

AN ACT to levy an excess compensation payroll expense tax to fund the Seattle Social Housing Developer.

BE IT ENACTED BY THE PEOPLE OF THE CITY OF SEATTLE:

Section 1. A new Chapter 5.37 is added to Title 5 of the Seattle Municipal Code as follows:

Chapter 5.37 SOCIAL HOUSING TAX

5.37.000 Purpose

On February 14, 2023, Seattle voters approved Initiative 135 by a 14-point margin. I-135 created the Seattle Social Housing Developer to develop, own, and maintain social housing developments in the City of Seattle and for all related lawful purposes or public functions within the limits of the City of Seattle and outside of the City to the extent provided by state law. Social housing is available to all, permanently affordable, and publicly owned in perpetuity. Social housing will increase the supply of permanent, truly affordable housing for Seattle residents. Social housing is an internationally proven model that spans multiple countries and continents, including but not limited to: Maryland's Montgomery County, Toronto, Finland, Singapore, France, Vienna, and New Zealand to name a few. The social housing tax levied through this initiative provides a progressive revenue source that will support the Seattle Social Housing Developer's efforts to expand access to affordable social housing in Seattle by funding the construction and acquisition of social housing, operation costs, maintenance costs, rehabilitation of acquisitions, making control investments in housing developments, and other functions that advance its mission. The housing developed under this ordinance will be permanently protected for public use, dedicated to workforce and community housing, and will thereby increase the supply of permanent, truly affordable housing. The social housing payroll tax will provide a critical, ongoing revenue stream for the Seattle Social Housing Developer to fulfill its mission as outlined in Initiative 135. This revenue stream should eventually complement other sources of funding as the Seattle Social Housing Developer looks to federal grants, State of Washington revenue streams, and other sources to accelerate its ability to build and acquire social housing.

5.37.010 Administrative provisions

The provisions contained in Chapter 5.55 shall apply to the taxes imposed in this Chapter except as expressly stated to the contrary herein.

5.37.020 Definitions

The definitions applicable to Chapter 5.38, as in effect on January 1, 2024, shall be fully applicable to this Chapter except as may be expressly stated to the contrary herein. The following additional definition shall apply throughout this Chapter 5.37:

"Excess compensation" means annual compensation to an employee in excess of \$1,000,000.

5.37.030. Determining excess compensation paid in Seattle to employees

For employees who receive excess compensation, the taxpayer shall determine the amount of excess compensation subject to the tax levied in this Chapter by calculating the portion of such excess compensation paid in Seattle using the method for making such determination with respect to compensation under Section 5.38.025, as in effect on January 1, 2024.

5.37.040 Tax Imposed – Rate

- A. An excess compensation payroll expense tax is hereby levied upon and shall be collected from persons engaging in business within Seattle.
- B. The amount of tax due shall be 5% of the excess compensation paid in Seattle for each employee of the taxpayer.
- C. The tax imposed by this Chapter is levied on businesses. A business may not make any deductions from the employees' compensation to pay for this tax.
- D. The tax imposed by this Chapter is in addition to the payroll expense tax levied under Chapter 5.38.

5.37.050 Exemptions from the tax

- A. The following are exempt from the tax imposed by this Chapter:
 1. Any individual who is an independent contractor for purposes of the business license tax under subsection 5.45.090.S and whose excess compensation is included in the tax paid by another business pursuant to Section 5.37.040.
 2. Businesses that are preempted from taxation by cities pursuant to federal or state statutes or regulations, including the businesses identified in subsection 5.38.040.A.4, as in effect on January 1, 2024.

5.37.060 Allocation and apportionment

The provisions of Section 5.38.050, as in effect on January 1, 2024, shall have full force and application with respect to the tax imposed in this Chapter.

5.37.070 Allocation of proceeds

- A. All revenue received through the tax levied in this Chapter shall be allocated as follows:
 1. At least 95% of the tax revenue shall be allocated and promptly transferred to Seattle's Social Housing Developer, the Public Development Authority established by Initiative 135.
 2. Up to 5% of the tax revenue may be allocated to administer the tax, but in no event shall the amount so allocated exceed \$2,000,000 per year.

