

WP0534C-ORD
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CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 4840

AN ORDINANCE relating to the business and occupation tax of the City of Bellevue; repealing Chapter 4.08 of the Bellevue City Code; adding a new Chapter 4.08 to the Bellevue City Code; and establishing an effective date.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 4.08 of the Bellevue City Code, the Business and Occupation Tax Code, and Sections 4.08.010 through .310 inclusive, thereof, is hereby repealed.

Section 2. A new Chapter 4.08 is hereby added to the Bellevue City Code, to be designated the Business and Occupation Tax Code, to read as follows:

Sections:

- 4.08.010 Exercise of revenue license power.
- 4.08.015 General administrative provisions apply.
- 4.08.020 Definitions.
- 4.08.030 Tax imposed.
- 4.08.040 Tax on extractors.
- 4.08.050 Tax on manufacturers.
- 4.08.060 Tax on retailers.
- 4.08.070 Tax on wholesalers.
- 4.08.080 Tax on printers and publishers.
- 4.08.090 Tax on construction activities.
- 4.08.100 Tax on real estate brokers.
- 4.08.110 Square footage tax.
- 4.08.120 Tax on any other activity.
- 4.08.130 Exemptions.
- 4.08.140 Deductions.
- 4.08.150 Persons taxable on multiple activities - deduction.
- 4.08.160 Value of products.
- 4.08.170 Sale in own name - sales as agent.
- 4.08.180 Tax part of overhead.

4.08.010 Exercise of Revenue License Power.

The provisions of this Chapter 4.08 shall be deemed an exercise of the power of the City to license for revenue.

4.08.015 General Administrative Provisions Apply.

The provisions of Chapter 4.02 of the Bellevue City Code, the Tax Administration Code, shall be fully applicable to the provisions of this Chapter except as expressly Stated to the contrary herein.

4.08.020 Definitions.

The definitions set forth in Chapter 4.02 of the Bellevue City Code shall apply throughout this Chapter, unless expressly provided otherwise herein. The following additional definitions shall apply throughout this Chapter:

- A. "Business" includes all activities engaged in with the object of gain, benefit or advantage to the taxpayer or to another person or class, directly or indirectly.
- B. "Byproduct" means any additional product, other than the principal or intended product, which results from extracting or manufacturing activities and which has a market value, without regard to whether or not such additional product was an expected or intended result of the extracting or manufacturing activities.
- C. "Cash discount" means a deduction from the invoice price of goods or charge for services which is allowed if the bill is paid on or before a specified date.
- D. "Casual or isolated sale" means a sale made by a person who is not engaged in the business of selling the type of property involved.
- E. "Chapter" shall mean Chapter 4.08 of the Bellevue City Code, as it may be amended or replaced from time to time.
- F. "Commercial or industrial use" means the following uses of products, including byproducts, by the extractor or manufacturer thereof:
 - 1) any use as a consumer; and 2) the manufacturing of articles, substances or commodities.

- G. "Cost of doing business" includes, but is not limited to, rent and/or depreciation, salaries and wages, fixed charges and other business expenses which are peculiar to the nature of the particular business activity.
- H. "Engaging in business" means commencing, conducting, or continuing in business and also the exercise of corporate or franchise powers as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business, or continue to carry on the activities or to perform the contracts of the business of the person, firm or association being dissolved or under liquidation. The term also includes every repeated act within the City engaged in or participated in with the desire or intention of resulting in gain, benefit or advantage, directly or indirectly, to the participant or others, unless expressly exempted by this Chapter or any other ordinance of the City or by State statute. "Engaging in business" includes, but is not limited to, the production, manufacture, sale at wholesale or retail, lease, exchange, solicitation of business, or delivery of any substance or tangible property, goodwill or advertising, the rendition of or providing for amusement, services, advice or information and the dealing in securities, contracts, investments, evidences of indebtedness, rents and royalties. This definition does not include the activities of any person engaged or performed in respect to his employment in the capacity of an employee or servant of another, as distinguished from that of an independent contractor.
- I. "Extractor" means every person who from the person's own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, for sale or for commercial or industrial use mines, quarries, takes or produces coal, oil, natural gas, ore, stone, sand, gravel, clay, mineral or other natural resource product, or fells, cuts or takes timber, Christmas trees other than plantation Christmas trees, or other natural products, or takes fish, or takes, cultivates, or raises shellfish, or other sea or inland water foods or products. Extractor does not include persons performing under contract the necessary labor or mechanical services for others; persons cultivating or raising fish entirely within confined rearing areas on the person's own land or on land in which the person has a present right of possession; or persons who fell, cut, or take

plantation Christmas trees from the person's own land or from land in which the person has a present right of possession.

