

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO BUSINESS AND OCCUPATION TAXES AND AMENDING SECTIONS 5.08.020, 5.08.050, and 5.08.060 OF CHAPTER 5.08, THE KIRKLAND MUNICIPAL CODE

WHEREAS, Chapter 144. Laws of 1981, enacted by the Washington State Legislature, has declared that "competitive telephone service" as therein defined shall be considered, for municipal tax purposes, a retail sale of tangible personal property, instead of an included aspect of "telephone business", and

WHEREAS, it is therefore necessary to make certain changes in the City of Kirkland business and occupation tax structure in order to conform to Chapter 144, Laws of 1981, now, therefore,

BE IT ORDAINED by the City Council of the City of Kirkland as follows:

Section 1: Section 5.08.020 of the Kirkland Municipal Code be and it hereby is amended to read as follows:

"5.08.020 Definitions. In construing the provisions of this chapter, save when otherwise plainly declared or clearly apparent from the context, the following definitions shall be applied:

(1) "Gross income" means the value proceeding or accruing from the sale of tangible property or service, and receipts by reason of the investment of capital in the business engaged in, including rentals, royalties, fees or other emoluments, however designated (excluding receipts or proceeds from the use or sale of notes, bonds, mortgages or other evidences of indebtedness, or stock and the like) and without any deduction on account of the cost of the property sold, the cost of materials used, labor costs, interest or discount paid or any expense whatsoever, and without any deduction on account of losses;

(2) "Person" or "persons" means persons of either sex, firms, copartnerships, corporations, including municipal corporations, and other associations of natural persons whether acting by themselves or by servants, agents or employees;

(3) "Residential domestic activities" means those activities commonly occurring or required in the operation and day-to-day maintenance of a human family unit of one or more persons when carried on within the residence of such human family unit.

"Residential domestic activities" shall not include activities directly relating substantially to gainful employment, the production of income, or the operation and maintenance of activities, serving or benefitting more than one human family unit;

(4) "Taxpayer" means any person liable to the license fee or tax imposed by this chapter;

(5) "Tax year" or "taxable year" means the year commencing January 1st and ending on the last day of December of the same year, or, in lieu thereof, the taxpayer's fiscal year when permission is obtained from the city clerk to use the same as the tax period;

(6) "Telephone service" as herein used includes the transmission of information, data or other communication, in either sound or visual patterns, from a point of origin to a point of destination, when such transmission includes the utilization of electromagnetic or light spectrum vibrations or waves as a carrier. "Telephone service" does not include the providing by any person of telephone equipment apparatus or service other than toll service which is of a type which can be provided by persons that are not subject to regulation as telephone companies under Title 80 RCW, and for which a separate charge is made. (Ord. 2501 §1, 1979; Ord. 2284 §1(part), 1974; Ord. 716 §2, 1957).

Section 2: Section 5.08.050 of the Kirkland Municipal Code be and it hereby is amended to read as follows:

"5.08.050 Occupations subject to tax--Amount.  
Whenever a person subject to tax under this chapter classifies customers for purposes of services rendered, commodities provided, and/or charges made therefor, as between residential and nonresidential, or as between residential and commercial, or similar classifications, such persons shall be deemed to be engaging in a separate business activity as to each such classification; provided, that the tax rates to be paid thereon shall be as established in this section.

There are levied upon and shall be collected from the persons on the account of the business activities annual license fees or occupation taxes in the amounts to be determined by the application of the rates against gross income as follows:

(1) Upon every person engaged in or carrying on the business of providing telephone service for residential domestic activities a fee or tax equal to five percent of the total gross income from such business in the city, including 100% of the total gross revenues derived from toll service, during the tax year for which the license is required;

(2) Upon every person engaged in or carrying on the business of providing telephone services available for other than residential domestic activities a fee or tax equal to six and one-half percent of the total gross income from such business in the city, including 100% of the total gross revenues derived from toll service, during the tax year for which the license is required;