5.37.080 When due

- A. The tax imposed by this Chapter shall take effect as of January 1, 2025, and shall be due and payable in quarterly installments in accordance with Section 5.55.040.
- B. The Director may use discretion to assign businesses to an annual reporting period. Forms for such filings shall be prescribed by the Director. Persons discontinuing their business activities in Seattle shall report and pay the excess compensation payroll expense tax at the same time as they file their final business license tax return under Chapter 5.45.

5.37.090 Tax in addition to other license fees or taxes

The tax imposed herein shall be in addition to any license fee or tax imposed or levied under any other law, statute, or ordinance, whether imposed or levied by the City, the State, or other governmental entity or political subdivision.

5.37.100 Tax part of operating overhead

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

5.37.110 Rules and regulations

The Director shall adopt, publish, and enforce rules and regulations not inconsistent with this Chapter for the purpose of carrying out the provisions of this Chapter, including but not limited to rules to ensure that businesses subject to both the payroll expense tax under Chapter 5.38 and the tax under this Chapter are able to streamline and consolidate their filings for those taxes.

Section 2. Section 5.30.010 of the Seattle Municipal Code, last amended by Ordinance 126880, is amended as follows:

5.30.010 - Definition provisions

The definitions contained in this Chapter 5.30 shall apply to Chapters 5.35 (Commercial Parking Tax), 5.37 (Social Housing Tax), 5.38 (Payroll Expense Tax), 5.39 (Transportation Network Company Tax), 5.40 (Admission Tax), 5.45 (Business License Tax), 5.46 (Square Footage Tax), 5.48 (Business Tax—Utilities), 5.50 (Firearms and Ammunition Tax), 5.52 (Gambling Tax), 5.53 (Sweetened Beverage Tax), and 5.55 (General Administrative Provisions) unless expressly provided for otherwise therein, and shall also apply to other chapters and sections as expressly indicated in each chapter or section. Words in the singular number shall include the plural and the plural shall include the singular. Words in one gender shall include all other genders.

Section 3. Subsection 5.30.060.C of the Seattle Municipal Code, which section was last amended by Ordinance 126880 is amended as follows:

5.30.060 Definitions, T—Z

C. "Taxpayer" means any person required by Chapter 5.55 to have a business license tax certificate, or liable for any license, tax, or fee, or for the collection of any tax or fee, under Chapters 5.35 (Commercial Parking Tax), 5.37 (Social Housing Tax), 5.38 (Payroll Expense Tax), 5.39 (Transportation Network Company Tax), 5.40 (Admission Tax), 5.45 (Business License Tax), 5.46 (Square Footage Tax), 5.47 (Heating Oil Tax), 5.48 (Business Tax—Utilities), 5.50 (Firearms and Ammunition Tax), 5.52 (Gambling Tax), and 5.53 (Sweetened Beverage Tax), or who engages in any business or who performs any act for which a tax or fee is imposed under those chapters.

Section 4. Section 5.55.010 of the Seattle Municipal Code, last amended by Ordinance 126880, is amended as follows:

5.55.010 Application of chapter stated

Unless expressly stated to the contrary in each chapter, the provisions of this Chapter 5.55 shall apply with respect to the licenses and taxes imposed under this Chapter 5.55 and Chapters 5.35 (Commercial Parking Tax), 5.37 (Social Housing Tax), 5.38 (Payroll Expense Tax), 5.39 (Transportation Network Company Tax), 5.40 (Admission Tax), 5.45 (Business License Tax), 5.46 (Square Footage Tax), 5.48 (Business Tax—Utilities), 5.50 (Firearms and Ammunition Tax), 5.52 (Gambling Tax), 5.53 (Sweetened Beverage Tax), and under other titles, chapters, and sections in such manner and to such extent as indicated in each such title, chapter, or section.