- J. "Gross proceeds of sales" means the value proceeding or accruing from the sale of tangible personal property and/or for services rendered, without any deduction on account of the cost of property sold, the cost of materials used, labor costs, interest, discount paid, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses.
- K. "Gross income of business" means the value proceeding or accruing by reason of the transaction of the business engaged in and includes gross proceeds of sales, compensation for the rendition of services, gains realized from trading in stocks, bonds, or other evidences of indebtedness, interest, discount, rents, royalties, fees, commissions, dividends, and other emoluments however designated, all without any deduction on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses.
- L. "Home care" providers means a staffed living facility for a group of persons with identifiable or diagnosable particular or special needs, including state-licensed adult family homes; state-licensed homes for the handicapped; state-licensed homes for persons 65 years of age or over; state-licensed foster family homes; state-licensed large foster family homes; state-licensed day care facilities; and state-licensed group care facilities for children. However, "home care providers" shall not include facilities that provide care for compensation for more than twelve persons during all or part of the 24-hour day.
- M. "In this state" or "within this state" includes all federal areas lying within the exterior boundaries of the state.
- N. "Liquor" includes alcohol, spirits, wine and beer, and all fermented, spirituous, vinous, or malt liquor, or combinations thereof, and mixed liquor, a part of which is fermented, spirituous, vinous or malt liquor, or otherwise intoxicating; and every liquid or solid or semisolid or other substance, patented or not, containing alcohol, spirits, wine or beer, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption, and any liquid, semisolid,

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solid, or other substance, which contains more than one percent of alcohol by weight shall be conclusively deemed to be intoxicating. Liquor does not include confections or food products that contain one percent or less of alcohol by weight.

- O. "Manufacturer" means every person who, either directly or by contracting with others for the necessary labor or mechanical services, manufactures for sale or for commercial or industrial use from his own materials or ingredients any articles, substances or commodities. PROVIDED, that a nonresident of this City who is the owner of materials processed for it in this City by a processor for hire shall not be deemed to be engaged in business in this City as a manufacturer because of the performance of such processing work for it in this City.
- P. "Motor vehicle fuel" means gasoline or any other flammable gas or liquid, by whatsoever name such gasoline, gas, or liquid may be known or sold, the chief use of which is as fuel for the propulsion of motor vehicles or motorboats.
- Q. "Sale" means any transfer of the ownership of, title to, or possession of property for a valuable consideration and includes any activity classified as a "sale at retail." It includes renting or leasing, conditional sale contracts, leases with option to purchase, and any contract under which possession of the property is given to the purchaser but title is retained by the vendor as security for the payment of the purchase price. It also includes the furnishing of food, drink, or meals for compensation whether consumed upon the premises or not.
- R. "Sale at retail" or "retail sale"
 - 1. "Sale at retail" or "retail sale" means every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons irrespective of the nature of their business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than a sale to a person who a) purchases for the purpose of resale as tangible personal property in the regular course of business, or b) installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal

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property of or for consumers, if such tangible personal property becomes an ingredient or component of such real or personal property, or c) purchases for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property or substance, of which such property becomes an ingredient or component or as a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale.

2. The term "sale at retail" or "retail sale" shall include the sale of or charge made for tangible personal property consumed and/or for labor and services rendered in respect to the following: a) the installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers, excluding, however, services rendered in respect to live animals, birds, and insects; b) the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for consumers, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, and shall also include the sale of services or charges made for the clearing of land and the moving of earth excepting the mere leveling of land used in commercial farming or agriculture; c) the sale of and charge made for the furnishing of lodging and all other services by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, and it shall be presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same.
- S. "Sale at wholesale" or "wholesale sale" means any sale of tangible personal property which is not a sale at retail and means any charge made for labor and services rendered for persons who are not consumers, in respect to real or personal property, if such charge is expressly defined as a retail sale in this Section when rendered to or for consumers.

