

THE CITY OF SEATTLE
DIRECTOR'S RULE
IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE
RULE 5-900

FILED
CITY OF SEATTLE
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CITY CLERK

Seattle Rule 5-900 Admission tax for nightclubs.

- (1) **Introduction.** This rule sets forth: (1) approved methods for counting the number of admissions to nightclubs; (2) record keeping requirements; (3) the use of complimentary admissions; and (4) clarification regarding the responsibility to collect and remit the admission tax.
- (2) **Definitions.** For purposes of this rule and SMC Chapter 5.40, the following definitions will apply:
- (a) "Nightclub" means any business open to the public in which liquor is served between the hours of 10:00 p.m. and 6:00 a.m., except where service of liquor is incidental to an event that is not open to the public, and collects an admission charge as defined in SMC 5.40.010.
 - (b) "Nightclub operator" means any individual, sole proprietorship, partnership, corporation, association, or other public or private organization of any character with responsibility for operation of a nightclub.
 - (c) "Promoter" means any individual, sole proprietorship, partnership, corporation, association, or other public or private organization of any character that promotes, operates, or sponsors any event, special offer, performance, or other activity or occurrence for which admission is charged at a nightclub.
 - (d) "Venue" means any place or premises where a nightclub is conducted or operated, including but not limited to all hallways, bathrooms and other adjoining areas or the premises accessible to the public during the nightclub's hours of operation.
- (3) **Tracking admissions.** This section sets forth approved methods for accurately counting the number of nightclub admissions currently approved by the Department of Executive Administration for tax reporting purposes.
- (a) Approved methods of tracking. The following counting methods are approved by the Director:
 - (i) Serially numbered or reserve seat tickets;
 - (ii) Turnstile;
 - (iii) Cash register tapes; and
 - (iv) Counting methods pre-approved by the Director specific to a venue or event.
 - (b) Failure to use an approved counting method. Failure to use a counting method contained in this rule or otherwise approved by the Director shall be a violation of SMC Chapter 5.40 and subject to penalties set forth in SMC Chapter 5.55.
- (4) **Record keeping for admissions.**
- (a) Spreadsheet. Every person, including but not limited to a nightclub operator, promoter, sponsor, venue owner, or any person contractually related to such nightclub operator, promoter, sponsor, venue owner or other person that operates or conducts any place for entrance to which an admission charge is made shall be jointly and severally responsible

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for maintaining a spreadsheet to report the number of admissions for each day or evening activity or event. Such spreadsheet shall contain the following information:

- (i) Date;
- (ii) Time admissions started and ended;
- (iii) Standard ticket price;
- (iv) Beginning and ending ticket numbers or turnstile numbers;
- (v) Promotions (such as ladies night, VIP admissions, free admissions before a certain time, etc.). If more than one promotion is in effect during an event, enter number of tickets and ticket prices for each promotion on separate lines;
- (vi) Number of free admissions associated with joint cover charges;
- (vii) Number of complimentary admissions;
- (viii) Total number of admissions; and
- (ix) Total number of paid admissions.

Sample Spreadsheet:

Date	Time Admissions Started and Ended	Standard Ticket Price	Beg. Ticket No.	Ending Ticket No.	Promotions Offered During this Period (# of tickets, ticket price for each promotion)	# of Free Admissions (joint cover admissions)	# of Complimentary Tickets	Total Admissions	Total Paid Admissions

- (b) Reporting of joint admissions by participating nightclubs. Nightclubs participating in a joint admission program shall maintain a separate daily log that records the number of joint admission tickets sold by that nightclub, and the number of free admissions provided to customers who purchased a joint admission ticket at another participating nightclub.
- (c) Promoter information. Nightclub operators, sponsors, and venue owners, must identify the promoter(s) of each event. The business record for each event coordinated by a promoter must include the promoter's legal name (not industry nickname or alias), current address, telephone number, and name and dates of the event. This information must be made available to the Director upon request. Where no promoter is identified, but admission is charged for entry into a nightclub, the nightclub operator shall be presumed to be the promoter.

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- (d) Period for keeping business records. Pursuant to SMC 5.55.060, all businesses are required to keep books and records necessary to substantiate the tax liability of the business for a period of five (5) years after filing a tax return. To achieve this, each nightclub operator, sponsor, venue owner, and promoter must include in its business records examples of all coupons, tickets, advertisements for promotional admissions, or such other materials necessary to complete and substantiate its tax return. Such materials should be organized and maintained by event.

(5) Complimentary Admission.

Pursuant to SMC 5.40.053, anyone who is admitted free of charge to any nightclub or venue for any event for which other persons pay an admission charge shall pay an admission tax measured by the full admission charge. However, the full admission charge may be adjusted under the following circumstances for purposes of calculating the measure of the tax:

- (a) Free admission promotion for general classifications. When a nightclub owner or promoter allows certain general classifications of the public to enter the nightclub free of charge such as women, members of the armed forces, or senior citizens, and such promotion is publicly advertised, admission taxes will not be assessed on such promotional admissions.
- (b) 2 for 1 promotions for the general public. Admission tax will be assessed on the price of 1 ticket.
- (c) Coupons. Nightclubs may accept coupons that allow reduced admissions if such coupons are accessible to the general public. Admission tax will be assessed on the reduced price of admission only when a qualifying coupon is used.
- (d) Passes. Nightclub owners may also sell monthly or yearly passes to frequent general public customers and the admission tax will be assessed on the selling price of the passes. (The passes may not be for a nominal amount and the sale of such passes must be tracked and accounted for in the business's accounting records.)