Section 5. Subsection 5.55.040.A of the Seattle Municipal Code, which section was last amended by Ordinance 126880, is amended as follows:

5.55.040 When due and payable—Reporting periods—Monthly, quarterly, and annual returns—Threshold provisions—Computing time periods—Failure to file returns

A. Other than any annual license fee or registration fee assessed under this Chapter 5.55, the taxes imposed by Chapters 5.35 (Commercial Parking Tax), 5.37 (Social Housing Tax), 5.38 (Payroll Expense Tax), 5.39 (Transportation Network Company Tax), 5.40 (Admission Tax), 5.45 (Business License Tax), 5.46 (Square Footage Tax), 5.48 (Business Tax—Utilities), 5.50 (Firearms and Ammunition Tax), 5.52 (Gambling Tax), and 5.53 (Sweetened Beverage Tax) shall be due and payable in quarterly installments. The Director may use discretion to assign businesses to a monthly or annual reporting period depending on the tax amount owing or type of tax. Taxes imposed by subsections 5.52.030.A.2 and 5.52.030.B.2 for punch boards and pull-tabs shall be due and payable in monthly installments. Tax returns and payments are due on or before the last day of the next month following the end of the assigned reporting period covered by the return. Effective January 1, 2021, tax returns and payments are due on or before the time as provided in RCW 82.32.045(1), (2), and (3).

Section 6. Subsection 5.55.060.A of the Seattle Municipal Code, which section was last amended by Ordinance 126880, is amended as follows:

5.55.060 Records to be preserved—Examination—Inspection—Search warrants—Estoppel to question assessment

A. Every person liable for any fee or tax imposed by this Chapter 5.55 and Chapters 5.35, 5.37, 5.38, 5.39, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, and 5.53 shall keep and preserve, for a period of five years after filing a tax return, such records as may be necessary to determine the amount of any fee or tax for which the person may be liable; which records shall

include copies of all federal income tax and state tax returns and reports made by the person. All books, records, papers, invoices, ticket stubs, vendor lists, gambling games, and payout information, inventories, stocks of merchandise, and other data, including federal income tax and state tax returns, and reports needed to determine the accuracy of any taxes due, shall be open for inspection or examination at any time by the Director or a duly authorized agent. Every person's business premises shall be open for inspection or examination by the Director or a duly authorized agent. For the purposes of this Section 5.55.060, for the tax imposed by Chapter 5.53, "business premises" means wherever the person's business records and tax documents are maintained and does not mean every site owned or operated by the person.

Section 7. Section 5.55.150 of the Seattle Municipal Code, which section was last amended by Ordinance 126880, is amended as follows:

5.55.150 Appeal to the Hearing Examiner

E. The Hearing Examiner shall ascertain the correct amount of the tax, fee, interest, or penalty due either by affirming, reversing, or modifying an action of the Director. Reversal or modification is proper if the Director's assessment or refund denial violates the terms of this Chapter 5.55, or Chapters 5.30, 5.35, 5.37, 5.38, 5.39, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, or 5.53.

Section 8. Section 5.55.165 of the Seattle Municipal Code, last amended by Ordinance 126880, is amended as follows:

5.55.165 Director of Finance and Administrative Services to make rules

The Director of Finance and Administrative Services shall have the power and it shall be the Director's duty, from time to time, to adopt, publish, and enforce rules and regulations not inconsistent with this Chapter 5.55, with Chapters 5.30, 5.35, 5.37, 5.38, 5.39, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, or 5.53, or with law for the purpose of carrying out the provisions of such chapters, and it shall be unlawful to violate or fail to comply with any such rule or regulation.