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- T. "Special fuel" means and includes all combustible gases and liquids suitable for the generation of power for propulsion of motor vehicles, except that it does not include "motor vehicle fuel" as defined in this Section.
- U. "Successor" means any person to whom a taxpayer quitting, selling out, exchanging, or disposing of a business sells or otherwise conveys, directly or indirectly, in bulk and not in the ordinary course of the taxpayer's business, a major part of the materials, supplies, merchandise, inventory, fixtures, or equipment of the taxpayer. Any person obligated to fulfill the terms of a contract shall be deemed a successor to any contractor defaulting in the performance of any contract as to which such person is a surety or guarantor.
- V. "To manufacture" embraces all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to materials so that as a result thereof a new, different or useful substance or article of tangible personal property is produced for sale or commercial or industrial use, and shall include the production or fabrication of special made or custom made articles.
- W. "Tuition fee" includes library, laboratory, health service and other special fees, and amounts charged for room and board by an educational institution when the property or service for which such charges are made is furnished exclusively to the students or faculty of such institution. "Educational institution," as used in this Section, means only those institutions created or generally accredited as such by the state and includes educational programs that such educational institution cosponsors with a nonprofit organization, as defined by Section 501(c)(3) of the Internal Revenue Code, if such educational institution grants college credit for course work successfully completed through the educational program, or an approved branch campus of a foreign degree-granting institution in compliance with chapter 28B.90 RCW, and in accordance with RCW 82.04.4332 or defined as a degree-granting institution under RCW 28B.85.010(3) and accredited by an accrediting association recognized by the United States secretary of education, and offering to students an educational program of a general academic nature or those institutions which are not operated for profit and which are privately endowed under a deed of trust to offer instruction in trade, industry, and agriculture, but not including specialty schools, business colleges, other trade schools, or similar institutions.

- X. "Value proceeding or accruing" means the consideration, whether money, credits, rights, or other property expressed in terms of money, actually received or accrued. The term shall be applied, in each case, on a cash receipts or accrual basis according to which method of accounting is regularly employed in keeping the books of the taxpayer.

4.08.030 Tax Imposed.

There is levied and shall be collected from every person a tax for the act or privilege of engaging in business activities within the City, whether his/her office or place of business be within and/or without the City. Such tax shall be measured by the application of rates against 1) value of products, gross proceeds of sales or gross income of the business; and/or 2) square footage of office space, as the case may be.

For illustration purposes only, the following chart contains the business & occupation tax rates:

<u>Code Section:</u>	<u>Tax Rate:</u>
1. Gross receipts tax Sections 4.08.040 through 4.08.100, and Section 4.08.120	.1496%
2. Square footage tax Section 4.08.110	\$.1522 per square foot

4.08.040 Tax on Extractors.

There is levied and shall be collected from every person engaging within the City in business as an extractor a tax with respect to such business in an amount equal to the value of the products, including byproducts, extracted for sale or for commercial or industrial use, multiplied by the rate of .1496 of one percent.

The measure of the tax is the value of the products, including byproducts, so extracted, regardless of the place of sale or the fact that deliveries may be made to points outside the City.

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4.08.050 Tax on Manufacturers.

There is levied and shall be collected from every person engaging within the City in business as a manufacturer a tax with respect to such business in an amount equal to the value of the products, including byproducts, manufactured, multiplied by the rate of .1496 of one percent.

The measure of the tax is the value of the products, including byproducts, so manufactured regardless of the place of sale or the fact that deliveries may be made to points outside the City.

4.08.060 Tax on Retailers.

There is levied and shall be collected from every person engaging within the City in the business of making sales at retail a tax with respect to such business in an amount equal to the gross proceeds of sales of the business, multiplied by the rate of .1496 of one percent.

The measure of the tax is the gross proceeds of the sales of the business without regard to the place of delivery of articles, commodities or merchandise sold.

For purposes of this Chapter the term "sale at retail," in addition to its normal meaning, shall include the provision by any person of competitive telephone service, as defined in Section 4.10.020(D), and shall also include that portion of network telephone service, as defined in Section 4.10.020(H), which represents charges to another telecommunications company for connecting fees, switching charges, or carrier access charges relating to intrastate toll services.

