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CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 4105

AN ORDINANCE regarding the Business & Occupation Tax; establishing a measure of tax determined by application of a tax rate against hours worked by employees on behalf of employers; and adding a new subsection I to Bellevue City Code 4.08.030.

WHEREAS, Chapter 4.08 of the Bellevue City Code provides for a tax payable to the City by every person on account and for the privilege of engaging in business activities within the City, which tax is determined by application of rates given against certain criteria therein specified; and

WHEREAS, the City Council desires to establish a measure of tax thereunder to be determined by application of rates given against hours worked by employees on behalf of employer taxpayers; and

WHEREAS, the City Council intends that the proceeds generated by the tax established by this ordinance be committed to funding needed transportation improvement capital, maintenance and operating costs; now, therefore,

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Bellevue City Code 4.08.030, as last amended by Section 1 of Ordinance No. 4047, is hereby amended by the addition of a new subsection I, to provide as follows:

4.08.030 Payment of Taxes - Amounts

There is levied upon and shall be collected from and paid as hereinafter provided by every person on account and for the privilege of engaging in business activities, a license fee or occupation tax, sometimes herein referred to as the "tax," in amounts to be determined by application of rates given against value of products, gross proceeds of sale, or gross income of business, or cost of doing business, or square footage of office space, and hours worked by employees in the City on behalf of taxpayer employers for each quarterly period, as follows:

...

I. Upon every person within this City engaging in any of the businesses described in subsections A-H of this section or in Bellevue City Code 4.10.040, as to such persons the amount of

the tax with respect to such business shall be, in addition to any amount due under subsections A-H above, a tax equal to the number of hours reported for each quarterly period to the State of Washington Department of Labor and Industries for employees of the taxpayer, multiplied by the rate of $0.0208 per hour.

1. Each taxpayer shall file with its tax return a copy of its quarterly report to the State of Washington Department of Labor & Industries reporting employee hours worked. Any taxpayer who is not required to file such a report for any of its employees as that term is used in this subsection shall file an affidavit reporting hours worked.

2. For purposes of this Subsection I, for any business operating within the City limits of the City of Bellevue it shall be presumed that all of its employee hours worked are performed within the City limits of the City of Bellevue provided the employer may establish by affidavit the number of employee hours worked outside the City.

3. For purposes of this subsection I "employee," in addition to its usual meaning, shall include any proprietor of a sole proprietorship, partner in a partnership or principal in or officer of any corporation or other form of business organization.

4. For any employees whose normal place of employment is within the City limits of the City of Bellevue, all hours will be presumed to be worked within the City and included in the measure of this tax. All hours worked by any employee who regularly reports to work within the City limits shall be subject to this tax, even if portions of the employee's working hours are spent outside the City of Bellevue, for example, a realtor or outside salesperson. For an employee normally employed within the City of Bellevue who for extended periods of time reports to work outside the City of Bellevue, for example a contractor's employee reporting directly to job sites, then the employer may by affidavit report the number of hours actually worked within the City or the percentage of time worked within the City based upon 1,920 hours of annual employment and pay the annual tax based upon those figures.

5. For those employers without a Bellevue address whose employees are nominally situated outside the City of Bellevue, but who are working within the City, for example contractor's employees, the tax shall be measured

by the hours reported on the quarterly State of Washington Labor and Industries reports as adjusted by the employer's affidavit reporting the number of hours worked within the City during that quarter.

6. Beginning January 1, 1991, the tax rate of this subsection I shall be adjusted annually on January 1st, to reflect the effect of inflation or deflation in the local economy. The amount and direction of change will be determined by reference to the U.S. City Average Urban Wage Earners and Clerical Workers Consumer Price Index (CPI) for each November as published by the United States Department of Labor; and

   The tax rate for any future year will be determined by multiplying the current tax rate by a change factor. The change factor is determined by dividing the aforementioned CPI index of the current year by the said index of the prior year;

7. The State of Washington and all cities, counties, municipal corporations and political subdivisions are exempt from this subsection I.

8. The exemption granted by Bellevue City Code 4.10.050, shall have no application to this subsection I.

9. There is hereby created and established a special purpose, non-operating fund to be designated the Transportation Business Tax Fund. All tax proceeds under this subsection I shall be deposited in the Transportation Business Tax Fund. The Director of Finance may issue rules and regulations for the administration of this Fund.

   This fund is intended to serve as an accounting device to receive revenues generated as described herein for automatic transfer to other funds(s) where expenditure purposes associated with these revenues have been budgeted. In consideration of this, appropriations in this fund may be administratively adjusted periodically, that is without additional ordinance requirements, to equal revenue expectations. The Transportation Commission shall review all such administrative adjustments. Appropriation changes by ordinance will continue to be provided for the funds in which expenditures will actually occur.

Section 2. As provided by RCW 35.21.706 the referendum procedure set forth herein shall apply to this ordinance. A referendum petition may be

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filed with the City Clerk of the City of Bellevue within seven (7) days of passage of this ordinance. Within ten (10) days the City Clerk shall confer with any such petitioner concerning the form and style of the petition, issue the petition an identification number, and secure an accurate, concise, and positive ballot title from the City Attorney. The petitioner shall have thirty (30) days in which to secure the signatures of not less than fifteen (15) percent of the registered voters of the City, as of the last municipal general election, upon petition forms which contain the ballot title and full text of the measure to be referred. The City Clerk shall verify the sufficiency of the signatures on the petition and, if sufficient valid signatures are properly submitted, shall certify the referendum measure to the next election ballot within the city or at a special election ballot as provided pursuant to RCW 35.17.260(2).

The following sections of Bellevue City Code Chapter 1.12 shall apply to this referendum procedure (references to initiative therein shall be deemed to refer to referendum): Bellevue City Code 1.12.070 regarding the referendum statement; 1.12.090, regarding referendum petition requirements; 1.12.100, regarding form of petitions, provided the time period prescribed by subsection H thereof shall be thirty (30) days; 1.12.110, regarding checking by Clerk; 1.12.140 regarding conduct of election; 1.12.110, regarding checking by Clerk; 1.12.140 regarding conduct of election; 1.12.150, regarding notice of election; 1.12.160, regarding ballots; 1.12.170, regarding ballot title; 1.12.230, regarding referendum statement; and 1.12.260, regarding effective date. No other provision of said Chapter 1.12 shall apply to the referendum procedure established by this ordinance.

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Section 3. This ordinance shall take effect and be in force five days after its passage and legal publication, provided the tax established hereunder shall apply to business activities taking place on and after July 1, 1990.

PASSED by the City Council this 18th day of December, 1989, and signed in authentication of its passage this 18th day of December 1989.

(SEAL)

Nan Campbell

Nan Campbell, Mayor

Approved as to form:

Richard L. Andrews, City Attorney

Richard L. Gidley

Richard Gidley, Deputy City Attorney

Attest:

Marie K. O'Connell

Marie K. O'Connell, City Clerk

Published December 1989