

# Payroll Expense Tax (SMC 5.38)

## City of Seattle Tax Training

02/10/2021

Department of Finance and Administrative Services



**City of Seattle**

# City of Seattle Tax Training

- What is the Payroll Expense Tax
- Tax Rate Structure
- Who is an Employee?
- Payroll Expense and Compensation
- Compensation Paid in Seattle
- Tax Exemptions
- Non-Profit Healthcare Entities
- When is the Tax Due?



# Payroll Expense Tax

- Effective Jan. 1, 2021, Council Bill 119810 (SMC 5.38) imposes a payroll expense tax on persons engaging in business within Seattle.
  - The tax is on businesses with \$7 million or higher **Seattle** payroll expense in prior year.
  - The tax is imposed on the business. It is not imposed on the employee and is not a withholding from employees' compensation.
  - The tax is imposed in addition to any license fee or tax imposed by the City, the State, or other governmental entity.



# Tax Rate Structure

	Payroll Expense		
	Less than \$100 million	\$100 million but less than \$1 billion	\$1 billion or greater
<b>Annual compensation \$0 - \$149,999.99</b>	N/A	N/A	N/A
<b>Annual compensation \$150,000 - \$399,999.99</b>	Rate = 0.7% (Seven-tenths percent)	Rate = 0.7% (Seven-tenths percent)	Rate = 1.4% (One and four-tenths percent)
<b>Annual compensation \$400,000 or more</b>	Rate = 1.7% (One and seven-tenths percent)	Rate = 1.9% (One and nine-tenths percent)	Rate = 2.4% (Two and four-tenths percent)



# Tax Rate Structure

- Tax Rates based on payroll expense in **Seattle** in **current** year.
- Payroll expense tax based on total compensation for those employees \$150,000 and more.

**Example:** For example, if an employee is paid \$170,000 for the year, starting with the first dollar paid, the entire \$170,000 is included in calculating the tax not just the \$20,000 above \$150,000.



# Example

Company A has employees in Seattle. In 2020, Company A had \$9 million of Seattle payroll expense and \$10 million of Seattle payroll expense in 2021. In 2021, Company A has 55 employees that earn \$100,000 per year, 10 employees that earn \$200,000 per year, and 5 employees that earn \$500,000 per year.

Company A's 2021 Seattle Payroll Expense Tax would be:

COMPANY A					
Payroll in Seattle (Prior Year)		\$ 9 Million			
Payroll in Seattle (Current)		\$ 10 Million			
Compensation	# of Emp.	Ann. Salary	Payroll Exp	Rate	Tax
\$0 - \$149,999.99	55	\$ 100,000	\$ 5,500,000	N/A	\$ 0
\$150,000 - \$399,999.99	10	200,000	2,000,000	0.7%	14,000
\$400,000 and greater	5	500,000	2,500,000	1.7%	42,500
<b>TOTAL</b>	<b>70</b>		<b>\$ 10,000,000</b>		<b>\$ 56,500</b>

# Example

Company C has 6,960 employees in Seattle. In 2020, Company C had \$1.1 billion of Seattle payroll expense and \$750 million of Seattle payroll expense in 2021. In 2021, Company C has 6,600 employees that earn \$100,000 per year, 300 employees that earn \$200,000 per year, and 60 employees that earn \$500,000 per year

Company C's 2021 Seattle Payroll Expense Tax would be:

COMPANY C					
<b>Payroll in Seattle (Prior Year)</b>		<b>\$1.1 billion</b>			
<b>Payroll in Seattle (Current)</b>		<b>\$750 million</b>			
<b>Compensation</b>	<b># of Emp.</b>	<b>Ann. Salary</b>	<b>Payroll Exp</b>	<b>Rate</b>	<b>Tax</b>
\$0 - \$149,999.99	6,600	\$ 100,000	\$ 660,000,000	N/A	\$ 0
\$150,000 - \$399,999.99	300	200,000	60,000,000	0.7%	420,000
\$400,000 and greater	60	500,000	30,000,000	1.9%	570,000
<b>TOTAL</b>	<b>6,960</b>		<b>\$ 750,000,000</b>		<b>\$ 990,000</b>



# Who is an Employee?

- Any person that performs work, labor, or personal services of any nature for compensation is an employee.
- Includes owners of passthrough entities if they perform work, labor, or services for the business:
  - members of LLCs,
  - partners in partnerships,
  - owners of other pass-through entities, and
  - sole proprietors
- Independent contractors unless exempt (see slide “Tax Exemptions”)
- Excludes compensation to owners of pass-through entities not earned for services rendered/work performed.