4.08.070 Tax on Wholesalers.

There is levied and shall be collected from every person engaging within the City in the business of making sales at wholesale a tax with respect to such business in an amount equal to the gross proceeds of sales of such business multiplied by the rate of .1496 of one percent.

4.08.080 Tax on Printers and Publishers.

There is levied and shall be collected from every person engaging within the City in the business of printing and/or publishing newspapers, periodicals or magazines a tax with respect to such business in an amount equal to the gross

proceeds of sales of such business multiplied by the rate of .1496 of one percent.

4.08.090 Tax on Construction Activities.

There is levied and shall be collected from every person engaging within the City in the business of constructing, repairing, decorating, improving new or existing buildings or other structures under, upon or above real property of others; installing or attaching of any article of tangible personal property in or to real property, whether or not such personal property becomes a part of the realty by virtue of installation; and the clearing of land and the moving of earth; and constructing, reconstructing, repairing or improving any street, place, road, highway, easement, right of way, parking facility, bridge, tunnel, or trestle; a tax on such business or other such activities in an amount equal to the gross income of the business multiplied by the rate of .1496 of one percent.

4.08.100 Tax on Real Estate Brokers.

There is levied and shall be collected from every person engaging within the City as a real estate broker a tax with respect to such business in an amount equal to the gross income of the business, multiplied by the rate of .1496 of one percent.

The measure of the tax on real estate commissions earned by the real estate broker shall be the gross commission earned by the particular real estate brokerage office including that portion of the commission paid to salespersons or associate brokers in the same office on a particular transaction: provided, however, that where a real estate commission is divided between an originating brokerage office and a cooperating brokerage office on a particular transaction, each brokerage office shall pay the tax only upon their respective shares of said commission: and provided further, that where the brokerage office has paid the tax as provided herein, salespersons or associate brokers within the same brokerage office shall not be required to pay a similar tax upon the same transaction.

4.08.110 Square Footage Tax.

Upon every person within this City who maintains an office(s), including but not limited to any offices or other facilities which provide support activities to that person's business, such as administrative, engineering, technical, legal and other direct or indirect support services, whether or not such business is conducted in the City:

As to such person, the amount of tax for such activities shall be equal to \$0.1522 for each quarterly period of a calendar year for each square foot of floor area of office space computed to the nearest square foot. The \$0.1522 tax rate set forth herein, shall be administratively adjusted on January 1st of each year, beginning January 1, 1996, by the Director, to reflect any change in the cost of living, as defined and calculated pursuant to Section 4.02.020(B).

1. As to such person who maintains an office, all or a portion of which provides administrative support to a business activity which is taxed under any other section of this Chapter, an exemption from a portion of the tax of this Section is granted in that proportion that administrative support for the business activity taxed under any section of this Chapter bears to the total administrative activity of the office. The Director may promulgate rules and regulations regarding the manner, means and method of calculating the exemption.
2. The taxable floor area of office space shall be computed on the basis of net rentable area as follows:
 - 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 fifty 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 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.
 - b. Rentable area--Multiple-tenancy floor. The net 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 fifty 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.

- 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.
- 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 sixteen or more days during any calendar month.

4.08.120 Tax On Any Other Activity.

Upon every person engaging within the City in any activity, including but not limited to any service or business activity, other than or in addition to those activities enumerated elsewhere in this Chapter 4.08; as to such persons the amount of tax on account of such activities shall be equal to the gross income of the business multiplied by the rate of .1496 of one percent. This Section includes, among others, and without limiting the scope hereof (whether or not title to materials used in the performance of such business passes to another by accession or other than by outright sale), persons engaged in the business of rendering any type of service which does not constitute a "sale at retail" or a "sale at wholesale."

4.08.130 Exemptions.

- A. Tax exemption thresholds. Any person engaging in any one or more business activities which are otherwise taxable pursuant to Sections 4.08.040, .050, .060, .070, .080, .090, .100 and .120 of this Chapter, whose value of products, gross proceeds of sale, or gross income of business, less applicable deductions and exemptions, is less than or equal to twenty-five thousand dollars for a quarterly reporting period or is less than or equal to one hundred thousand dollars for an annual reporting period, shall be exempt from taxation under such sections.

