

THE CITY OF SEATTLE  
DIRECTOR RULE  
IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE  
RULE 5-921

FILED  
CITY OF SEATTLE

2008 FEB -5 PM 12: 27

Seattle Rule 5-921      Exemptions, deductions and credits available under the employee hours tax.

CITY CLERK

- (1) **Introduction.** Effective July 1, 2007, an employee hours tax is imposed on persons engaging in business activities within Seattle. This rule explains the exemptions, deductions, and credits available to businesses when computing and reporting the employee hours tax.
- (2) **Definitions.** For purposes of this rule and Seattle Municipal Code ("SMC") Chapter 5.37 the following definitions apply:
- (a) "Carpool" means an arrangement whereby two or more persons over the age of 16 who share at least 50% of a common route to and from work in a single vehicle.
  - (b) "Commuter Trip Reduction (CTR) Program" means a program to develop, implement and promote programs that reduce the number of Single Occupancy Vehicle (SOV) (as defined below) commutes made by employees, implemented by an employer as required under Revised Code of Washington ("RCW") 70.94.527 and SMC 25.02.
  - (c) "Employee" means any individual who performs work, labor, or services for a business, who is on the business' payroll, and who performs any part of their duties within the City of Seattle. This includes all full-time, part-time, and temporary employees or workers on the business' payroll. A business' payroll includes the payroll of any related company that acts as a paymaster for the related entities.
  - (d) "Employee hours" means all paid hours credited to the employee including any overtime, but does not include paid vacation and paid sick leave hours.
  - (e) "Full-time employee" means an employee who works at least one thousand nine hundred and twenty (1,920) hours in a calendar year.
  - (f) "Non-motorized commute modes and work practices" means commuting by bicycle, walking, using compressed work weeks, participating in telecommuting or flexible schedules that reduce the number of commutes.
  - (g) "Part-time employee" means an employee who works less than one thousand nine hundred and twenty (1,920) hours in a calendar year.
  - (h) "Payroll" means the regular remuneration by a business to the individuals who perform work, labor, services, or make other similar contributions for the business. Payroll includes, but is not limited to, salaries, wages, or other draws or distributions made to employees, officers, partners, or members of Limited Liability Companies and Professional Limited Liability Companies as compensation for their labor and services.
  - (i) "Single-Occupancy-Vehicles" or ("SOV") means a motorized vehicle (including motorcycles) that transports only one (1) person.
  - (j) "Statistically significant commuter survey" means a survey of employee commutes administered as prescribed, using a survey instrument approved or provided by the City, County, or State.
  - (k) "Vanpool" means a passenger van that is registered with a state, regional or local transit agency program that is used to transport five (5) or more persons to and from work.

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**(3) Exemptions from the employee hours tax.** The following are exempt from the employee hours tax:

- (a) Any business having annual worldwide gross income of eighty thousand dollars (\$80,000) or less. This is a different threshold measurement from the threshold used for the business license tax pursuant to SMC 5.55.040.
- (b) Businesses that are preempted from taxation by cities pursuant to federal or state statutes or regulations, including, but not limited to, the following:
  - (i) Insurance businesses and their agents as defined by the Revised Code of Washington (RCW) 48.01.050 and 48.17.010, respectively, and whose total revenue is exempt from the business license tax per Seattle Municipal Code (SMC) 5.45.
  - (ii) Businesses that only sell, manufacture, or distribute motor vehicle fuel as defined in RCW 82.36.010 and exempted under RCW 82.36.440.
  - (iii) Businesses that only distribute or sell liquor as defined in RCW 66.04.010 and exempted in RCW 66.08.120.
  - (iv) Federal and state government agencies and subdivisions (except the City of Seattle).

Businesses listed in (i), (ii), and (iii) and other such businesses may conduct activities that are not preempted from taxation by federal or state statutes or regulations. Businesses engaged in non-preempted activities are subject to the employee hours tax based on the portion of employee hours in which employees are engaged in performing the non-preempted activities.

- (c) Persons employing domestic servants or gardeners, maintenance or repair persons in or around a private home.
  - (d) Religious or charitable organizations engaging volunteers and other persons to provide services in return for only aid or sustenance.
- (4) Non Single-Occupancy-Vehicle Deductions.** When computing the employee hours tax, a business may deduct the number of hours (or number of employees if using the alternative full-time equivalent calculation method) for those employees who use alternatives to driving alone in a Single Occupancy Vehicle (SOV) as their regular commute mode of transportation. For purposes of calculating this deduction, "regular" means 80% or more of their commute trips. When computing the 80% requirement, a telecommuting day or a day working at home counts as one roundtrip commute. Any employee not meeting the 80% requirement must have **all** work hours included in the tax measure. Likewise, any employee who meets the 80% requirement may have **all** work hours deducted from the tax due calculation.

