

THE CITY OF SEATTLE
DIRECTOR'S RULE
IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE
RULE 5-720

FILED
CITY OF SEATTLE
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CITY CLERK

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

(1) **Introduction.** This rule explains the taxation of persons operating establishments such as hotels, motels, and bed and breakfast facilities, which provide lodging and related services to transient customers for a charge.

(a) In addition to persons operating hotels or motels, this section applies to persons operating the following establishments:

- (i) Trailer camps and recreational vehicle parks which charge for the rental of space to transient customers for locating or parking house trailers, campers, recreational vehicles, mobile homes, tents, etc...
- (ii) Educational institutions which sell overnight lodging to persons other than students. See Seattle Rule 5-600.
- (iii) Private lodging houses, dormitories, bunkhouses, etc., operated by or on behalf of business and industrial firms or schools solely for the accommodation of employees of such firms or students which are not held out to the public as a place where sleeping accommodations may be obtained. As will be discussed more fully below, in some circumstances these businesses may not be making retail sales of lodging.
- (iv) Various camps which, in addition to supplying meals and lodging, offer special recreation facilities and instruction in sports, boating, riding, outdoor living, etc. In some cases these businesses may not be making retail sales, as discussed below.

(b) This rule does not apply to persons operating the following establishments:

- (i) Hospitals, sanitariums, nursing homes, rest homes, and similar institutions.
- (ii) Establishments such as apartments or condominiums where the rental is for longer than one month. See Seattle Rule 5-530 for the distinction between a rental of real estate and the license to use real estate.

(2) **Transient defined.** The term "transient" as used in this section means any guest, resident, or other occupant to whom lodging and other services are furnished under a license to use real property for less than one month, or less than thirty continuous days if the rental period does not begin on the first day of the month. An occupant remaining in continuous occupancy for thirty days or more is considered a non-transient upon the thirtieth day. An occupant who contracts in advance and does remain in continuous occupancy for the initial thirty days will be considered a non-transient from the start of the occupancy.

No deduction from the measure of the tax is allowed when an occupant does not contract in advance to stay at least thirty days and then the rental period extends past thirty days.

For example, a tenant rents the same motel room on a weekly basis. The tenant is considered a transient for the first twenty-nine days of occupancy and the taxpayer must report the income under the retailing classification and pay the business license tax on the rental charges. The rental charges become exempt from the business license tax beginning on the thirtieth day. The

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taxpayer is not entitled to a refund of the business license taxes paid on the rental charges for the first twenty-nine days.

- (3) **Business license tax.** Where lodging is sold to a non-transient, the transaction is a rental of real estate, and exempt from the business license tax. (See SMC 5.45.090 (T) and Seattle Rule 5-530) Sales of lodging and related services to transients are subject to the business license tax, including transactions which may have been identified or characterized as membership fees or dues. The business license tax applies as follows:

- (a) **Retailing.** Amounts derived from the following charges to transients are retail sales and subject to the retailing business license tax: Rental of rooms for lodging, rental of radio and television sets, coin operated laundries, rental of rooms, space and facilities not for lodging, such as ballrooms, display rooms, meeting rooms, etc., sales of postage stamps, copier and fax/modem charges, automobile parking or storage, and the sale or rental of tangible personal property at retail. See below for a more detailed explanation of the charges included in the retailing classification.

Persons providing lodging and other services must report their gross income on their charges for lodging and other services as discussed below.

- (i) **Lodging.** All charges for lodging and related services to transients are retail sales. Included are charges for vehicle parking and storage and for space and other facilities, including charges for water and electricity services, in a trailer camp.
- (ii) **Meals and entertainment.** All charges for food, beverages, and entertainment are retail sales.
- (A) Charges for related services such as room service, banquet room services, and service charges and gratuities which are agreed to in advance by customers or added to their bills by the service provider are also retail sales.
- (B) In the case of meals sold under a "two meals for the price of one" promotion, the taxable selling price is the actual amount received as payment for the meals.
- (C) Meals sold to employees are also subject to the retailing tax. See Seattle Rule 5-404 for detail on tax applicability on meals furnished to employees.
- (D) Sale of food and other items sold through vending machines that are owned by the taxpayer are retail sales.
- (E) Except for various camps, when a lump sum is charged for lodging to non-transients and for meals furnished, the retailing business license tax is reported upon the fair selling price of such meals. Unless accounts are kept showing the fair selling price, the tax will be computed upon double the cost of the meals served. The cost includes the price paid for food and drinks served, the cost of preparing and serving meals, and all other costs incidental thereto, including an appropriate portion of overhead expenses.