Any person otherwise taxable pursuant to Section 4.08.110 and whose total floor area of office space does not exceed two hundred fifty taxable square feet shall be exempt from taxation under Section 4.08.110.

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- B. Utility occupation tax and gambling tax. This Chapter shall not apply to any person in respect to a business activity for which tax liability is specifically imposed under the provisions of Chapter 4.10 of the Bellevue City Code, the Utility Occupation Tax Code or Chapter 4.14 of the Bellevue City code, the Gambling Tax Code.
- C. Insurance agents. This Chapter shall not apply to any person in respect to insurance business upon which a tax based on gross premiums is paid to the State; provided, that the provisions of this Subsection shall not exempt any person engaging in the business of representing any insurance company, whether as general or local agent, or acting as broker for such company; 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.
- D. Farmers. This Chapter shall not apply to any farmer, gardener, or other person selling, delivering, or peddling any fruits, vegetables, dairy product, berries, eggs, fish, poultry meats, or any farm produce or edibles raised, gathered, produced, or manufactured by such person.
- E. Employees. This Chapter shall not apply to any person in respect to his employment in the capacity of an employee as distinguished from that of an independent contractor.
- F. Non-profit organizations. This Chapter shall not apply to nonprofit organizations exempt from federal income tax under Section 501(c)(3), (4), or (7) of the Internal Revenue Code of 1954, as amended.
- G. Sale of real estate. This Chapter shall not apply to gross proceeds derived from the sale of real estate. This subsection shall not, however, be construed to allow a deduction of amounts received as commissions from the sale of real estate, nor as fees, handling charges, discounts, interest or similar financial charges resulting from, or relating to, real estate transactions.
- H. Casual and isolated sales. This Chapter shall not apply to the gross proceeds derived from casual or isolated sales.

- I. Investments. This Chapter shall not apply to those amounts derived by persons, other than those engaging in banking, loan, security, or other financial businesses from investments or the use of money as such, or to amounts derived as dividends by a parent from its subsidiary corporations.
- J. Home care providers. This Chapter shall not apply to home care providers as defined in Section 4.08.020(L).
- K. City exempt from tax. The City of Bellevue is exempt from the tax levied by this Chapter.

4.08.140 Deductions.

In computing the tax imposed by this Chapter, the following items may be deducted from the measure of the tax. These deductions shall not be construed to allow an exemption from the square footage tax levied pursuant to Section 4.08.110 unless otherwise stated.

- A. City prohibited from taxing. Amounts derived from business which the City is prohibited from taxing under the Constitution or laws of this State or of the United States, including interstate and foreign sales.
- B. Initiation fees and dues. Amounts derived from 1) bona fide initiation fees, 2) dues, 3) contributions, 4) donations, 5) tuition fees, and 6) endowment funds. This subsection shall not be construed to exempt any person, association, or society from tax liability upon selling tangible personal property or upon providing facilities or services for which a special charge is made to members or others. If dues are in exchange for any significant amount of goods or services rendered by the recipient thereof to a member without any additional charge to the member, or if the dues are graduated upon the amount of goods or services rendered, the value of such goods or services shall not be permitted as a deduction hereunder. The square footage tax levied pursuant to Section 4.08.110 shall not apply to deductions for initiation fees and dues.
- C. Cash discounts. Amounts derived from cash discounts actually taken by the purchaser. This deduction is not allowed in arriving at the taxable amount under the extractors or manufacturers classifications with respect to articles produced or manufactured, the

reported values of which, for purposes of such tax, have been computed according to the provisions of Section 4.08.160. The square footage tax levied pursuant to Section 4.08.110 shall not apply to deductions for cash discounts.