# Payroll Expense and Compensation

- The payroll expense of employees with annual compensation of \$150,000 or more in the current calendar year is used to compute the tax.
- Payroll expense means compensation paid in Seattle to employees.
  - Compensation means “remuneration” as defined by the Washington State Family and Medical Leave program.
  - Compensation includes also includes:
    - Employee contributions to deferred compensation plans
    - Net distributions, or incentive payments earned for services rendered or work performed.



# Compensation Paid in Seattle

- “Payroll expense” is compensation paid in Seattle to employees.
- Compensation paid in Seattle is established by three cascading criteria:
  - (1) The employee is primarily assigned in Seattle;
  - (2) The employee is not primarily assigned in Seattle but performs 50% or more of their services in Seattle during the tax period; or
  - (3) The employee is not primarily assigned to any place of business and does not perform 50% or more of their services in any city, but the employee resides in Seattle.
- “Primarily assigned” means the business location of the taxpayer where the employee performs their duties for the tax period.
  - An employee that performs more than 50% of their duties at the business location of the taxpayer will be primarily assigned to that business location.



# Example

Company A has three employees in Seattle in 2021, employee X, Y, and Z. All three employees perform their duties at Company A's headquarters in Seattle. Employees X, Y and Z are primarily assigned in Seattle because they perform their duties at Company A's business location in Seattle. Therefore, compensation paid to employees X, Y and Z is paid in Seattle and included in Company A's payroll expense.



# Example

In 2021, Company B has an office in Seattle and has three employees, employees K, L, and M. Employees K and L perform 100% of their duties at Company B's office in Seattle for the tax period. In 2021, employee M spends 60% of their time performing services at a client's worksite in Kent, Washington and 40% of their time performing duties at the Seattle office. Compensation paid to employees K and L is paid in Seattle because employees K and L are primarily assigned within Seattle. Employees K and L are primarily assigned within Seattle because they spend more than 50% of their time performing their duties at the business location of the taxpayer in Seattle. However, employee M's compensation is not paid in Seattle. Employee M is not primarily assigned within Seattle because employee M does not spend more than 50% of their time performing their duties at the business location of the taxpayer. Additionally, because employee M performs 50% or more of their time performing services for the tax period in Kent, Washington, their compensation is not paid in Seattle.



# Example

In 2021, Company D has its headquarters in Seattle. Employee P is an equipment technician and has an office at Company D's headquarters. Employee P travels to customer locations to service equipment and is rarely in the office. At the end of the year, Company D determines that employee P spends 15% of their time performing services in Seattle, 20% in Redmond, 25% in Bellevue, 30% in Renton, and 10% out-of-state. Employee P is not primarily assigned to any place of business for the tax period because they do not spend more than 50% of their time performing duties at the business location of Company D. Furthermore, employee P does not spend 50% or more of their time performing duties in any city. Therefore, compensation paid to employee P is considered paid in the city where the employee resides.



# Tax Exemptions

- Businesses exempt from the payroll expense tax:
  - Business with Seattle payroll expense less than \$7 million **in the prior year**
  - Grocery businesses
    - Retail businesses with 70% of gross income is sales of food/food ingredients exempt from the retail sales tax
    - Wholesalers with 70% is from wholesale sales of food and food ingredients that will be exempt from retail sales tax when resold by purchaser.
  - Independent contractors whose compensation is included in the payroll expense of another business (see prior slide “who is an employee”)
  - Entities for which the City does not have authority to tax:
    - Federal, state and local governments and subsidiaries
    - Insurance businesses and their appointed insurance producers
    - Businesses that only sell motor vehicle fuel
    - Businesses that only sell liquor



# Non-Profit Healthcare Entities

- Jan. 1, 2021 through Dec. 31, 2023, payroll expense of employees with compensation of \$150,000 to \$399,999.99 at non-profit healthcare entities may be deducted from the Payroll Expense Tax.
- “Non-profit healthcare entity” means:
  - Non-profit entity that provide comprehensive healthcare services, including primary and specialty care, and other non-profit health care entities that provide at least 50 percent of their services to patients covered by Apple Health and TRICARE;
  - Non-profit entities that conduct life sciences R&D; or
  - A capitated provider group operated by a fully non-profit carrier licensed under chapter 48.44 or 48.46 RCW.



# When is the Tax Due?

- Tax effective Jan. 1, 2021
  - The tax for 2021 is not due until **Jan. 31, 2022** – *the due date of the fourth quarter.*
- After 2021, the tax will be due and payable on a quarterly basis – same as the Business License tax.
  - If taxes are reported by a taxpayer more than once per year, taxpayers may use the prior calendar year payroll expense to estimate reporting for the first 3 quarters and “true-up” reporting on the fourth quarter return.





# Where to file and pay

File and pay at [www.FileLocal-wa.gov](http://www.FileLocal-wa.gov)



Questions:

(206) 684-8484

[tax@seattle.gov](mailto:tax@seattle.gov)

