

Seattle Payroll Expense Tax Frequently Asked Questions

What is the Seattle Payroll Expense Tax?

The Seattle Payroll Expense Tax is a business excise tax applicable to all business that are engaging in business in Seattle.

Who is subject to the Seattle Payroll Expense Tax?

Businesses that have Seattle annual payroll of at least \$7M in the prior calendar year.

When is the first tax return due?

The first tax return is due January 31, 2022. Businesses subject to the tax will consolidate all quarterly tax filing information for 2021 and report the combined information in the 4th quarter. Starting in 2022, the payroll expense tax will be reported and paid on a quarterly basis.

Is this a tax on the employee?

No. The payroll expense tax is a tax on employers that have Seattle annual payroll expense of \$7 million or more. The payroll expense tax is levied upon businesses, not individual employees. The tax is paid by the employer and there is no individual withholding. The law specifically precludes employers from withholding the tax from their employees.

If my business does not have an annual payroll of \$7 million, do I still need to register and/or file a payroll expense tax return?

Only businesses that have \$7 million or more of payroll expense in Seattle in the previous calendar year and have payroll expense in Seattle paid to employees whose annual compensation is \$150,000 or more need to file a payroll expense tax return.

What is the tax rate?

	2021 Payroll Expense		
	Less than \$100 million	\$100 million but less than \$1 billion	\$1 billion or greater
Annual compensation \$0 - \$149,999.99	N/A	N/A	N/A
Annual compensation \$150,000 - \$399,999.99	Rate = 0.7%	Rate = 0.7%	Rate = 1.4%
Annual compensation \$400,000 or more	Rate = 1.7%	Rate = 1.9%	Rate = 2.4%

Beginning January 1, 2022, and on January 1 of every year thereafter, the dollar threshold and exemption amount will be adjusted for inflation.

How do I file and pay the payroll expense tax?

The payroll expense tax can be paid electronically or manually. FileLocal is the online tax filing portal for the City of Seattle. This is the same portal many taxpayers currently use to file and pay a variety of other Seattle business taxes, including B&O, Commercial Parking, Admissions, etc.

Payroll Expense Tax forms will be available to download from our website. Manual forms can be completed and mailed to the address provided on the back of the form. Returns are not deemed filed until both tax filing and payment are received.

What ID number do I need to file the payroll expense tax?

The payroll expense tax can be filed through FileLocal using the business's customer number. Businesses engaging in business in Seattle must have a Seattle Business License Tax Certificate. This certificate contains the customer number assigned to the business. Businesses filing the payroll expense tax manually need to include the customer number as well as legal name and address on the filed form.

If a business does not have a Business License Tax Certificate, they can apply for a Business License Tax Certificate at www.fileLocal-wa.gov. If you are filing returns as a preparer on behalf of another business, you can create a Preparer Account in FileLocal to file returns on behalf of your client. The business will need to grant you permission to file their returns in FileLocal.

Where can I get a copy of the return?

We are in the process of developing the payroll expense tax return. The preferred method of filing this tax is electronically, using FileLocal.

How is a business's payroll expense determined?

Payroll expense means compensation paid in Seattle to employees. Compensation has the same meaning for purposes of the payroll expense tax as it does for the Washington State Family and Medical Leave program. Compensation includes all payments for personal services, including commissions and bonuses and the cash value of all earnings paid in any medium other than cash.

How does a business determine if compensation is paid in Seattle to an employee?

Compensation is paid in Seattle to an employee if:

1. The employee is primarily assigned within Seattle;
2. The employee is not primarily assigned to any place of business for the tax period and the employee performs 50 percent or more of their service for the tax period in Seattle; or
3. The employee is not primarily assigned to any place of business for the tax period, the employee does not perform 50 percent or more of their service in any city, and the employee resides in Seattle.

An employee that performs more than 50 percent of their duties during the calendar year at a business location of the taxpayer, will be primarily assigned to that business location.

What is included in the definition of compensation?

Compensation includes all payments for personal services, including commissions and bonuses and the cash value of all compensation paid in any medium other than cash. Compensation includes remuneration as defined by the Washington State Family and Medical Leave program in RCW 50A.05.010. A list of items that the Washington State Employment Security Department considers compensation can be found in [Seattle Rule 5-980\(2\)\(a\)\(iii\)](http://Seattle Rule 5-980(2)(a)(iii)).

What payments are not considered compensation?

Compensation does not include:

1. Tips;
2. Supplemental benefit payments made by an employer to an employee in addition to any paid family or medical leave benefits received by the employee;
3. Employee exercised stock options (incentive stock options (ISOs) or non-qualified stock options (NQSOs));
4. Payments provided to cover a past or future cost incurred by the employee as a result of the employee's expected job functions;
5. Employer contributions into retirement or disability plans; or
6. Payments to an owner of a pass-through entity that are not earned for services rendered or work performed (i.e., return of capital, investment income, or other passive activities).