Examples of alternatives to the SOV commute mode of transportation include:

- (a) Public transportation such as buses (metro and community transit), light rail, ferries, and trains (Sounder);
- (b) Registered vanpools;
- (c) Carpools; and
- (d) Non-motorized commute modes and work practices.

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- (5) **Proof of deduction.** In order to obtain the non-SOV deduction, an employer must retain proof of its employees' use of alternative commute modes of transportation, including but not limited to, information to substantiate the 80% commute trip requirement to meet this deduction.

The following are examples of the types of information that an employer can use to substantiate the deductions claimed:

- (a) *Records of public transit pass purchases by the employer and/or employee.* These may be in the form of payroll records of employee deductions or records of the employer's purchase of public transportation fare media.
  - (b) Records of carpool and vanpool registrations and applicable employee deductions.
  - (c) Raw data and reports from statistically significant commuter surveys performed within the year of the claimed deduction, such as a qualifying Commuter Trip Reduction (CTR) Program survey, or completed survey instruments and reports provided to or by the State of Washington. The surveys are proof only in the year in which the survey is conducted, if not conducted every year. Employees not completing the survey or providing other acceptable certification during a particular year will be deemed to be commuting by driving alone or in a single occupancy vehicle.
  - (d) Tax records used to satisfy the IRS for deductions or credits claimed from federal taxes for providing transportation benefits.
  - (e) *Employee certification of commute mode.* A statement by an employee certifying that the employee qualifies for the non-SOV deduction by using an alternative commute mode(s), as detailed in section 4 of this rule, eighty (80%) or more of the time. The certification form must also indicate the type of alternative commute mode(s) used and must be signed by each employee who qualifies for the deduction.
- (6) **Tax credit available.** Pursuant to SMC 5.37.030 G a business reporting an employee hours tax shall be entitled to a credit of up to fifty dollars (\$50.00) from the amount of the tax due for each year. The maximum credit for 2007 will be the full fifty dollars (\$50.00). No credit shall be more than the amount of the tax owed for each tax year.
- (7) **2007 partial year.** The employee hours tax is only applicable after July 1, 2007, therefore taxpayers should include only those hours worked after July 1 to compute the employee hours tax for 2007. The number of hours should be multiplied by \$.01302. If using the alternative full-time equivalent calculation method, taxpayers should divide the employee hours worked after July 1 by 960 hours rather than the 1920 hours that would be used for a full year's computation. For 2007 only, taxpayers should multiply the resulting full-time equivalents by \$12.50.
- (8) **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 all of the facts and circumstances.
- (a) XYZ Corp. has more than 200 employees and is required to implement an approved Commuter Trip Reduction (CTR) program under SMC Chapter 25.02. As a requirement of the CTR program, the company must survey its employees to find out how they commute to work. The survey completed by the employees may suffice as proof of how many employees qualify for the deduction for mass transit or an alternative mode of transportation as listed above.
  - (b) ZZ Corp. purchases bus passes for any employee who takes the bus to and from work. The number of bus passes purchased may be used as proof for the deduction. ZZ Corp

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also has 20 employees who walk or ride bikes to and from work. ZZ Corp may have the employees sign a statement certifying that they use an alternative human powered mode of transportation as proof for the deduction.

- (c) KLM Corp. has 200 employees. 100 employees commute to work in SOVs. 75 other employees have documentation that they take some sort of public transportation (bus, light rail, train or register vanpool) and meet the 80% commute trip requirement. An additional 15 employees have certified that they walk or ride their bikes to work for at least 80% of their commutes. The remaining 10 employees take public transportation, bike, or participate in telecommuting, or compress their work-week schedule, however, they do not meet the 80% requirement. KLM Corp owes the employee hours tax calculated by multiplying the hours of the 110 employees who do not qualify for the deduction--by the hourly tax rate. Alternatively, if KLM Corp chooses to use the alternative "per employee calculation" the tax is calculated by multiplying the 110 employees who do not qualify for the deduction by the \$25 per employee rate, or 110 times \$25. A credit of \$50 would be available to KLM Corp, and may be deducted from the tax owing. Using the *alternative "full-time equivalent" calculation method*:

Total no. of employees.	200
Employees who commute using a qualifying transportation mode and are eligible for the non SOV deduction.	90
Ineligible employees.	110
Employee hours tax due before credit. (110 X \$25)	\$2,750
<i>Employee hours tax due after \$50 credit.</i>	<i>\$2,700</i>

- (d) ABC Corp. has 100 full-time employees and 25 part-time employees. 50 of the full-time employees commute to work in SOVs. The total work hours of these 50 employees totals 100,000 hours. The other full-time employees can document that they use public transportation, vanpools, carpools, or by using non-motorized commutes and work practices 80% of the time and are therefore, eligible for the non SOV deduction.

