

City Council Study Session, September 7, 2021  
 Finance and Asset Management, Tax Office  
 Attachment A, Code Change Language

#### 4.09.050

Imposition of the tax – Tax or fee levied.

Except as provided in BCC 4.09.090(A), there is hereby levied upon and shall be collected from every person a tax for the act or privilege of engaging in business activities within the city, whether the person's office or place of business be within or without the city. The tax shall be in amounts to be determined by application of rates against the square footage of office space in Bellevue and/or gross proceeds of sale, gross income of business, or value of products, including byproducts, as the case may be, as follows:

A. Square Footage Tax. Upon every person within this city who maintains an office(s) or facility(ies), the amount of tax shall be equal to \$0.1834 for each quarterly period of a calendar year for each square foot of floor area of office space calculated to the nearest square foot. The tax rate set forth herein shall be administratively adjusted on January 1st of each year, beginning January 1, 2004, by the director, to reflect any change in the cost of living, as defined and calculated pursuant to BCC 4.03.020(B).

A. 1. As to such person who maintains an office or facility that performs or supports an activity for which such person pays gross receipts business and occupation tax under this chapter, an exemption from a portion of the tax of this section is granted. The exemption is calculated by taking the proportion that adjusted gross receipts bears to the total gross receipts of the business location multiplied by the taxable floor area (as defined in subsection (A)(2) of this section), used to perform or support the activity subject to gross receipts business and occupation tax (subsection B of this section).

"Adjusted gross receipts" for the purpose of this subsection shall include total gross receipts of the business location less receipts from sales reportable under the wholesale or retail gross receipts tax classification delivered outside the city: (1) which are sales of digital products, as defined in BCC 4.09.030(OO), or (2) are deductible pursuant to BCC 4.09.100(F) or 4.09.100(N) and not taxed under subsection (B)(1) (extracting tax), (B)(2) (manufacturing tax) or (B)(5) (printing tax) of this section.

For any person with more than one location in the city, the floor space and receipts from locations within the city shall be combined for the purpose of calculating this exemption.

The director may promulgate rules and regulations regarding the manner, means and method of calculating the exemption.

A. 2. The taxable floor area of office space shall be computed on the basis of net rentable area as follows:

A. 2. a. Rentable Area – Single-Tenancy Floor. The 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 if at least 50 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

**Commented [LT1]:** Clarify intent of 2012 legislative changes related to digital goods and intangibles by placing language adopted in 2012 in a more easily identifiable location for taxpayers

available to the tenant for his/her 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 from the rentable area calculation shall be made for columns and projections necessary to the building.

A. 2. b. Rentable Area – Multiple-Tenancy Floor. The 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 50 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 from the rentable area calculation shall be made for columns and projections necessary to the building.

A. 2. c. For purposes of this section, net rentable area shall not include warehouses, company gyms, cafeterias, and the retail selling area of a retail store.

A. 2. d. 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 deemed to be 16 or more days during any calendar month.

#### 4.09.090

##### Exemptions

A. Tax Exemption Thresholds. Any person engaging in any one or more business activities which are otherwise taxable pursuant to BCC 4.09.050(B), whose value of products, gross proceeds of sale, or gross income of business, less applicable deductions and exemptions, is less than or equal to \$125,000 for an annual reporting period, regardless of assigned reporting frequency, shall be exempt from taxation under such section. The annual exemption amount may be divided by the assigned filing frequency and applied to each return due and payable during the year. It is the taxpayer's responsibility to reconcile the exemption taken during the year to the allowable annual deduction. The administrative provisions in BCC 4.03.090 and 4.03.100 apply to any underpayment or overpayment of tax resulting from such reconciliation. In addition, any person whose net taxable income plus receipts from tangible personal property and digital products delivered outside the state city is less than or equal to \$125,000 shall be exempt from taxation from BCC 4.09.050(A). The exemption level set forth in this subsection shall be administratively adjusted by the director on January 1st of each year, beginning on January 1, 2006, to reflect any change in the cost of living, as defined and calculated pursuant to BCC 4.03.020(B). The amount of the exemption level so calculated shall be rounded to the nearest \$5,000.

#### 4.09.100

In computing the tax imposed by this chapter, the following items may be deducted from the measure of tax. ~~The square footage tax levied pursuant to BCC 4.09.050(A) shall not apply unless otherwise noted.~~

(F) Receipts from Tangible Personal Property and Retail Services Delivered Outside the State. In computing tax, there may be deducted from the measure of tax under retailing or wholesaling amounts derived from the sale of tangible personal property or retail services that are delivered by the seller to the buyer or the buyer's representative at a location outside the state of Washington. ~~The square~~

**Commented [LT2]:** Clarify intent of 2012 legislative changes related to digital goods and intangibles. Gain consistency between tax code provisions.

**Commented [LT3]:** Clarify intent of 2012 legislative changes related to digital goods and intangibles. Gain consistency between tax code provisions.

**Commented [LT4]:** This sentence is no longer necessary. The deductions for square footage tax are now included in the definition of 'adjusted gross receipts' contained in BCC 4.09.050(A)(1)

**Commented [LT5]:** This deletion ensures consistency with the language of the model ordinance. This sentence is no longer necessary as the deductions for square footage tax are now included in BCC 4.09.050(A)(1)

footage tax pursuant to BCC 4.09.050(A) shall apply to deductions for receipts from sales delivered outside the state.

(N) Receipts from the Sale of Tangible Personal Property and Retail Services Delivered Outside the City but Within Washington. For tax periods beginning on or after January 1, 2008, amounts included in the gross receipts reported on the tax return derived from the sale of tangible personal property and retail services delivered to the buyer or the buyer's representative outside the city but within the state of Washington may be deducted from the measure of tax under the retailing, retail services, or wholesaling classification.

**Commented [LT6]:** Gain consistency in the title language and body of the text

#### Tax Code Changes Needed Solely to Match Model Act

4.09.077(F). **Effective January 1, 2020, G**gross income derived from activities taxed as services and other activities under BCC 4.09.050(B)(7) shall be apportioned to the city by multiplying apportionable income by a fraction, the numerator of which is the payroll factor plus the service income factor and the denominator of which is two.

**Commented [LT7]:** Corrects a scrivener's error and ensures language is consistent with model ordinance

#### BCC 4.09.090(I)

I. *Insurance Business*. This chapter shall not apply to insurance agents. In addition, this chapter shall not amounts received by any person who is an insurer or their appointed insurance producer upon which a tax based on gross premiums is paid to the state pursuant to RCW 48.14.020; and provided further, that the provisions of this subsection shall not exempt any bonding company from tax with respect to gross income derived from the completion of any contract as to which it is a surety, or as to any liability as successor to the liability of the defaulting contractor.

**Commented [LT8]:** Ensures exemption language is consistent with model ordinance and RCW 48.14.020(5) which prohibits cities from taxing insurance producers