

THE CITY OF SEATTLE
DIRECTOR'S RULE
IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE
RULE 5-600

FILED
CITY OF SEATTLE
05 JUL 15 PM 2:50
CITY CLERK

Seattle Rule 5-600 **Educational institutions, school districts, student organizations, private schools and child care services.**

- (1) **Introduction.** This section explains the application of Seattle's business license tax to educational institutions, school districts, student organizations, and private schools. It also gives tax reporting information to persons operating nursery schools, preschools, kindergartens and day care.
- (2) **Definitions.** For the purposes of this section, the following definitions apply:
- (a) The term "tuition fees" includes fees for instruction, library, laboratory, and health services. The term also includes special fees and amounts charged for room and board when the property or service for which such charges are made is furnished exclusively to the students or faculty of the institution.
 - (b) "Educational institutions" means the following:
 - (i) Institutions which are established, operated, and governed by this state or its political subdivisions under Titles 28A (Common school provisions), 28B (Higher education), or 28C (Vocational education) RCW.
 - (ii) Nonpublic schools, including parochial or independent schools or school districts, carrying out a program for any, or all, of the grades one through twelve, which have been approved by the Washington state board of education. (See also chapter 180-90 WAC.)
 - (iii) Degree-granting institutions offering educational credentials, instruction, or services prerequisite to or indicative of an academic or professional degree or certificate beyond the secondary level, provided the institution is accredited by an accrediting association recognized by the United States Secretary of Education and offers to students an educational program of a general academic nature. Degree-granting institutions should refer to chapter 28B.85 RCW for information about the requirement for authorization by the Washington higher education coordinating board.
 - (iv) Institutions which are not operated for profit, and which are privately endowed under a deed of trust to offer instruction in trade, industry, and agriculture.
 - (v) Programs that an educational institution co-sponsors with a nonprofit organization, as defined by the Internal Revenue Code Sec. 501(c)(3), provided that educational institution grants college credit for course work successfully completed through the educational program.
 - (vi) Certain branch campuses of foreign degree-granting institutions provided, the following requirements, among others, are satisfied:
 - (A) The branch campus must be owned and operated directly by a foreign degree-granting institution or indirectly through a Washington profit or nonprofit corporation in which the foreign degree-granting institution is the sole or controlling shareholder or member;
 - (B) Courses must be provided solely and exclusively to students enrolled in a degree-granting program offered by the institution;

THE CITY OF SEATTLE
DIRECTOR'S RULE
IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE
RULE 5-600

- (C) The branch campus must be approved by the Washington higher education coordinating board to operate in this state; and
 - (D) The branch campus must be recognized to be exempt from income taxes pursuant to 26 U.S.C. Sec. 501(c).
 - (vii) "Educational institutions" does not include any entity defined as a "private vocational school" under chapter 28C.10 RCW and/or any entity defined as a "degree-granting private vocational school" under chapters 28C.10 and 28B.85 RCW (other than those described in (b)(iv) of this subsection).
 - (c) "Private schools" means all schools and institutions which are excluded from the above definition of "educational institutions." For example, an elementary school operated by a church organization is a "private school" if the school is not approved by the Washington state board of education.
- (3) **Business license tax.** Departments and educational institutions of the state of Washington are not subject to the business license tax. Private schools, student organizations, and educational institutions which are not departments or institutions of the State of Washington are subject to the business license tax as follows:
- (a) Service and other business activities. The service business license B&O tax applies to the following nonexclusive lists of activities or sources of income:
 - (i) Tuition fees received by private schools. All educational institutions, as defined above, may deduct amounts derived from tuition fees. (Refer to SMC 5.45.100 (B)).
 - (ii) Rental of conference facilities to various organizations or groups.
 - (iii) Rental by private schools of dormitories or other student lodging facilities which are not generally available to the public and where the student does not have an absolute right of control and occupancy. (See Seattle Rule 5-530.) However, educational institutions may deduct the income from charges for lodging made to students. These amounts are defined by law as being tuition.
 - (iv) Amounts received by private schools for providing meals to students where the meals are provided exclusively for students, teachers, staff, and their guests. However, refer to the comments under retailing for the taxability of meals sold to guests of students. Income from providing meals to students by educational institutions is deductible.
 - (v) Amounts received from owners of coin operated vending machines or amusement devices for allowing the placement of those machines on the premises of the school.
 - (b) Retailing. The retailing business license tax applies to the following activities or sources of income, including but not limited to:
 - (i) Sales of tangible personal property or services classified as retail sales. This includes sales of books and supplies to students where these materials are not supplied as part of the tuition charge.
 - (ii) Charges for making copies of public records or documents, such as transcripts.

