



Finance Committee

Amendment to the Model B&O Ordinance - Title 5 of the Olympia Municipal Code

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Agenda Item:

Amendment to the Model B&O Ordinance - Title 5 of the Olympia Municipal Code

Issue:

Title 5 of the Olympia Municipal Code needs to be updated in order to comply with State mandated changes to the Model Tax Ordinance. Also, the code should be updated to make penalty language consistent among chapters, and tax return due dates for gambling taxes should be consistent with due dates for other taxes.

Committee Recommendation:

To be developed.

City Manager's Recommendation:

Recommend the amendment as proposed to the full council.

Staff Contacts:

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John T. Holmes, Tax and License Accountant, Administrative Services Department, 360.753.8448

Presenter(s):

Bill Sampson and John T. Holmes

Background and Analysis:

In 2003, the State Legislature enacted legislation requiring all cities with Business and Occupation (B & O) taxes to use the State Model Ordinance as a standard to ensure consistency in tax collection and administration. The City of Olympia must comply, and must update its B & O tax ordinances to match changes to the Model Ordinance to legally collect B & O taxes. The City has received the Model Ordinance changes for 2012, reviewed the current City ordinance (Title 5, OMC), and made provisional changes for the Committee review. The 2012 changes to the Model Ordinance must be adopted by January 1, 2013 in order for the City to continue collecting B & O taxes. The required changes are in six areas, listed below.

- Digital Goods definitions and apportionment - (.030 & .077) Adopt changes required by HB 2620 (Ch. 111 Laws of 2010), which amended apportionment for digital goods in RCW 35.102.130. These changes mirror those made to state law in 2009 with adoption of ESHB 2075 Digital Goods legislation required by Streamlined Sales Tax changes separating digital books, music, and videos goods from their tangible equivalents.

- Board of Director licensing and tax - (.030) Engaging in business definition clarification that the board meeting nexus exclusion applies to the corporation, not the individual board members or consultants attending meetings.
- “Super Nexus” provision repeal - (.060) reflects requirements that allocation and apportionment provisions in RCW 35.102.130 (.077 of model ordinance) should be used for contracts with the city executed after January 1, 2008.
- Insurance business preemption - (.090) updates language to reflect preemption of taxation of insurers/appointed insurance producers in RCW 48.14.020(4) and repeal of RCW 48.17.010-020 (earlier version included in non-mandatory guidelines).
- First mortgage deduction - (.100) updates language to refer to state required tax treatment in RCW 82.14A (earlier version included in non-mandatory guidelines).
- Confidentiality - (Administrative Provisions .200) Adopts language of state confidentiality provision RCW 82.32.330, reflecting option that cities may adopt under RCW 35.102.145 (Chapter 106, Laws of 2010).

There are also a number of administrative changes that need to be made to Title 5 OMC to update terminology, make penalty clauses and tax due dates consistent, and correct minor typographical errors.

A recap of all proposed changes and a “tracked changes” version of OMC Title 5 are included as attachments to this staff report.

Neighborhood/Community Interests (if known):

None known.

Options:

1. Forward to Council as recommended. The City would be in compliance with the State Model B & O Tax Ordinance.
2. Do not recommend or make changes to the ordinance. If the changes made or refrained from being made do not conform to the State Model Business and Occupation Tax Ordinance, the City would not be able to collect the business and occupation tax in 2013

Financial Impact:

The City currently collects approximately \$4,400,000 in Business and Occupation taxes per year. If our ordinance does not conform to the State Model Ordinance, the City will no longer be able to collect the tax.