Does the definition of compensation include stock-based compensation (i.e., stock grants, option grants, option exercises, non-qualified stock issued)?

Compensation includes the value of stocks transferred to the employee during the calendar year if part of a compensation package. This would include stock grants, Restricted Stock Units (RSUs), and Performance Stock Units (PSUs). Stock options and any related gains from exercising stock options are not considered compensation for purposes of the payroll expense tax.

Does compensation include deferred compensation?

Yes, compensation also includes employee contributions to deferred compensation plans (e.g., 401(k), 403(b), or other deferred compensation plans) in which a portion of an employee's salary or wages are set aside to be paid at a later date.

Does compensation include cafeteria plans (Section 125 deductions), health/medical plans or life insurance plans or do these employee deductions reduce compensation?

Compensation means remuneration as defined by the [RCW 50A.05.010](#). If the amounts are included as compensation for purposes of the Washington State Employment Security Department's State Family and Medical Leave program, then they should be included for purposes of the payroll expense tax. If employee deductions would not reduce wages reported to the Washington State Employment Security Department (ESD) for purposes of the Family and Medical Leave program, then they would not be excluded from compensation for the payroll expense tax.

Is the amount of compensation based on net pay or gross pay?

Compensation is based on gross pay. Payroll expense is the gross compensation paid in Seattle to employees.

Is all employee compensation subject to the tax or would the employer begin paying taxes only when the employee's compensation reaches the \$150,000 threshold?

The total payroll expense for employees in Seattle that have annual compensation of \$150,000 or more, starting with the first dollar paid, must be included in the amount subject to the payroll expense tax.

What documentation is needed to provide support for compensation paid in Seattle?

Businesses subject to the payroll expense tax are required to maintain and keep complete and adequate records. Records must be kept in such a manner as to enable the tax administrator to determine the payroll expense tax liability of the taxpayer. Records retained must be presented upon request of the tax administrator and demonstrate the payroll expense of the business, including but not limited to; where employees are primarily assigned, perform their services, and reside, and employee compensation. Examples include but are not limited to; W-2 and earnings summaries and workpapers and other employment tax records; work location schedules; teleworking agreements between employee and employer; payroll expense reports; copies of state employment security returns and their workpapers; etc.

Are there any exemptions to the payroll expense tax?

Certain business activities are exempt from the tax. These include:

- Grocery businesses. Those businesses in which at least 70% of their gross sales is exempt from retail sales tax. This includes wholesalers of food and food ingredients that would be exempt from tax when resold would also be exempt from retail sales tax under [RCW 82.08.0293](#).
- Any business having compensation paid in Seattle to employees of less than \$7 million in the previous calendar year;
- Compensation paid in Seattle to an independent contractor whose compensation is included in another business's payroll expense; and
- Any business engaged in business in Seattle that is preempted from taxation by cities under federal or state statutes or regulations. These include insurance businesses and their appointed insurance producers; businesses that only sell motor vehicle fuel; businesses that only distribute liquor; and federal, state, and local government entities.

Are non-profit entities subject to the payroll expense tax?

Yes. There is not a general payroll expense tax exemption for non-profit 501 C organizations.

Is the \$7 million exemption threshold per quarter or per year? And is this threshold based on the current year or the prior year's compensation?

The \$7 million exemption threshold is based on the prior year's compensation paid to Seattle employees. For example, to determine if an employer is subject to the payroll expense tax in 2021, an employer will use its 2020 compensation paid to Seattle employees to determine if they have met the \$7 million or more in payroll expense threshold.

However, businesses must use the current year's compensation paid in Seattle to determine the payroll expense tax due for the year. For example, in 2021, businesses that had \$7 million or more in Seattle payroll expenses in 2020 would apply the tax rates based on their 2021 Seattle payroll expense of employees with annual compensation of \$150,000 or more.

Are there any deductions for the payroll expense tax?

A deduction is available for the employer if they are a non-profit healthcare entity. A business that qualifies as a non-profit healthcare entity may deduct the payroll expense of employees whose compensation is \$150,000 to \$399,999.99 from the payroll expense of the business. The employer would deduct the payroll expense of such employees on the tax return.

A non-profit health-care entity is (1) a non-profit entity that provides comprehensive healthcare services, including primary and specialty care, and non-profit healthcare entities that provides at least 50% of its services to patients covered by Apple Health and TRICARE and to patients who do not have a third-party

payor; (2) a non-profit entity that conducts life sciences research and development; or (3) a predominantly capitated provider group with an integrated delivery system operated by a fully non-profit carrier.

Where can I find the language of the payroll expense tax?

The payroll expense tax was adopted by [Ordinance 126108](#) and can be found on the City Clerk's website at: <http://www.seattle.gov/cityclerk/>.

Who can answer any additional questions I may have?

You may contact License and Tax Administration at 206-684-8484 or tax@seattle.gov.