers and authority provided under this Title 6, the Director, or the Director's designee, has the power and authority to deny, revoke, or refuse to renew any business license issued under the provisions of this Chapter 6.208. The Director, or the Director's designee, shall notify such applicant or licensee in writing by mail of the denial, revocation of, or refusal to renew the license and on what grounds such a decision was based. The Director may deny, revoke, or refuse to renew any license issued under this Chapter 6.208 on one or more of the following grounds:

1. The license was procured by fraud or false representation of fact.

2. The licensee has failed to comply with any provisions of this Chapter 6.208.

3. The licensee has failed to comply with any provisions of Chapters 5.32, 5.35, 5.38, 5.39, 5.40, 5.45, 5.46, 5.47, 5.48, 5.50, or 5.52.

4. The licensee is in default in any payment of any license fee or tax under Title 5 or Title 6.

5. The property at which the business is located has been determined by a court to be a chronic nuisance property as provided in Chapter 10.09.

6. The applicant or licensee has been convicted of theft under subsection 12A.08.060.A.4 within the last ten years.

7. The applicant or licensee is a person subject within the last ten years to a court order entering final judgment for violations of chapters 49.46, 49.48, or 49.52 RCW, or 29 U.S.C. 206 or 29 U.S.C. 207, and the judgment was not satisfied within 30 days of the later of either: a. The expiration of the time for filing an appeal from the final judgment order under the court rules in effect at the time of the final judgment order; or b.

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If a timely appeal is made, the date of the final resolution of that appeal and any subsequent appeals resulting in final judicial affirmation of the findings of violations of chapters 49.46, 49.48, or 49.52 RCW, or 29 U.S.C. 206 or 29 U.S.C. 207.

8. The applicant or licensee is a person subject within the last ten years to a final and binding citation and notice of assessment from the Washington Department of Labor and Industries for violations of chapters 49.46, 49.48, or 49.52 RCW, and the citation amount and penalties assessed therewith were not satisfied within 30 days of the date the citation became final and binding.

9. Pursuant to subsections 14.16.100.A.4, 14.17.075.A, 14.19.100.A.4, 14.20.080.A.4, 14.22.115.A.4, and 14.23.115.A.4, the applicant or licensee has failed to comply, within 30 days of service of any settlement agreement, with any final order issued by the Director of the Office of Labor Standards, or any final order issued by the Hearing Examiner under Chapters 14.16, 14.17, 14.19, 14.20, 14.22, and 14.23 for which all appeal rights have been exhausted, and the Director of the Office of Labor Standards has requested that the Director deny, refuse to renew, or revoke any business license held or requested by the applicant or licensee. The denial, refusal to renew, or revocation shall remain in effect until such time as the violation(s) under Chapters 14.16, 14.17, 14.19, 14.20, 14.22, and 14.23 are remedied.

10. The business is one that requires an additional license under this Title 6 and the business does not hold that license.

11. The business has been determined under a separate enforcement process to be operating in violation of law.

* * *

Section 12. Severability. If any part, provision, or section of this ordinance is held to be void or unconstitutional, all other parts, provisions, and sections of this ordinance not expressly so held to be void or unconstitutional shall continue in full force and effect.

Section 13. Sections 1 through 11 of this ordinance shall take effect on January 1, 2021.

Section 14. 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 _____, 2020, and signed by me in open session in authentication of its passage this _____ day of _____, 2020.

_____

President _____ of the City Council

Approved by me this _____ day of _____, 2020.

_____

Jenny A. Durkan, Mayor

Filed by me this _____ day of _____, 2020.

_____

Monica Martinez Simmons, City Clerk

(Seal)