- D. Credit losses. Amounts derived from credit losses actually sustained by taxpayers whose regular books are kept upon an accrual basis. The square footage tax levied pursuant to Section 4.08.110 shall not apply to deductions for credit losses.
- E. Motor vehicle fuel. Amounts derived from the business of manufacturing, selling, or distributing motor vehicle fuel or special fuel. The square footage tax levied pursuant to Section 4.08.110 shall not apply to deductions for motor vehicle fuel.
- F. Liquor sales. Amounts derived from the business of selling liquor. The square footage tax levied pursuant to Section 4.08.110 shall not apply to deductions for liquor sales.
- G. Interest on investments or loans secured by mortgages or deeds of trust. Amounts derived, by those engaged in banking, loan, security or other financial businesses, from interest received on investments or loans primarily secured by first mortgages or trust deeds on nontransient residential properties. The square footage tax levied pursuant to Section 4.08.110 shall not apply to deductions for interest on investments or loans secured by mortgages or deeds of trust.
- H. Interest on obligations of the State or its subdivisions. Amounts derived, by those engaged in banking, loan, security or other financial businesses, from interest paid on all obligations of the State of Washington, its political subdivisions, and municipal corporations organized pursuant to the laws thereof. The square footage tax levied pursuant to Section 4.08.110 shall not apply to deductions for interest on obligations of the State or its subdivisions.
- I. Interest on loans to farmers. Amounts derived as interest on loans to bona fide farmers and ranchers, producers or harvesters of aquatic products, or their cooperatives by a lending institution which is owned exclusively by its borrowers or members, and which is engaged solely in the business of making loans and providing finance-related services to bona fide farmers and ranchers, producers

or harvesters of aquatic products, their cooperatives, rural residents for housing, or persons engaged in furnishing farm-related or aquatic-related services to these individuals or entities. The square footage tax levied pursuant to Section 4.08.110 shall not apply to deductions for interest on loans to farmers.

- J. Tax paid to another city. Whenever persons located in, registered with, and paying tax to the City of Bellevue, as required by this Chapter, are also required to register and pay business and occupation tax to another municipality, and when another municipality has a more substantial nexus with the particular activity subject to taxation, such persons may deduct from the measure of gross receipts tax due to Bellevue that amount they are required to report as the measure of tax to another municipality. Provided, however, this deduction is only applicable when the other municipality uses "gross proceeds of sales" and/or "gross income of the business" as the measure of their business and occupation tax. This deduction shall not apply to persons engaged in extracting or manufacturing activities in Bellevue who transfer or make delivery of articles produced to points outside the City. The square footage tax levied pursuant to Section 4.08.110 shall not apply to deductions for sales taxed by another city.
- K. Value of articles manufactured outside the United States. The value of articles to the extent of manufacturing activities completed outside the United States, by persons subject to payment of the tax on manufacturers pursuant to Section 4.08.050, if:
1. Any additional processing of such articles in this City consists of minor final assembly only; and
 2. In the case of domestic manufacturing of such articles, can be and normally is done at the place of initial manufacture; and
 3. The total cost of the minor final assembly does not exceed two percent of the value of the articles; and

4. The articles are sold and shipped outside the City.

The square footage tax levied pursuant to Section 4.08.110 shall not apply to deductions for the value of articles manufactured outside the United States.

4.08.150 Persons Taxable on Multiple Activities - Deduction.

- A. Any person engaged in business activities which are taxable pursuant to two or more sections of this Chapter shall be taxable under each section applicable to the activity engaged in.
- B. Persons taxable under Sections 4.08.040 or .050 with respect to extracting or manufacturing products in this City shall be allowed a deduction from the measure of the taxes levied under those Sections for amounts which 1) a gross receipts tax has been paid to the City under Section 4.08.060 (retailing) with respect to the sales of the products so extracted or manufactured in this City, or 2) a gross receipts tax has been paid to the City under Section 4.08.070 (wholesaling) with respect to the sales of the products so extracted or manufactured in this City.
- C. Persons taxable under Section 4.08.050 with respect to manufacturing products in this City shall be allowed a deduction from the measure of the tax levied under that Section for amounts which a gross receipts tax has been paid to the City under Section 4.08.040 (extracting) with respect to extracting the ingredients of the products so manufactured in this City.
- D. Persons taxable under Section 4.08.040 or .050 with respect to extracting or manufacturing products in this City shall be allowed a deduction from the measure of the taxes levied under those Sections for amounts for which 1) a gross receipts tax has been paid to another state with respect to the sales of the products so extracted or manufactured in this City, 2) a manufacturing tax has been paid with respect to the manufacturing of products using ingredients so extracted in this City, or 3) a manufacturing tax has been paid with respect to manufacturing activities completed in another state for products so manufactured in this City.
- E. Deduction for out-of-city manufacturers or extractors. Persons taxable under Sections 4.08.060 (retailers) or 4.08.070

(wholesalers) with respect to selling products in the City which have been extracted or manufactured in another state shall be allowed a deduction from the measure of the taxes levied under those Sections for amounts for which a gross receipts tax has been paid to another state with respect to extracting the ingredients or the products so manufactured in another state.