Admission from all such promotions or passes must be clearly tracked on the daily record sheet as required by Section 4 of this rule. Generally, performers or people assisting in the performance or activity may enter the event without paying an admission charge and no tax will be assessed on such admission.

(6) Responsibility to collect and remit admission taxes.

- (a) Prior to commencement of the business, any person conducting or operating a nightclub to which an admission charge is to be imposed shall file an application for a certificate of registration with the Director to conduct or operate such nightclub pursuant to SMC Chapter 5.40.
- (b) Any person, including any nightclub operator, promoter, sponsor, venue owner, or anyone contractually related to such nightclub operator, promoter, sponsor, or venue owner who receives any payment for any admission charge on which a tax is levied under SMC chapter 5.40 shall collect the amount of the tax from the person making the admission payment at the time payment is made. The person receiving payment shall remit the same to the Director, and the admission tax collected under SMC Chapter 5.40 shall be deemed held in trust by the person required to collect the same until remitted to

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the Director. Any person who is responsible but fails to collect the admission tax, or who collects the tax but fails to remit the tax to the Director, shall be liable to the City for the amount of such tax.

Thus, for example, if the legal owner of a premises that is used as a nightclub possesses any right of control over the operation or conduct of the nightclub, the legal owner shall be jointly and severally responsible for collecting, accounting for, or paying the admission tax even if another person such as a nightclub operator, promoter, employee, manager, or another person actually performs the function of collecting, accounting for, or paying the admission tax. On the other hand, if the legal owner of a premises that is used as a nightclub leases the premises to another person (the lessee) where the lease agreement grants to the other person the absolute right of control and occupancy of the premises during the term of the lease or rental agreement, the owner of the premises shall not be responsible for collecting, accounting for, or paying the admission tax. In such a case the lessee is the nightclub operator and will be liable for the tax.

- (c) If any person liable for the tax is a corporation, limited liability company or partnership, and fails to remit the admission tax collected or owed to the City, the officers and directors of such corporation, members of such limited liability company, or partners of such partnership are deemed to have control over or supervision of the receipt of admissions charges and shall be jointly and severally liable as individuals for the admission tax.

Effective: January 31, 2008.

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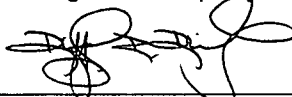
DIRECTOR'S CERTIFICATION

I Dwight D. Dively, Director of the Department of Finance 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.

DATED this 31st day of January, 2008.

CITY OF SEATTLE,
a Washington municipality

By:



Dwight D. Dively, Director
Department of Finance

STATE OF WASHINGTON – KING COUNTY

--SS.

217549
SEATTLE EXEC. SVCS-PURCHASING

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.

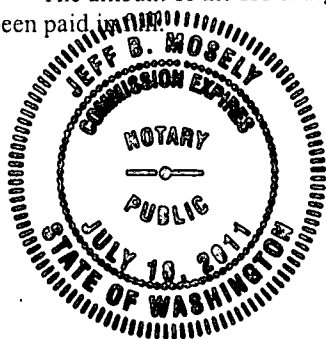
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:PROP RULE MAKING HEARI

was published on:

11/16/07

The amount of the fee charged for the foregoing publication is the sum of \$ 111.60, which amount has been paid in full.



[Handwritten Signature]

Subscribed and sworn to before me on

11/16/07

[Handwritten Signature]

Notary public for the State of Washington,
residing in Seattle

Affidavit of Publication

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 and amend an existing rule for implementing the Seattle Business License 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 5.35 (Commercial Parking Tax), SMC 5.37 (Employee Hours Tax), SMC 5.40 (Admissions Tax), SMC 5.48 (Business Tax - Utilities), SMC 5.52 (Gambling Tax), and SMC 5.55 (General Administrative Provisions). The following rules are proposed for adoption or amendment and will become effective as of December 14, 2007:

- Seattle Rule 5-005 -- Time payments.
- Seattle Rule 5-126 -- Conditional and installment sales, method of reporting.
- Seattle Rule 5-277 -- Clearing land, moving earth, cleaning, fumigating, razing or moving existing buildings, and janitorial service.
- Seattle Rule 5-300 -- Telecommunications service, telephone business, and telephone service.
- Seattle Rule 5-536 -- Leases or rentals of tangible personal property; financing leases.
- Seattle Rule 5-801 -- Personal service, service activities.
- Seattle Rule 5-900 -- Admission tax for nightclubs
- Seattle Rule 5-920 -- Imposition of the employee hours tax
- Seattle Rule 5-921 -- Exemptions, deductions, and credits available under the employee hours tax.
- Seattle Rule 5-925 -- Parking tax computations.

PUBLIC HEARING AND COMMENT:
The Department of Executive Administration has scheduled a public hearing on the proposed rule changes for 1:30 p.m. to 3:30 p.m., on Monday, December 10, 2007. The hearing will be held in a conference room on the 40th floor of the Seattle Municipal Tower, Suite 4080, located at 700 Fifth 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, Deputy Director, Revenue and Consumer Affairs, 700 Fifth Avenue - Suite 4250, P.O. Box 34214, Seattle, Washington 98124-4214.

The public may inspect copies of the proposed rules at the Revenue and Consumer Affairs offices, 700 Fifth Avenue, Suite 4250. If you would like a copy of the proposed rules, please call (206) 233-0071, FAX (206) 684-5170, email: rca.bizlictx@seattle.gov, or submit a written request to the address above.

DWIGHT D. DIVELY,

Director, Department of Finance

Date of publication in the Seattle Daily Journal of Commerce, November 16, 2007.

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