

**CITY COUNCIL STUDY SESSION**

Update to sections of Business & Occupation (B&O) Tax Code to provide clarity to businesses.

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**DIRECTION NEEDED FROM COUNCIL****DIRECTION**

Tonight, staff will present a series of administrative changes to several B&O Tax Code provisions to provide clarity and consistency for businesses. Staff seeks direction to return on an upcoming consent calendar with appropriate legislation to amend the code accordingly. These changes do not alter the tax rates, tax code's guiding principles or the City's taxing approach.

**RECOMMENDATION**

Move to direct staff to return on a future consent calendar to amend the City of Bellevue B&O Tax Code by adopting the proposed changes to BCC 4.09.

**BACKGROUND & ANALYSIS****Background**

Staff proposes two categories of technical and administrative changes to provisions of the B&O tax code. The first set of proposed changes relate to the application of the square footage tax and will provide additional clarity to businesses in alignment with Council direction from 2012. The second set of proposed changes will ensure that the City's tax code aligns with the Model Ordinance and will establish consistency with section titles.

These changes do not alter the tax rates, tax code's guiding principles or the City's taxing approach.

The City administers a business and occupation (B&O) gross receipts tax. The gross receipts tax applies to a businesses' gross sales in the City. This tax is modeled after the state B&O tax structure and accounts for approximately \$36 million in revenue to the City, annually. In 2003, the State Legislature passed legislation that required the Association of Washington Cities to convene a committee to develop a uniform model ordinance that had to be adopted by all cities imposing a B&O tax. The Municipal Tax Fairness Model Ordinance (Model Ordinance) was adopted by the City in 2007, effective January 1, 2008. Changes to the uniform Model Ordinance have been subsequently put forth by the Association of Washington Cities from time to time. Certain provisions of the Model Ordinances are mandatory and must be adopted by cities without alteration while other provisions are simply suggestive.

The City separately implemented a square footage tax in 1977 to provide equity for businesses maintaining a Bellevue business location but which were not subject to the gross receipts tax due to the nature of their business structure and/or deductions. The square footage tax is measured by the square footage occupied by a business in Bellevue. Generally, the square footage tax applies to businesses which have a location or facility in the City but do not pay the gross receipts tax. This tax accounts for approximately \$4,000,000, annually in revenue to the City.

The provisions of the City's gross receipts tax, as well as the City's square footage tax, are both located in Chapter 4.09 (Business and Occupation Tax Code) of the Bellevue City Code.

### **Proposed Changes**

In 2012, the City adopted changes to the B&O Tax code to acknowledge the sale of digital goods and intangibles for the purpose of calculating the square footage tax. These changes codified the Council's intent to treat the sales of tangible personal property and digital goods the same for purposes of calculating the square footage tax and to align with the state code amendments related to digital goods. Over the years, businesses have asserted some confusion with regard to consistency with these changes across the City's code.

At the same time in 2012, the Council adopted the following guiding principles to guide the tax approach for the City:

- To maintain a taxpayer-friendly environment at the City of Bellevue that is sensitive to the needs of our resident businesses and competitive in the local environment;
- To simplify Bellevue tax code in order to make compliance with Bellevue tax law easier;
- To simplify the administration of the City's tax to minimize costs associated with tax administration; and
- To gain consistency with other taxing jurisdictions where possible.

### **Square Footage Tax Related Proposed Changes**

The City proposes to amend certain code sections that relate to the calculation of the adjusted gross receipts exemption and the tax exemption threshold related to the square footage tax. These changes are only to provide clarification of the 2012 tax code changes in accordance with Council's 2012 direction. These changes will be retroactive to January 2, 2013, the effective date of the 2012 changes.

### **Other Proposed Changes**

The City proposes three additional changes to the tax code. One change is to correct a Scrivener's error and will ensure compliance with a mandatory section of the Model Ordinance. The second change ensures consistency with the Model Ordinance and RCW 18.14.020(5), both of which prohibit cities from taxing insurance producers. The third change simply ensures consistency between the section title and the language of the actual code provision.

Staff's actual proposed changes to the various provisions of B & O tax code are set forth in Attachment A. Descriptions of the proposed tax code changes and the reason(s) for the proposed changes is set forth in Attachment B.

**Public Outreach**

Staff posted the proposed changes on the City's website from August 13, 2021 through August 31, 2021. Staff did not receive any substantive public comments. Staff did receive one comment regarding a grammatical error in our posting which was promptly corrected.

**POLICY & FISCAL IMPACTS****Policy Impact**

The proposed changes to various tax provisions contained in the B & O tax code provide clarity to Council's intent to acknowledge the application of the square footage tax to digital goods, ensure consistency in the application of the square footage tax, ensure compliance with the Model Ordinance, and provide consistency in tax code language.

**Fiscal Impact**

There is no fiscal impact. The code changes provide clarity and align with the long-standing administrative practices of the City.

**OPTIONS**

1. Direct staff to return on a future consent calendar to amend the City of Bellevue B&O Tax Code by adopting the proposed changes to BCC 4.09.
2. Provide alternative direction to staff.

**ATTACHMENTS & AVAILABLE DOCUMENTS**

- A. Tax Code Changes
- B. Code Change Detail

**AVAILABLE IN COUNCIL LIBRARY**

N/A