

Seattle Rule 5-193

Interstate Activities of Waterborne Transportation

Seattle Rule 5-193 Interstate Activities of Waterborne Transportation.

(1) Introduction. This section explains the Seattle business and occupation tax on activities involving waterborne transportation of persons or property.

(2) Business and Occupation Tax.

(a) Service Tax. In computing tax there may be deducted from gross income the amount thereof derived as compensation for performance of services which in themselves constitute interstate or foreign commerce to the extent that a tax measured thereby constitutes an impermissible burden upon interstate or foreign commerce. A tax does not constitute an impermissible burden upon interstate or foreign commerce unless the tax discriminates against that commerce by placing a burden thereon that is not borne by intrastate commerce, or unless the tax subjects the activity to the risk of repeated exactions of the same nature from other states. Transporting across the states boundaries is deductible, whereas supplying such transporters with facilities, arranging accommodations, providing funds and the like, by which they engage in such commerce is taxable.

(1) Deductible income. Deductible income includes the income from those activities which consist of the actual transportation of persons or property across the states boundaries.

(2) Taxable income. Taxable income includes, but is not limited to:

(i) Compensation received by persons engaged in business within this City for the performance of business activities which are only ancillary to waterborne transportation across the states boundaries is taxable.

(ii) Compensation received by merchandise brokers or commission merchants for services rendered to principals engaged in interstate or foreign commerce is taxable.

(iii) Compensation received by contracting, stevedoring or loading companies for services performed within this City is taxable.

(iv) Compensation received for hauling goods to the dock or railhead by a person who is not responsible for transporting the goods across state boundaries is taxable.

(b) Persons engaged in stevedoring and associated activities involving the movement of goods and commodities in waterborne interstate or foreign commerce are subject to service business tax upon the gross proceeds from such activities. Stevedoring and associated activities means all activities of a labor, service or transportation nature whereby cargo is loaded or unloaded to or from vessels or barges, passing over, onto, or under a wharf, pier, or similar structure, including also the moving of cargo to a warehouse or similar holding or storage yard or area to await further movement in import or export; also the movement to a consolidation freight station to be stuffed, unstuffed, containerized, separated or otherwise segregated or aggregated for delivery or loading on any mode of transportation for delivery to its consignee. Specific activities included in this definition are: wharfage, handling, loading, unloading, moving of cargo to a convenient place of delivery to the consignee or a convenient place for further movement to export mode; documentation services in connection with the receipt, delivery, checking, care, custody and control of cargo required in the transfer of cargo; imported automobile handling prior to delivery to consignee; terminal stevedoring and incidental vessel services, including but not limited to plugging and unplugging refrigerator services to containers, trailers, and other refrigerated cargo receptacles, and securing ship hatch covers.

(c) Persons engaging in business as an international steamship agent, international customs house broker, international freight forwarder, vessel and/or cargo charter broker in foreign commerce, or international air cargo agent are subject to the service business tax upon gross income with respect to such international activities.

(3) Persons, including dock companies or wharfage companies, are permitted no deduction from gross income of amounts received for services performed in this City consisting of the handling of cargo or freight even though such cargo or freight has moved or will move across the states boundaries.

(4) No deduction is permitted with respect to gross income derived from activities which are ancillary to transportation across the states boundaries, which as income received by a wharf company or warehouse company for the storage of goods. The mere ownership or operation of facilities by means of which others engage in foreign or interstate commerce is an activity ancillary to such commerce and any income received therefrom is taxable.

Insofar as the transportation of goods is concerned, the interstate movement of cargo or freight ceases when the goods have arrived at the destination to which it was billed and carried by the out-of-state shipper, and no deduction is permitted of the gross income derived from transporting the same goods by another shipper

under a new contract of carriage from such point of destination in this city to another point within this state. Thus, freight is billed from San Francisco, or foreign point, to Seattle. After arrival in Seattle it is transported to Spokane under another contract. No deduction is permitted of the gross income received for the transportation from Seattle to Spokane. Again, freight is billed from San Francisco, or a foreign point, to a line carriers terminal, or a public warehouse in Seattle. After arrival in Seattle it is transported under another contract from the line carriers terminal or public warehouse to the buyers place of business in Seattle. However, if the movement of freight is under a continuous contract and bill of lading from an interstate or foreign location to a location in Seattle, the freight carrier operating under the continuous contract and bill of lading is entitled to a deduction from tax.

The interstate movement of cargo or freight begins when the goods are committed to a carrier for transportation out of the state, and the carrier starts the transportation to a point outside the state.

For transportation of goods by way of motor carrier and other trucking activities, refer to Rule 5-481.

(5) Service income to be apportioned.

(a) Income taxable under the service and other business activities tax classification, other than sales of intangibles, must be apportioned using the two-factor apportionment method in SMC 5.45.081(F) and RCW 35.102.130(3).

(b) Deductions allowed for actual transportation of persons or property across state boundaries may be deducted from worldwide service and other business activity income to arrive at total apportionable income. SMC 5.45.081(G)(1).

DIRECTOR'S CERTIFICATION

I, Glen M. Lee, Finance Director of the City of Seattle, do hereby certify under penalty of perjury of law, that the within and foregoing is a true and correct copy as adopted by the City of Seattle, Department of Finance and Administrative Services.

DATED this ____ day of July 2016.

CITY OF SEATTLE,

a Washington municipality

By: _____

Glen M. Lee, Finance Director

Department of Finance and Administrative Services

Effective date: July 14, 2016

Jul 14, 2016