



# Seattle Tax Advisory Group

**Date:** Tuesday, June 2, 2020 10:00 am

**Location:** Skype Conf Call

## **Attendees:**

Mark Watterson, Tax Audit Manager, City of Seattle

Joseph Cunha, City Tax Administrator, City of Seattle

Brian Collins, Tax Policy Analyst, City of Seattle

MaryAnne Olmstead, Director of Finance and Accounting, Virginia Mason

Tarah McLaughlin, Indirect Tax Compliance, Amazon

Sharon Wismeth Johnston, Sr. Tax Manager, Indirect Tax, Starbucks

Rachel Le Mieux, Partner, BDO USA, LLP

Dan Robillard, Director U.S. Indirect Tax, Inc., Expedia

Marsha McLean, State & Local Tax Compliance Manager, Weyerhaeuser

## **Minutes:**

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### **Welcome and Introductions.**

- New to the group for this meeting is Marsha McLean, State & Local Tax Compliance Manager, Weyerhaeuser. Marsha had attended one TAG meeting last year.
- This is our first telephone conference only TAG meeting.

### **Seattle Apportionment rule.** Rule 5-047 is in effect and has been posted on the clerk's website.

- The Model ordinance and the new service apportionment rule became effective January 1, 2020.
  - We have seen an increase in questions about the effects of this rule and nexus.
  - We had hoped to offer training on Service Income Apportionment, however social distancing rules and technology issues have delayed this training.
  - We will publish detailed guidance on Service Income Apportionment shortly.
- The SELF system is being shut down slowly and unplugged in favor of file local.
  - New functionality including changes for service apportionment will not be added to SELF.
  - In Q1, 8000 taxpayers reporting in FileLocal
- Joseph asked if anyone is seeing any payroll factor questions.
  - The COVID-19 pandemic and the governor's "Stay Home, Stay Healthy" emergency orders have required many Washington employees to work remotely from home since mid-March. How does this affect payroll apportionment?
  - The City of Seattle is currently looking into what other states and jurisdictions are doing with regard to payroll apportionment and teleworking.
    - We are preparing guidance on this issue but we need to meet with the AWC so that there is unified guidance with the other cities.

**Updates on proposed Legislation.**

- TNC Tax – Tax on transportation network companies to become effective July 1.
- Heating Oil Tax – Tax on transportation network companies to become effective July 1.
- Seattle Payroll Tax – The payroll tax proposal has been put on hold as a result of the coronavirus crisis. Under the governor’s “state home, stay healthy” emergency order, lawmakers can continue to meet but they must limit their agendas to matters that concern COVID-19 emergency bills or matters that are “necessary and routine.”
- Income Tax – The Appellate court held that the legislature granted Seattle authority to tax intangible personal property, including income. Therefore, a prohibition on Seattle's authority to levy a property tax on income is unconstitutional. However, because Seattle enacted a graduated tax on income, Seattle's income tax ordinance is also unconstitutional. The Supreme Court has refused to hear the appeals.

**Cases that we are monitoring.** Rule 5-047 is in effect and has been posted on the clerk’s website.

- Kunath v. Seattle – See Income tax above.
- KMS Financial v. City of Seattle – WA appeal court held that taxes owed by KMS should have been calculated using independent contracts compensation in the payroll. No other state that has a payroll factor included independent contracts. The City of Seattle has until June 19 to decide and file and appeal with the Washington Supreme Court.
- Sound Inpatient v. City of Tacoma – At issue in this case is what is the service income of the taxpayer in the city? SIP is engaged in providing managerial and administrative services to medical professional customers. SIP has offices in the city of Tacoma, but maintains two other “major” offices located and has 14 regional offices. SIP wants contacts with customers while the city argues cost of performance. The hearing examiner determined that SIP had not met its burden of proof and was not entitled to its refund.

**Status on VDAs.** We are asked if we are seeing more or fewer VDAs in Seattle

- We believe that mailings in late 2019 about apportionment changes and the information on the MRSC site a couple years ago has led to more inquiries and awareness about voluntary disclosure compliance.
  - Q1 comparison
    - 2020 – 13 VDAs
    - 2019 – 9 VDAs
    - 2018 – 6 VDAs
  - Total VDAs in prior years
    - 2019 – 25 VDAs
    - 2018 – 23 VDAs

**Administrative.**

- Seattle Apportionment rule
  - Going forward we should keep the discussions on this rule as a standing agenda item for 2020 and the Q1 of 2021.
  - We will want to look at how the apportionment rule has an impact on revenue collection, but the Coronavirus may make year-over-year comparisons difficult.
- Teleworking
  - City of Seattle – Seattle employees that can telecommute are strongly encouraged to do so, at least through Sept 7<sup>th</sup>.
    - Currently, customer service is directing taxpayers to email, but we are working to develop a process for our Customer Service Reps to be able to answer calls remotely.
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- The difficulty is in opening up the SMT building and being able to maintain social distancing
  - Right now, the other members of the TAG are also teleworking. Some of the members are considering options to reopen later this month. Other's will be closed until Q3.
  - DOR sent a survey out to those with an online tax reporting account about whether they should shut down their Seattle office downtown and move it to another location (e.g. south of downtown).
- Next Meeting
  - Our next meeting is scheduled for September 2 at 10 am.
  - Should the City of Seattle be open to the public for this meeting, call-in options will still be available.