Section 9. Subsections 5.55.220.A and 5.55.220.B of the Seattle Municipal Code, which section was last amended by Ordinance 126880, are amended as follows:

5.55.220 Unlawful actions—Violation—Penalties

A. It shall be unlawful for any person subject to the provisions of this Chapter 5.55 or Chapters 5.35, 5.37, 5.38, 5.39, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, and 5.53:

1. To violate or fail to comply with any of the provisions of this Chapter 5.55, or Chapters 5.35, 5.37, 5.38, 5.39, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, and 5.53, or any lawful rule or regulation adopted by the Director;
2. To make or manufacture any license required by this Chapter 5.55 except upon authority of the Director;
3. To make any false statement on any license, application, or tax return;
4. To aid or abet any person in any attempt to evade payment of a license fee or tax;
5. To refuse admission to the Director to inspect the premises and/or records as required by this Chapter 5.55, or to otherwise interfere with the Director in the performance of duties imposed by Chapters 5.35, 5.37, 5.38, 5.39, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, and 5.53;
6. To fail to appear or testify in response to a subpoena issued pursuant to Section 3.02.120 in any proceeding to determine compliance with this Chapter 5.55 and Chapters 5.35, 5.37, 5.38, 5.39, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, and 5.53;
7. To testify falsely in any investigation, audit, or proceeding conducted pursuant to this Chapter 5.55;
8. To continue to engage in any business activity, profession, trade, or occupation after the revocation of or during a period of suspension of a business license tax certificate issued under Section 5.55.030; or
9. In any manner, to hinder or delay the City or any of its officers in carrying out the provisions of this Chapter 5.55 or Chapters 5.35, 5.37, 5.38, 5.39, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, and 5.53.

B. Each violation of or failure to comply with the provisions of this Chapter 5.55, or Chapters 5.35, 5.37, 5.38, 5.39, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, or 5.53 shall constitute a separate offense. Except as provided in subsection 5.55.220.C, any person who commits an act defined in subsection 5.55.220.A is guilty of a gross misdemeanor, punishable in accordance with Section 12A.02.070. The provisions of Chapters 12A.02 and 12A.04 apply to the offenses defined in subsection 5.55.220.A, except that liability is absolute and none of the mental states described in Section 12A.04.030 need be proved.

Section 10. Subsection 5.55.230.A of the Seattle Municipal Code, which section was last amended by Ordinance 126880, is amended as follows:

5.55.230 Denial, revocation of, or refusal to renew business license tax certificate

A. The Director, or the Director's designee, has the power and authority to deny, revoke, or refuse to renew any business license tax certificate issued under the provisions of this Chapter 5.55. The Director, or the Director's designee, shall notify such applicant or licensee in writing by mail in accordance with Section 5.55.180 of the denial of, revocation of, or refusal to renew the license and on what grounds such a decision was based. The Director may deny, revoke, or refuse to renew any business license tax certificate or other license issued under this Chapter 5.55 on one or more of the following grounds:

1. The license was procured by fraud or false representation of fact.
2. The licensee has failed to comply with any provisions of this Chapter 5.55.
3. The licensee has failed to comply with any provisions of Chapters 5.35, 5.37, 5.38, 5.39, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, or 5.53.
4. The licensee is in default in any payment of any license fee or tax under Title 5 or Title 6.

Section 11. Subsection 6.208.020.A of the Seattle Municipal Code, which section was last amended by Ordinance 126880, is amended as follows:

6.208.020 Denial, revocation of, or refusal to renew business license

A. In addition to any other powers and authority provided under this Title 6, the Director, or the Director's designee, has the power and authority to deny, revoke, or refuse to renew any business license issued under the provisions of this Chapter 6.208. The Director, or the Director's designee, shall notify such applicant or licensee in writing by mail of the denial, revocation of, or refusal to renew the license and on what grounds such a decision was based. The Director may deny, revoke, or refuse to renew any license issued under this Chapter 6.208 on one or more of the following grounds:

