

# ORIGINAL

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04/13/93

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 4520

AN ORDINANCE relating to business and occupation tax; exempting certain businesses with low gross receipts or low employee hours from taxation; repealing Section 4.08.100; and amending Sections 4.08.020, .030, .080, .110, .130, .180, and .300 of Chapter 4.08 of the Bellevue City Code.

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

Section 1. Subsection M of Section 4.08.020 of the Bellevue City Code is hereby amended to read as follows:

M. "Reporting period" means a three-month period beginning the first day of January, April, July or October of each year unless the Tax Clerk determines, pursuant to Section 4.08.130, that the taxpayer shall report on an annual basis.

Section 2. Section 4.08.030 of the Bellevue City Code, as most recently amended by Section 1 of Ordinance No. 4105, is hereby amended to read 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 reporting period, as follows:

A. Upon every person engaging within this city in business as an extractor; as to such persons the amount of the tax with respect to such business shall be equal to the value of the products extracted for sale or commercial use, multiplied by the rate of .1496 of one percent.

The measure of the tax is the value of the products so extracted, regardless of the place of sale or the fact that deliveries may be made to points outside the city.

B. Upon every person engaging within this city in business as a manufacturer; as to such persons the amount of tax with respect to such

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business shall be equal to the value of the products manufactured, multiplied by the rate of .1496 of one percent.

The measure of the tax is the value of the products so manufactured, regardless of the place of sale or the fact that deliveries may be made to points outside the city.

C. Upon every person engaging within this city in the business of making sales at wholesale or retail, except persons taxable under subsection D; as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of such sales of the business without regard to the place of delivery of articles, commodities or merchandise sold, multiplied by the rate of .1496 of one percent.

For purposes of this chapter the term "sale at retail," in addition to its normal meaning, shall include the provision by any person of competitive telephone service, as defined in RCW 82.04.065, and shall also include that portion of network telephone service, as defined in RCW 82.04.065, which represents charges to another telecommunications company, as defined in RCW 80.04.010, for connecting fees, switching charges, or carrier access charges relating to intrastate toll services.

D. Upon every person engaging within this city in the business of buying wheat, oats, corn and barley, but not including any manufactured or processed products thereof, and selling the same at wholesale; the tax herein imposed shall be equal to the gross proceeds derived from such sales multiplied by the rate of .030 of one percent.

E. Upon every person engaging within this city in the business of:

1. Printing and/or publication of newspapers, periodicals or magazines;
2. Building, repairing or improving any publicly owned street, place, road, highway, bridge or trestle which is used, or to be used, primarily for foot or vehicular traffic;
3. Building, repairing or improving a commercial or residential structure or other building accessory thereto on the land of another, except upon land where the builder is lessee for a term equal to or in excess of the expected life of the structure.

As to such persons the amount of tax on such business shall be equal to the gross income of the business multiplied by the rate of .1496 of one percent.

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F. Upon every person within this city engaging in any business activity other than or in addition to those enumerated elsewhere in this section; as to such persons the amount of tax for such activities shall be equal to the gross income of the business multiplied by the rate of .1496 of one percent. This subsection includes, among others, and without limiting the scope hereof (whether or not title to material used in the performance of such business passes to another by accession, confusion or other than by outright sale), persons engaged in the business of rendering any type of service.

G. Upon every person engaging within this city in the business of selling the personalty or realty of another; as to such persons, the amount of tax with respect to such business shall be equal to the gross commissions derived from such sales multiplied by the rate of .1496 of one percent.

H. Upon every person within this city engaging in the business of maintaining offices, including but not limited to administrative offices, sales representative offices, manufacturers' representative offices, and persons maintaining common carrier dispatch points:

1. As to such persons, the tax for such activities shall be the amount determined as follows:

a. \$0.1444 for each quarterly period of a calendar year for each square foot of floor area of office space computed to the nearest square foot; and

b. The \$0.1444 factor (set forth in subsection H (1) (a) of this section) 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 per square foot 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; and

c. Provided, however, as to such persons whose offices are not more than two hundred taxable square feet as determined in this subsection, an exemption from the tax of this subsection is hereby granted.