THE CITY OF SEATTLE
DIRECTOR'S RULE
IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE
RULE 5-600

- (iii) Sales of meals to guests of students.
- (iv) Sales of meals or prepared foods in facilities which are generally open to the public, including those sold to students. (See also Seattle Rule 404.)

(4) Deductions and exemptions for child care services.

- (a) Day care provided by churches. Gross receipts derived from day care services for the care of children of any age for periods of less than twenty-four (24) hours provided by a church exempt from property tax pursuant to RCW 84.36.020, are exempt from the City's business license tax. (SMC 5.45.090 (B)).
- (b) Day care activities. Gross receipts derived from day care activities for periods of less than twenty-four (24) hours by any organization which is exempt from taxation pursuant to Section 501 (c)(3) of the Internal Revenue Code may be deducted from the measure of the tax. However, amounts derived from selling, altering, or repairing tangible personal property are not deductible. (SMC 5.45.100 (E)).
- (c) Privately operated kindergarten. Any fees, dues, or charges made from the operation of privately operated kindergartens may be deducted from the measure of the tax. (SMC 5.45.100 (B)(7)).

(5) Examples. The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances.

- (a) MN University is an educational institution created by the state of Washington. MN University operates a bookstore at which it sells textbooks, school supplies, and apparel to students and non-students. As an institution of the state of Washington, MN University is exempt from the business license tax with respect to all sales, irrespective that sales are made to non-students.
- (b) DMG College is a degree-granting institution approved by an accrediting association recognized by the United States Secretary of Education. DMG College is an educational institution operated by a church. DMG makes charges to its students for tuition, meals, and lodging. Its bookstore makes sales of books to students that are not part of the tuition and fees. It also receives income for occasionally providing lodging and meals to guests of its students during the year. DMG also rents its conference and dormitory facilities to various groups during the summer, providing cafeteria services when needed. The income from tuition, meals, and lodging received from the students is exempt of business license tax because this entity comes within the definition of an educational institution. The bookstore sales to students and others are reported under the retailing classification. DMG must report the retailing business license tax upon the gross proceeds derived from the sales of meals and prepared foods to the conference attendees and guests. The income derived from the rental of the conference and dormitory facilities to various groups and student guests is subject to the service business license tax. The college is not considered as holding itself out for the sale of lodging to the general public which would classify it as a hotel and subject to the retailing business tax.
- (c) JB College is an educational institution which is not a department or institution of the state of Washington. JB College has converted five housing units from student use for use by non-students. Guests of the administration use these units for stays of two or three days,

THE CITY OF SEATTLE
DIRECTOR'S RULE
IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE
RULE 5-600

and are charged a specific amount per night. The college provides linen, towels, etc., to the users. These units are always rented for periods under thirty days. JB College must report this rental income under the retailing business license tax. This income is not derived from the occasional rental of student lodging facilities, but is derived from the rental of accommodations specifically maintained for public use.

- (d) Jane Doe operates a private kindergarten, providing care and elementary education for children. She also provides after hours childcare. Jane Doe may claim a deduction for the income received for the private kindergarten, however, the after hours childcare or daycare would be taxable under the service and other business activities classification. Non-profit 501(c)(3) organizations, who provide day care or after hour child care, are allowed a deduction for revenue received from these services.

Effective: July 15, 2005

THE CITY OF SEATTLE
DIRECTOR'S RULE
IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE
RULE 5-600

DIRECTOR'S CERTIFICATION

I Kenneth J. Nakatsu, Director of the Department of Executive Administration 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 Executive Administration.

DATED this 15th day of July, 2005.

CITY OF SEATTLE,
a Washington municipality

By:



Kenneth J. Nakatsu, Director
Department of Executive Administration

STATE OF WASHINGTON - KING COUNTY

--SS.

183390
CITY OF SEATTLE:Revenue &

No.