1. The license was procured by fraud or false representation of fact.
2. The licensee has failed to comply with any provisions of this Chapter 6.208.
3. The licensee has failed to comply with any provisions of Chapters 5.35, 5.37, 5.38, 5.39, 5.40, 5.45, 5.46, 5.48, 5.50, or 5.52.
4. The licensee is in default in any payment of any license fee or tax under Title 5 or Title 6.
5. The property at which the business is located has been determined by a court to be a chronic nuisance property as provided in Chapter 10.09.
6. The applicant or licensee has been convicted of theft under subsection 12A.08.060.A.4 within the last ten years.
7. The applicant or licensee is a person subject within the last ten years to a court order entering final judgment for violations of chapters 49.46, 49.48, or 49.52 RCW, or 29 U.S.C. 206 or 29 U.S.C. 207, and the judgment was not satisfied within 30 days of the later of either:
 - a. The expiration of the time for filing an appeal from the final judgment order under the court rules in effect at the time of the final judgment order; or
 - b. If a timely appeal is made, the date of the final resolution of that appeal and any subsequent appeals resulting in final judicial affirmation of the findings of violations of chapters 49.46, 49.48, or 49.52 RCW, or 29 U.S.C. 206 or 29 U.S.C. 207.
8. The applicant or licensee is a person subject within the last ten years to a final and binding citation and notice of assessment from the Washington Department of Labor and Industries for violations of chapters 49.46, 49.48, or 49.52 RCW, and the citation amount and penalties assessed therewith were not satisfied within 30 days of the date the citation became final and binding.
9. Pursuant to relevant provisions in Title 8, subsections 14.16.100.A.4, 14.17.075.A, 14.19.100.A.4, 14.20.080.A.4, 14.22.115.A.4, 14.23.115.A.4, 14.26.210.A.4, 14.27.210.A.4, 14.28.210.A.4, 14.30.180.A.4, 14.33.210.A.4, and 14.34.210.A.4, subsection 100.240.A.4 of Ordinance 126091, subsection 100.240.A.4 of Ordinance 126094, and subsection 100.240.A.4 of Ordinance 126274, the applicant or licensee has failed to comply, within 30 days of service of any settlement agreement, with any final order issued by the Director of the Office of Labor Standards, or any final order issued by the Hearing Examiner under Title 8, Chapters 14.16, 14.17, 14.19, 14.20, 14.22, 14.23, 14.26, 14.27, 14.28, 14.29, 14.30, 14.33, and 14.34, Ordinance 126091, Ordinance 126094, and Ordinance 126274 for which all appeal rights have been exhausted, and the Director of the Office of Labor Standards has requested that the Director deny, refuse to renew, or revoke any business license held or requested by the applicant or licensee. The denial, refusal to renew, or revocation shall remain in effect until such time as the violation(s) under Title 8, Chapters 14.16, 14.17, 14.19, 14.20, 14.22, 14.23, 14.26, 14.27, 14.28, 14.29, 14.30, 14.33, and 14.34, Ordinance 126091, Ordinance 126094, and Ordinance 126274 are remedied.
10. The business is one that requires an additional license under this Title 6 and the business does not hold that license.
11. The business has been determined under a separate enforcement process to be operating in violation of law.

Section 12. Section 12 of City of Seattle Initiative Measure 135 shall be amended as follows:

Section 12. City Startup Support.

The City shall provide the Public Developer limited in-kind assistance as necessary for the first 18 months of startup, including but not limited to office space, staffing, supplies, insurance and bonding, and legal services. This in-kind support shall include hiring and retaining the Public Developer's chief executive officer and chief financial officer. This in-kind support shall not derive from any existing housing funding or reduce any City support for other housing projects. The City Council or the people acting through the initiative power shall ~~will~~ decide the amount of subsequent City support for the Public Developer, which may include funds from any source available to do so including, without limitation, the general fund, grant funds, and by issuing Councilmanic Revenue Bonds.

Section 13. Severability. The provisions of this ballot initiative are declared to be separate and severable. If any clause, sentence, paragraph, section, or portion of this ballot initiative, or the application thereof to any person or circumstances is held to be invalid, it shall not affect the validity of the remainder, or the validity of its application to other persons or circumstances.