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- (F) Cover charges for dancing and entertainment provided by hotels, motels, etc. are retail sales.

- (iii) Laundry services. Charges for laundry services provided by a hotel/motel in the hotel's name, or by the user if coin operated laundry facilities, are retail sales. SMC 5.30.050 (B)(3)(a) excludes from the definition of retail sale charges for the use of coin-operated laundry facilities located in rooming houses or mobile home parks for the exclusive use of the tenants. Such charges to tenants of rooming houses or mobile home parks for coin-operated laundry facilities are subject to the service and other business license tax.

- (iv) Rentals. Rentals of tangible personal property such as movies and sports equipment are retail sales.

- (v) Sales to the United States government. Sales made directly to the United States government or its employees are retail sales.

- (b) Service and other classification. Commissions, amounts derived from accommodations not available to the public, and certain unsegregated charges are taxable under this classification.
 - (i) Hotels, motels, and similar businesses may receive commissions from various sources which are generally taxable under the service classification. The following are examples of such commissions:
 - (A) Commissions received from acting as a laundry agent for guests when someone other than the hotel provides the laundry service.

 - (B) Commissions received from telephone companies for long distance telephone calls where the hotel or motel is merely acting as an agent and commissions received from coin-operated telephones. Refer to the telephone subsection below for a further discussion of telephone charges.

 - (C) Commissions or license fees for permitting a satellite antenna to be installed on the premises or as a commission for permitting a broadcaster or cable operator to make sales to the guest of the hotel or motel.

 - (D) Commissions from the rental of videos for use by guests of the hotel or motel when the hotel or motel operator is clearly making such sales as an agent for a seller.

 - (E) Commissions received from the operation of amusement devices.

 - (ii) Taxable under this classification are amounts derived from the rental of sleeping accommodations by private lodging houses, and by dormitories, bunkhouses, etc., operated by or on behalf of business and industrial firms and which are not held out to the public as a place where sleeping accommodations may be obtained.

 - (iii) Various camps, and similar establishments making an unsegregated charge for meals, lodging, instruction and the use of recreational facilities must report the

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gross income from such charges under the service and other business activities classification.

- (iv) Deposits retained by the business as a penalty charged to a customer for failure to timely cancel a reservation is taxable under the service and other business activities classification.
- (v) "Message service" and other business service charges are subject to the service business license tax.

- (4) **Telephone charges.** If the hotel/motel leases telephone lines and then provides telephone services for a charge to its guests, these charges are taxable under the business utility tax per SMC 5.48.050 (A). In this case the hotel/motel is in the telephone business.

If the hotel/motel is acting as an agent for a telephone service provider who provides long distance telephone service to the guest, the actual long distance telephone charges are not taxable income to the hotel/motel. (This agency arrangement must be evidenced by a written agency agreement between the hotel/motel and the telephone service provider, see SMC 5.45.040.) These amounts are advances and reimbursements. Any local line charge, additional handling charge, or other charge which the hotel/motel may add to the actual long distance telephone charge is subject to the business utility tax.

- (5) **Deductions – Amounts representing rental of real estate for boarding homes.** In computing tax, there may be deducted from the measure of the tax amounts representing the value of the rental of real estate for "boarding homes." To qualify for the deduction, the boarding home must meet the definition of "boarding home" found in RCW 18.20.020, and must be licensed by the State of Washington under RCW Chapter 18.20. The deduction shall be in the amount of twenty-five (25) percent of the gross monthly billing when the boarder has resided within the boarding home for longer than thirty (30) days. (See SMC 5.45.100 (O).)
- (6) **Television charges.** Charges for providing extended television reception beyond the basic channels to guests are subject to the City of Seattle Utility tax; see SMC 5.48.050 (H).

Effective: July 15, 2005

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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

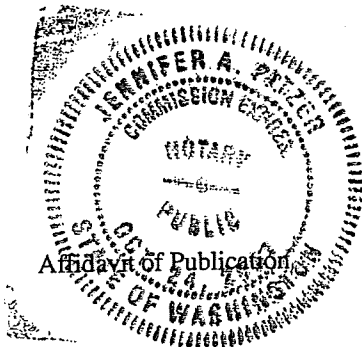
The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published 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. D. J.

Subscribed and sworn to before me on
3/21/2005 *Jennifer Priefer*
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.bizlictx@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.

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