(3) Upon every person engaged in and carrying on the business of selling or furnishing natural or manufactured gas for residential domestic activities' consumption, a fee or tax equal to five percent of the total gross income from such business in the city during the tax year for which the license is required;

(4) Upon every person engaged in or carrying on the business of selling or furnishing natural or manufactured gas for other than residential domestic activities' consumption, a fee or tax equal to six and one-half percent of the total gross income for such business in the city during the tax year for which the license is required;

(5) Upon every person engaged in or carrying on the business of selling or furnishing electric light and power or electrical energy for residential domestic activities' consumption, a fee or tax equal to five percent of the total gross income from such business in the city during the tax year for which the license is required;

(6) Upon every person engaged in or carrying on the business of selling or furnishing electric light and power or electrical energy for other than residential domestic activities' consumption a fee or tax equal to six and one-half percent of the total gross income from such business in the city for the tax year for which the license is required;

(7) Upon every person engaged in or carrying on the business of furnishing water distribution and/or sanitary collection services, including both sewer and refuse for residential domestic activities, a fee or tax equal to five percent of the total gross income from such business in the city during the tax year for which the license is required;

(8) Upon every person engaged in or carrying on the business of furnishing water distribution and/or sanitary collection services including both sewage and refuse for other than residential domestic activities a fee or tax equal to six and one-half percent of the total gross income from such business in the city during the tax year for which the license is required. (Ord. 2501 \$2, 1979; Ord. 2284 \$1(part), 1974; Ord. 853 \$1, 1962; Ord. 785 \$1, 1959; Ord. 716 \$5, 1957).

Section 3: Section 5.08.060 of the Kirkland Municipal Code be and it hereby is amended to read as follows:

5.08.060 Exceptions and deductions. (a) There shall be excepted and deducted from the total gross income upon which the license fee or tax is computed (and before the computation of the tax) so much thereof as is derived from transactions in interstate or foreign commerce, or from business done for the government of the United States, its officers or agents, and any amount paid by the taxpayer to the United States, the state of Washington, or the city of Kirkland, as excise taxes levied or imposed upon the sale or distribution of property or services.

(b) Nothing in this chapter shall be construed as requiring a license, or the payment of a license fee or tax, or the doing of any act, which would constitute an unlawful burden or interference in violation of the Constitution or laws of the United States, or which would not be consistent with the Constitution or laws of the state of Washington.

(c) Any person subject to the payment of a license fee or tax under the provisions of any ordinance of the city, other than this chapter, on account of engaging in any activity for which he is liable to tax thereunder [~~hereunder~~], may deduct the amount of such fee or tax imposed by said other ordinance [~~this chapter~~] on account of such activity except when the tax therein [~~herein~~] imposed is paid by the customer. [~~but such person shall nevertheless, in the manner herein provided for, apply for and procure an occupation license.~~] Ord. 716 §6, 1957).

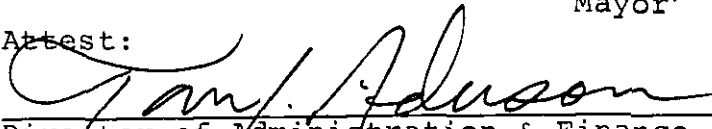
Section 4: This ordinance shall be in force and effect five days from and after its passage by the City Council and posting or publication as required by law.

PASSED by majority vote of the Kirkland City Council in regular meeting on the 3rd day of August, 1981

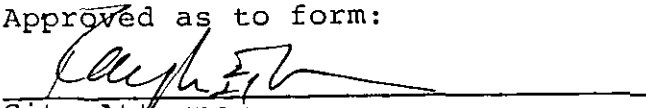
SIGNED in authentication thereof on the 3rd day of August, 1981.

  
\_\_\_\_\_  
Mayor

Attest:

  
\_\_\_\_\_  
Director of Administration & Finance  
(ex officio City Clerk)

Approved as to form:

  
\_\_\_\_\_  
City Attorney