Of the 25 part-time employees, 5 can show that they commute at least 80% of their commutes using public transportation, vanpools, carpools, non-motorized commute modes, or qualifying work practices. The employee hours from these 5 part-time employees are deducted when computing the employee hours tax or when computing the alternative full-time equivalent calculation method, 5 employee "heads" would be deducted. The rest of the part-time employees do not meet the 80% requirement. The total work hours of these ineligible part-time employees totals 10,750 hours.

To compute the tax for these 20 non-qualifying part-time employees, ABC Corp would multiply the 10,750 hours by the \$.01302 tax rate (\$139.97). Using the alternative calculation method, ABC Corp would divide the 10,750 by 1,920 hours to calculate the number of full-time employee equivalents (5.6 employees) and then round up to the nearest whole number (6) and multiply that number by \$25 (\$150).

The tax on the full-time employees would be the total number of hours worked by those 50 employees commuting in SOVs (100,000), multiplied by the \$.01302 tax rate (\$1,302), or 50 employees multiplied by \$25 if using the alternative method (\$1,250). A tax credit

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of \$50 is deducted by ABC Corp to arrive at their total tax liability. The tax calculations would be as follows:

(i) *Employee hours tax calculation method.*

Total No. of employees.		100 full-time 25 part-time
Employees ineligible for the non SOV deduction.		50 full-time 20 part-time
No. of work hours subject to tax --	50 full-time 20 part-time	100,000 hours 10,750 hours
Employee hours tax due before credit (110,750 hours X \$0.01302)		\$1,441.97
<i>Employee hours tax due after \$50 credit.</i>		<i>\$1,391.97</i>

(ii) *Alternative "full-time equivalent" calculation method.*

Convert ineligible part-time employees to full-time employee equivalents (FTEs) and round up to the nearest whole number.		10,750/1,920 =6
No. of ineligible full-time employees.		50
Total No. of ineligible employees.		50 + 6 = 56
Employee hours tax due before credit		56 X \$25 = \$1,400
<i>Employee hours tax due after \$50 credit.</i>		<i>\$1,350</i>

Tax difference between calculation (i) and (ii) results from the number of hours worked by 50 full-time employees being more than 1,920 work hours per employee (2,000 per full-time employee). Method (ii) assumes a 1,920 work hours per year (\$25/\$0.01302).

(e) In 2007, the MMM company had 25 full-time employees that were ineligible for the non SOV deduction and therefore all of their work hours were subject to the employee hours tax. After July 1, 2007, these 25 workers worked a total of 25,500 hours, excluding vacation time and sick leave. The tax calculations would be as follows:

(i) *Employee hours tax calculation method.*

25,500 hours multiplied by \$0.01302 =		\$332.01
<i>Employee hours tax due after \$50 credit.</i>		<i>\$282.01</i>

(ii) *Alternative "full-time equivalent" calculation method.*

25,500 hours divided by 960 hours (rounded up) =		27 FTEs
27 FTEs multiplied by \$12.50 =		\$337.50
<i>Employee hours tax due after \$50 credit.</i>		<i>\$287.50</i>

(f) Acme Company is a small business with an owner (sole proprietor) and two part-time employees working in the company. Acme's worldwide gross revenues for 2009 were \$100,000, which is more than the minimum threshold of \$80,000. The owner worked full-time (2,000 hours), and the two part-time employees worked a total of 2,570 hours, excluding vacation and sick leave hours. The owner commutes by bus to work and meets the 80% commute trip requirement, however the part-time employees drive their

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SOVs and are ineligible for the non SOV deduction. The tax calculations would be as follows:

(i) *Employee hours tax calculation method.*

2,570 hours multiplied by \$0.01302 =	\$33.46
Less credit of up to \$50	(\$33.46)
<i>Employee hours tax due.</i>	\$0

(ii) *Alternative "full-time equivalent" calculation method.*

2,570 divided by 1920 (rounded up) =	2 FTE
2 FTE multiplied by \$25 =	\$50
Less credit of up to \$50 tax owing	(\$50)
<i>Employee hours tax due.</i>	\$0

This version supersedes the previous SR 5-921, which took effect May 15, 2007.

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 31<sup>st</sup> day of January, 2008.

CITY OF SEATTLE,  
a Washington municipality

By:

  
\_\_\_\_\_  
Dwight D. Dively, Director  
Department of Finance

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**STATE OF WASHINGTON – KING COUNTY**

--SS.

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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 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

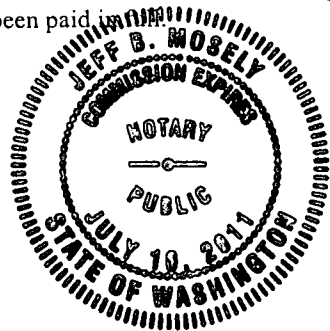
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

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.



A handwritten signature in black ink, appearing to be "M. S. L.", written over a horizontal line.

Subscribed and sworn to before me on

11/16/07

A handwritten signature in black ink, appearing to be "H. B. W.", written over a horizontal line.

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 5.02 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.bizlietx@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.

11/16(217549)