- F. For the purpose of Section 4.08.150, the following definitions shall apply:
1. "Gross receipts tax" means a tax:
 - a. Which is imposed on or measured by the gross volume of business in terms of gross receipts or in other terms, and in the determination of which the deductions allowed would not constitute the tax an income tax or value added tax; and
 - b. Which is also not, pursuant to law or custom, separately stated from the sales price.
 2. "State" means:
 - a. A state of the United States other than Washington, or any political subdivision of such other state;
 - b. the District of Columbia; or
 - c. any foreign country or political subdivision thereof.

4.08.160 Value of Products.

- A. The value of products, including by-products, extracted or manufactured shall be determined by the gross proceeds derived from the sale thereof whether such sale is at wholesale or at retail, to which shall be added all subsidies and bonuses received from the purchaser or from any other person with respect to the extraction, manufacture, or sale of such products or by-products by the seller, except:
1. Where such products, including byproducts, are extracted or manufactured for commercial or industrial use;

2. Where such products, including byproducts, are shipped, transported or transferred out of the state of Washington, or to another person, without prior sale or are sold under circumstances such that the gross proceeds from the sale are not indicative of the true value of the subject matter of the sale.
- B. In the above cases, the value shall correspond as nearly as possible to the gross proceeds from sales in this State of similar products of like quality and character, and in similar quantities by other taxpayers, plus the amount of subsidies or bonuses ordinarily payable by the purchaser or by any third person with respect to the extraction, manufacture, or sale of such products: provided, that the value of a product manufactured or produced for purposes of serving as a prototype for the development of a new or improved product shall correspond: 1) to the retail selling price of such new or improved product when first offered for sale; or 2) to the value of materials incorporated into the prototype in cases in which the new or improved product is not offered for sale.

4.08.170 Sale in Own Name - Sales as Agent.

Every consignee, bailee, factor, or auctioneer having either actual or constructive possession of tangible personal property, or having possession of the documents of title thereto, with power to sell such tangible personal property in his/her or its own name and actually so selling, shall be deemed the seller of such tangible personal property within the meaning of this Chapter; and further, the consignor, bailor, principal, or owner shall be deemed a seller of such property to the consignee, bailee, factor, or auctioneer.

The burden shall be upon the taxpayer in every case to establish the fact that he/she is not engaged in the business of selling tangible personal property but is acting merely as an agent in promoting sales for a principal.

4.08.180 Tax Part of Overhead.

It is not the intention of this Chapter that the taxes herein levied upon persons engaging in business activities be construed as taxes upon the purchasers or customers, but that such taxes shall be levied upon, and collectible from, the person engaging in the business activities herein designated and that such taxes shall constitute a part of the operating overhead of such persons.

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Section 3. The provisions of Sections 1 and 2 of this ordinance shall take effect on January 1, 1996; provided, that any person required to file a return for the fourth quarter of 1995 or for calendar year 1995, if filing on an annual basis, and who meets the exemption thresholds of Section 4.08.130(A), shall be exempt from the payment of tax for such quarterly or annual period.

Section 4. This ordinance shall take effect and be in force five (5) days after passage and legal publication.

PASSED by the City Council this 11th day of December, 1995, and signed in authentication of its passage this 11th day of December, 1995.

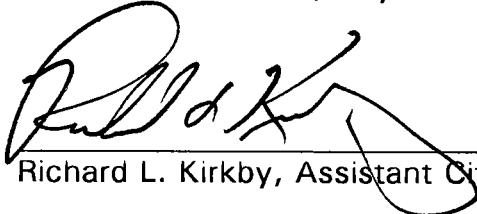
(SEAL)



Donald S. Davidson, DDS, Mayor

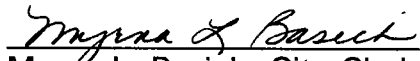
Approved as to form:

Richard L. Andrews, City Attorney



Richard L. Kirkby, Assistant City Attorney

Attest:



Myrna L. Basich, City Clerk

Published December 15, 1995