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City Council

Approval of a Resolution Authorizing the City Manager to Direct the City Attorney to Request Leave from the Washington State Supreme Court to File an *Amicus Curiae* Brief in the Case of *S. Michael Kunath, et al. v. City of Seattle, et al.*, in support of Seattle's Income Tax Ordinance

Agenda Date: 8/21/2018
Agenda Item Number: 4.J
File Number: 18-0818

Type: resolution **Version:** 1 **Status:** Passed

Title

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Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Move to approve the Resolution authorizing the City Manager to direct the City Attorney to request leave from the Washington State Supreme Court to file an *Amicus Curiae* Brief in the case of *S. Michael Kunath, et al. v. City of Seattle, et al.*, in support of Seattle's income tax ordinance.

Report

Issue:

Whether the City Council should approve a Resolution authorizing the City Manager to direct the City Attorney to request leave from the Washington State Supreme Court to file an *Amicus Curiae* brief in the case of *S. Michael Kunath, et al. v. City of Seattle, et al.* in support of Seattle's income tax ordinance.

Staff Contact:

Mark Barber, City Attorney, 360.753.8338

Presenter(s):

None - Consent Calendar item.

Background and Analysis: The City of Seattle enacted an ordinance to adopt a gross income tax

on total personal income for individual taxpayers who report more than \$250,000 per year in total income, and \$500,000 per year in total income for married taxpayers filing jointly. Seattle's ordinance was challenged in King County Superior Court and was ruled invalid by the trial court. Seattle has petitioned the Washington State Supreme Court for direct review of the trial court's ruling. A majority of courts hold that a tax measured by personal income is an excise tax, not a property tax. Prior Washington case law to the contrary is based on premises and legal authorities that have been overturned. Further, the legislature has granted municipalities broad authority to impose taxes, including excise taxes, and RCW 35A.11.020 confers upon municipalities "all powers of taxation for local purposes" within the city's boundaries subject only to constitutional and statutory constraints.

Neighborhood/Community Interests (if known):

N/A

Options:

1. Approve the Resolution as proposed.
2. Approve Resolution with revisions.
3. Recommend other means of addressing identified need.
4. Take no action.

Financial Impact:

None

Attachments:

Resolution