2. As to such persons who maintain an office, all or a portion of which provides administrative support to a business activity which is

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taxed under any other subsection of this section, an exemption from the tax of this subsection is granted in that proportion that administrative support for the business activity taxed under any other subsection of this section bears to the total administrative activity of the office. The clerk shall promulgate rules and regulations for the manner, means and method of determining the said exemption.

3. The taxable floor area of office space shall be computed on the basis of net rentable area as follows:

a. Rentable Area - Single-tenancy Floor. Rentable area of a single-tenancy floor, whether above or below grade, shall be computed by measuring to the inside finish of permanent outer building walls, or from the glass line where at least fifty percent of the outer building wall is glass. Rentable area shall include all area within outside walls, less stairs, elevator shafts, flues, pipe shafts, vertical ducts, air-conditioning rooms, fan rooms, janitor closets, electrical closets and such other rooms not actually available to the tenant for his furnishings and personnel, and their enclosing walls. Toilet rooms within and exclusively serving only that floor shall be included in the rentable area.

No deductions shall be made for columns and projections necessary to the building.

b. Rentable Areas - Multiple-tenancy Floor. The net rentable area of a multiple-tenancy floor, whether above or below grade, shall be the sum of all rentable areas on that floor.

The rentable area of an office on a multiple-tenancy floor shall be computed by measuring to the inside finish of permanent outer building walls, or to the glass line if at least fifty percent of the outer building wall is glass, to the office side of corridors and/or other permanent partitions, and to the center of partitions that separate the premises from adjoining rentable areas.

No deductions shall be made for columns and projections necessary to the building.

c. When the taxable floor space of an office changes during a reporting period, the tax shall be computed on a monthly basis. For the purposes of this allocation, a month shall be sixteen or more days during any calendar month.

I. Upon every person within this city engaging in any of the businesses described in subsections A-H of this section or in Section 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

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above, a tax equal to the number of hours reported for each quarterly period to the State Department of Labor and Industries for employees of the taxpayer, multiplied by the rate of \$0.0234 per hour.

1. Each taxpayer shall file with its tax return a copy of its quarterly report to the State Department of Labor and 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 it shall be presumed that all of its employee hours worked are performed within the city limits 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, 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 who for extended periods of time reports to work outside the city, 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 one thousand nine hundred twenty 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, 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 Labor and Industries reports as adjusted by the employer's affidavit reporting the number of hours worked within the city during that reporting period.

6. 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

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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 and all cities, counties, municipal corporations and political subdivisions are exempt from this subsection I.

8. The exemption granted by Section 4.10.050 shall have no application to this subsection I.

9. There is 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 where expenditure purposes allocated 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 3. Subsections O. and P. of Section 4.08.080 of the Bellevue City Code are hereby amended to read as follows:

O. Any person engaging in any one or more business activities which are within the purview of the provisions of subsections A, B, C, D, E, F, or G of Section 4.08.030 whose value of products, gross proceeds of sales or gross income of business, less applicable deductions and exemptions, is less than or equal to two thousand six hundred seventy four dollars for a quarterly reporting period or less than or equal to ten thousand six hundred ninety six dollars for an annual reporting period shall be exempt under such subsections. Any person subject to the additional tax provision of subsection 4.08.030 I and whose number of hours worked, less applicable deductions or plus applicable additions, is less than or equal to two hundred sixty-seven hours for a quarterly reporting period or less than or equal to one thousand sixty-eight hours for an annual reporting period, if reporting is on an annual basis shall be exempt from tax under such subsection. Any person claiming an exemption under the provisions of this

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subsection 0 must do so by filing a return setting forth such claim of exemption. Returns must be filed even though no tax is due by reason of the exemption provided by this subsection;

P. National banks, state banks, trust companies, mutual savings banks, building and loan associations, savings and loan associations and other financial institutions shall be exempt from provisions of this chapter in any month in which the gross income of such institution as herein defined, after deductions herein provided, is less than three hundred dollars per month, subject to the provisions contained in RCW 82.04.300 as now enacted or hereafter amended. A return must be filed notwithstanding that no tax may be due by reason of a claim of exemption under this subsection.

