

THE CITY OF SEATTLE
DIRECTOR'S RULE
IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE
RULE 5-806

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

Seattle Rule 5-806 **Advertising agencies**

- (1) **Introduction.** Advertising agencies are primarily engaged in the business of rendering professional services, but may also make sales of tangible personal property to their clients or others or make purchases of such articles as agents on behalf of their clients. (See SMC 5.45.040 (C) - Agency). Articles acquired or produced by advertising agencies may be for their own use in connection with the rendition of an advertising service or may be for resale as tangible personal property to their clients.
- (2) **Business License Tax.**
- (a) Service and other business activities. The gross income received for advertising services, including commissions or discounts received for articles purchased as agents on behalf of clients, is taxable under the service and other business activities classification. (See Seattle Rule 5-150 for commissions or discounts allowed by printers.) Included in this classification are amounts attributable to sales of tangible personal property, unless charges for such articles are separately stated in billings rendered to clients.
 - (b) Retailing and wholesaling. The retailing or wholesaling classification applies to articles of tangible personal property sold to persons for whom no advertising service is rendered. In the event that both advertising services and tangible personal property are provided to a client, the revenue from the sale of tangible personal property is taxable under this classification only if it is separately stated from the charges for advertising services in billing statements rendered to such clients.
 - (c) Manufacturing. The manufacturing classification applies to articles manufactured for sale or commercial or industrial use (see Seattle Rule 5-112), and also to interstate sales of manufactured articles if stated separately from charges for advertising services in billings rendered to clients.
- (3) **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 status of each situation must be determined after a review of the facts and circumstances.
- (a) ABC advertising provides advertising services to client B. As part of their services, ABC provides consultation, graphic design, and they procure advertising space in a publication on behalf of client B for which they earn a commission. ABC should report its gross income received for the consultation and graphic design services performed under the service and other classification. ABC should also report the commissions earned from purchasing advertising under the service and other business activities classification.
 - (b) Company ABC above, also provides advertising services to client C. In addition to providing consulting and design services, ABC purchases printed material and other articles of tangible personal property, and resells them to client C. Company ABC does not separate charges for consulting and design services from the sales of tangible goods in their billing statements to client C. Because ABC did not segregate the charges for the resale of tangible personal property in their billing statements to client C, the purchase of the tangible personal property will be considered purchases for consumption by ABC during the course of performing its advertising services, and the total amount billed to client C is subject to tax under the service and other business activities classification.

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- (c) Company XYZ provides advertising services to their client A, located outside Washington State. As part of their advertising services, XYZ constructs billboards, utilizing their own materials, for client A. XYZ also performs graphic design and other consultation services on behalf of client A. XYZ segregates the billboard charge from the other advertising services they performed when billing client A. XYZ should report their gross income from graphic design and consulting under the service and other classification. The company should report their gross income for the construction and sale of billboards under the manufacturing and retailing classifications, and claim an interstate deduction against the retailing classification. Alternatively, if the client was located in Washington State, XYZ would report the gross receipts for the construction and sale of the billboards under the manufacturing and retailing classifications, and claim the MATC credit against the selling activity under the retailing classification.
- (d) Company X provides advertising services to their client Z. X purchases as a principal and not as an agent for client Z, advertising space from a publisher and resells it to client Z. X is primarily responsible for payment to the publisher for the costs of the advertising space. X does not earn a commission for procuring the advertising space as client Z's agent, but rather realizes a profit from this business activity by marking up the cost of the advertising space to client Z. The gross receipts from the resale of this advertising space to client Z are reportable under the service and other business activities classification. In this example, X is not acting as an agent when procuring advertising space for client Z. X is purchasing and reselling the advertising space. Therefore, X does not meet the requirements of an agent pursuant to SMC 5.45.040 (C).

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

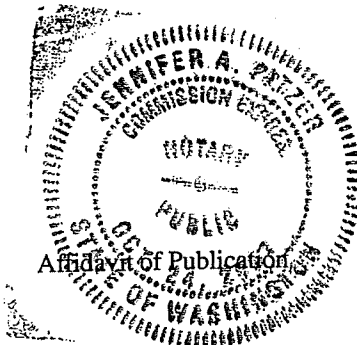
The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published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

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, cock-
tail bars, taverns and similar business-
es

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 prop-
erty, standing timber, minerals, natural
resources

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

Seattle Rule 5-600 -- Educational insti-
tutions, school districts, student organi-
zations, 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 agen-
cies

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

PUBLIC HEARING AND COMMENT:
The Department of Executive Administra-
tion 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 interest-
ed 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 Administra-
tion, Attn.: Mel McDonald,
Director, Revenue and Consumer
Affairs, 700 5th Avenue - Suite 4250,
Seattle, Washington 98104-5020.

The public may inspect copies of the pro-
posed 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.bizlctx@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)