



City Council

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

Agenda Date: 11/20/2012
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Type: ordinance **Version:** 1 **Status:** Passed

Agenda Item:

Amendment to the Model Business and Occupation (B&O) Ordinance - Title 5 of the Olympia Municipal Code

Issue:

Olympia Municipal Code (OMC) Title 5 needs to be updated to comply with State mandated changes. Also, the OMC should be updated to make penalty language and tax return due dates consistent other taxes.

Committee Recommendation:

The Olympia City Council Finance Committee reviewed this item November 8, 2012.

City Manager's Recommendation:

Move to adopt on second reading the attached Ordinance amending the Business and Occupation Tax.

Staff Contacts:

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

Presenter(s):

Consent Calendar Item - no presentation scheduled.

Background and Analysis:

In 2003, the State Legislature enacted legislation requiring all cities with B & O taxes to use a State Model Ordinance as a standard to ensure consistency in tax collection and administration. The City of Olympia must update its Business and Occupation tax ordinances by December 31, 2012 to match changes to the State Model Ordinance to legally collect B & O taxes next year. The City has received the Model Ordinance changes for 2012, reviewed the current City ordinance (Title 5, OMC), and made provisional changes for City Council Finance Committee review. The 2012 changes to the Model Ordinance must be adopted no later than January 1, 2013 in order for the City to continue collecting a business and occupation tax in 2013. The required changes are in six areas, listed below.

- **Digital Goods definitions and apportionment** - 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** - 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** - 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** - 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** - updates language to refer to state required tax treatment in RCW 82.14A (earlier version included in non-mandatory guidelines).
- **Confidentiality** - 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 of the 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. Approve the ordinance on first reading and move to second reading as presented. The City would be in compliance with State law and be able to continue to collect the business and occupation tax.
2. Do not approve the ordinance 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 \$4,400,000.00 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 business and occupation tax.