Section 4. Subsection C. of Section 4.08.110 of the Bellevue City Code, as most recently amended by Section 1 of Ordinance No. 3866, is hereby amended to read as follows:

C. The certificate shall be personal and nontransferable. In case business is transacted at two or more separate places by one taxpayer, a separate certificate for each place at which business is transacted shall be required; but for such additional certificates no additional registration fee shall be required. Each certificate shall be numbered, shall show the name, place and character of the business of the taxpayer within the city, such other information as the clerk shall deem necessary, and shall at all times be conspicuously posted in the place of business for which it is issued. Where place of business of the taxpayer is changed, within the city, the taxpayer shall return to the clerk the certificate and a new certificate shall be issued free of charge for the new place of business.

Section 5. Section 4.08.130 of the Bellevue City Code is hereby amended to read as follows:

4.08.130 Payment of business license tax.

The license fee or tax imposed by this chapter, except the twenty-one dollars required to accompany the application for the certificate of registration, shall be due and payable in quarterly or annual installments, as applicable, and remittance therefor shall be made on or before the thirtieth day of the month next succeeding the end of the reporting period in which tax is accrued. The remittance shall be made as hereinafter provided and shall be accompanied by a return on a form to be provided and prescribed by the clerk. To the return, the taxpayer shall be required to swear or affirm that the information therein given is full and true and that the taxpayer knows the same to be so. Whenever a taxpayer commences to engage in business during any reporting period, his first return and the

tax shall be based upon and cover the portion of the reporting period during which he is engaged in business.

The taxpayer shall report on a quarterly basis, unless the tax clerk determines the taxpayer shall pay on an annual basis and so notifies the taxpayer of that determination.

Section 6. Section 4.08.180 of the Bellevue City Code is hereby amended to read as follows:

4.08.180 Sale or transfer of business.

Upon the sale or transfer during any reporting period of a business on account of which a license fee or tax is required, the purchaser or transferee shall, if the fee or tax has not been paid in full for the reporting period, be responsible for the payment of the fee or tax for that portion of the reporting period during which he carries on such business.

Section 7. Section 4.08.300 of the Bellevue City Code is hereby amended to read as follows:

4.08.300 Protests.

No appeal to the hearing examiner shall be heard and no action to recover any taxes paid shall be allowed unless the taxpayer, at the time of payment of the tax concerning which he appeals or seeks to recover, makes written notice of his payment thereof under protest. Any legal grounds of protest not so noted on each return accompanying such payment shall be deemed to be waived.

Section 8. Section 4.08.100 of the Bellevue City Code as most recently amended by Section 3 of Ordinance No. 4047 is hereby repealed.

Section 9. Any taxpayer who is required to file a tax return for the second quarterly period of 1993 (April 1 to June 30) is eligible to claim an exemption under the provisions Section 3 of this ordinance.

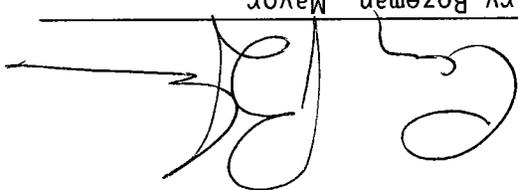
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Section 10. This ordinance shall take effect and be in force five days after its passage and legal publication.

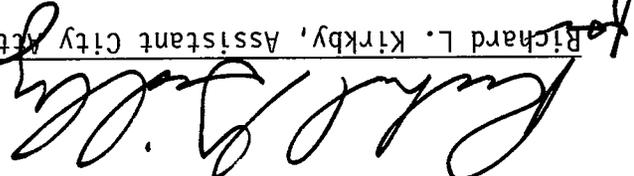
PASSED by the City Council this 26th day of April, 1993, and signed in authentication of its passage this 26th day of April, 1993.

(SEAL)

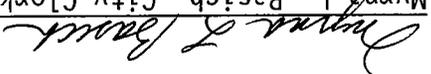
  
Cary Bozeman, Mayor

Approved as to form:

Richard L. Andrews, City Attorney

  
Richard L. Andrews, Assistant City Attorney

Attest:

  
Myrna L. Basich, City Clerk

Published April 30, 1993