Affidavit of Publication

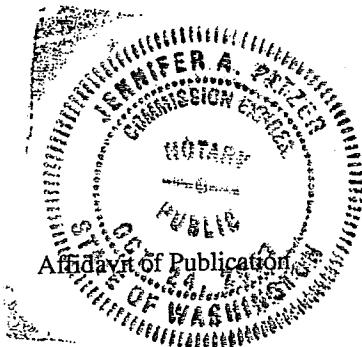
The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:RULE MAKING HEARING

was published on

3/21/2005



M. J. P.

Subscribed and sworn to before me on
3/21/2005 *Jennifer Pritzer*
Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle

NOTICE OF PROPOSED RULE MAKING HEARING AND OPPORTUNITY TO COMMENT

The Director of Finance, acting under the authority of Seattle Municipal Code Chapters 5.02 and 5.55, proposes to adopt new rules for implementing the Seattle Business and Occupation Tax Ordinance (Seattle Municipal Code, Chapter 5.45). Please note that although these rules are applicable to SMC 5.45, the individual rules may also apply to other chapters of the City's Tax Code, including, but not limited to, SMC 5.30 (Definitions), SMC 5.32 (Revenue Code), SMC 5.40 (Admissions Tax), SMC 5.48 (Business Tax -- Utilities) and SMC 5.52 (Gambling Tax). The following rules are proposed for adoption and will become effective as of April 30, 2005:

Seattle Rule 5-006 -- Tax Returns -- Filing and Payment

Seattle Rule 5-007 -- Penalties

Seattle Rule 5-031 -- Measure of Tax -- Retailers and Wholesalers

Seattle Rule 5-032 -- Measure of Tax -- Service and other business activities

Seattle Rule 5-035 -- Freight and Delivery Charges

Seattle Rule 5-040 -- Corporations, Massachusetts trusts

Seattle Rule 5-043 -- Engaging in Business

Seattle Rule 5-063 -- Returned goods, allowances, cash discounts

Seattle Rule 5-100 -- Extracting natural products

Seattle Rule 5-112 -- Commercial or industrial use

Seattle Rule 5-127 -- Sales to and by the State of Washington, counties, cities, school districts, and municipal subdivisions

Seattle Rule 5-130 -- Selling price -- Advertised prices including sales tax

Seattle Rule 5-131 -- Trade-ins, selling price, sellers' tax measures

Seattle Rule 5-132 -- Leased departments

Seattle Rule 5-133 -- Warranties and maintenance agreements

Seattle Rule 5-702 -- Coin operated vending machines; amusement devices and service machines

Seattle Rule 5-404 -- Sales of meals

Seattle Rule 5-405 -- Restaurants, cocktail bars, taverns and similar businesses

Seattle Rule 5-481 -- Motor carriers -- Trucking

Seattle Rule 5-523 -- Sales of precious metal bullion and monetized bullion

Seattle Rule 5-530 -- Sale or rental of real estate, license to use real estate

Seattle Rule 5-531 -- Sales of real property, standing timber, minerals, natural resources

Seattle Rule 5-532 -- Real estate brokers and salesman

Seattle Rule 5-600 -- Educational institutions, school districts, student organizations, and private schools

Seattle Rule 5-700 -- Amusement, Recreation, and Physical Fitness Services

Seattle Rule 5-720 -- Hotels; motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc.

Seattle Rule 5-803 -- Consignees, bailees, factors, agents, and auctioneers

Seattle Rule 5-806 -- Advertising agencies

Seattle Rule 5-807 -- Outdoor advertising and advertising display services

PUBLIC HEARING AND COMMENT:

The Department of Executive Administration has scheduled a public hearing on the proposed rule changes for 1:00 p.m. to 3:00 p.m., on Monday, April 4, 2005. The hearing will be held in a conference room on the 40th floor of the Seattle Municipal Tower, Suite 4096, located at 700 5th Avenue. All interested persons are invited to present data, views, or arguments, with regard to the proposed rules, orally at the hearing, or in writing at or before the hearing.

Written comments should be mailed or delivered to:

Department of Executive Administration, Attn.: Mel McDonald, Director, Revenue and Consumer Affairs, 700 5th Avenue - Suite 4250, Seattle, Washington 98104-5020.

The public may inspect copies of the proposed rules at the Revenue and Consumer Affairs offices, 700 5th Avenue, Suite 4200. If you would like a copy of the proposed rules, please call (206) 684-8300, FAX (206) 684-5170, email rca.bizletx@ci.seattle.wa.us, or submit a written request to the address above.

Dated: March 21, 2005.

DWIGHT D. DIVELY,

Director, Department of Finance.

Date of publication in the Seattle Daily Journal of Commerce, March 21, 2005.

3/21(183890)