



Legislation Text

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File #: CB 120030, Version: 1

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**CITY OF SEATTLE**

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

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

AN ORDINANCE relating to taxation; amending the payroll expense tax on persons engaging in business in Seattle; amending Section 5.38.020 of the Seattle Municipal Code; and adding a new Section 5.38.025 to the Seattle Municipal Code.

WHEREAS, on July 6, 2020, the City Council enacted Ordinance 126108, which added a new Chapter 5.38 to the Seattle Municipal Code to impose a payroll expense tax on persons engaging in business in Seattle; and

WHEREAS, in the fall of 2020, the Department of Finance and Administrative Services (FAS) conducted a rulemaking process and then published a Director's Rule for the payroll tax; and

WHEREAS, during the rulemaking process, FAS staff received numerous questions from businesses about how to apply the payroll expense allocation methodology included in the ordinance, especially in situations when employees split their time between work in Seattle and work in other jurisdictions; and

WHEREAS, the City intends that businesses have an understandable, streamlined, and efficient methodology to determine their payroll expense subject to the tax; and

WHEREAS, this Ordinance therefore adds an additional method that businesses may choose to use to determine their payroll expense subject to the tax, based on the proportion of an employee's hours worked in Seattle compared to the employee's total hours worked in all locations; and

WHEREAS, businesses may choose to use either the original method or the new method to determine their

payroll expense subject to the tax for each tax year; and

WHEREAS, this ordinance amends Chapter 5.38 to facilitate the imposition, calculation, and administration of the payroll expense tax; NOW, THEREFORE,

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

Section 1. Section 5.38.020 of the Seattle Municipal Code, enacted by Ordinance 126108, is amended as follows:

**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:

\* \* \*

“Payroll expense” means the compensation paid in Seattle to employees under Section 5.38.025. ((

~~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.))~~

\* \* \*

Section 2. A new Section 5.38.025 is added to of the Seattle Municipal Code as follows:

**5.38.025 Determining compensation paid in Seattle to employees**

A. For each tax year, the taxpayer shall select one of the methods in subsection 5.38.025.B or subsection 5.38.025.C to determine the compensation paid in Seattle to the taxpayer’s employees. The taxpayer shall

follow the same method for all employees for the entire tax year.

B. Under this subsection 5.38.025.B, the amount of compensation paid in Seattle to employees shall be:

1. One hundred percent of the compensation paid to employees who perform work exclusively within Seattle; and

2. For employees who perform work partly within and partly outside Seattle, the compensation paid in Seattle to those employees shall be, for each individual employee, the portion of the employee's annual compensation which the total number of the employee's hours worked within Seattle bears to the total number of the employee's hours worked within and outside Seattle.

3. Taxpayers who calculate payroll expense under subsection 5.38.025.B may exclude from the measure of the tax the payroll expense of employees who work within Seattle less than 40 hours during the tax year.

C. If the taxpayer does not select the method in subsection 5.38.025.B, then the amount of compensation paid in Seattle to employees shall be determined as follows. 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.

D. The taxpayer shall use the same method under this Section 5.38.025 to determine whether the exemption under subsection 5.38.040.A applies and to calculate any tax owed under Section 5.38.030.

Section 3. 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 person or circumstance, does not affect the validity of the remainder of this ordinance or the

validity of its application to other persons or circumstances.

Section 4. Sections 1 and 2 of this ordinance apply both prospectively and retroactively to January 1, 2021.

Section 5. 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 \_\_\_\_\_, 2021, and signed by me in open session in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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

Approved / returned unsigned / vetoed this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Jenny A. Durkan, Mayor

Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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

(Seal)