



## ORDINANCE NO. 28190

1 AN ORDINANCE relating to business and occupation tax; amending Chapter 6A.30  
2 of the Tacoma Municipal Code by amending Section 6A.30.030,  
3 “Definitions,” to ensure that sales of recreational cannabis by producers are  
4 taxable under the City’s Business and Occupation tax.

4 WHEREAS Initiative 502, approved by Washington voters in  
5 November 2012, provides a framework for licensing and regulating the production,  
6 processing, and retail sale of recreational marijuana, and  
7

8 WHEREAS the Washington State Liquor Control Board (“WSLCB”)  
9 established rules and procedures to implement Initiative 502, and

10 WHEREAS the rules became effective on November 16, 2013, and the state  
11 began accepting applications for all license types on November 18, 2013, and

12 WHEREAS Chapter 6A.30 of the Tacoma Municipal Code (“TMC”) currently  
13 provides an exemption from Business and Occupation (“B&O”) tax on sales of  
14 agricultural products that are produced by the same person, which is intended for  
15 farmers who grow and sell their own products, and  
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17 WHEREAS TMC Chapter 6A.30 is broad enough to include persons who  
18 produce and sell recreational cannabis, and

19 WHEREAS the proposed amendment will remove cannabis from the  
20 definition of an agricultural product and subject the wholesale sales made by  
21 cannabis producers to the City’s B&O tax, and  
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23 WHEREAS this amendment will bring the TMC into alignment with the  
24 requirements for cannabis retailers and processors to remit local B&O tax on their  
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respective sales, and will require local B&O tax to be paid by businesses at all levels of recreational cannabis sales; Now, Therefore,

BE IT ORDAINED BY THE CITY OF TACOMA:

That Section 6A.30.030 of the Tacoma Municipal Code is hereby amended as set forth in the attached Exhibit "A."

Passed \_\_\_\_\_

\_\_\_\_\_  
Mayor

Attest:  
  
\_\_\_\_\_  
City Clerk

Approved as to form:  
  
\_\_\_\_\_  
Deputy City Attorney



## EXHIBIT "A"

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### 6A.30.030 Definitions.

In construing the provisions of this chapter, the following definitions shall be applied. Words in the singular number shall include the plural, and the plural shall include the singular.

"Advance," "reimbursement."

A. "Advance" means money or credits received by a taxpayer from a customer or client with which the taxpayer is to pay costs or fees on behalf of the customer or client.

B. "Reimbursement" means money or credits received from a customer or client to repay the taxpayer for money or credits expended by the taxpayer in payment of costs or fees of the customer or client.

"Agricultural product," "farmer."

A. "Agricultural product" means any product of plant cultivation or animal husbandry including, but not limited to: a product of horticulture, grain cultivation, vermiculture, viticulture, or aquaculture, as defined in RCW 15.85.020; plantation Christmas trees; turf; or any animal, including, but not limited to, an animal that is a private sector cultured aquatic product, as defined in RCW 15.85.020, or a bird, insect, or the substances obtained from such an animal. "Agricultural product" does not include animals intended to be pets and does not include marijuana as defined by RCW 69.50.101(t).

B. "Farmer" means any person engaged in the business of growing or producing, upon the person's own lands or upon the lands in which the person has a present right of possession, any agricultural product whatsoever for sale. "Farmer" does not include a person using such products as ingredients in a manufacturing process, or a person growing or producing such products for the person's own consumption. "Farmer" does not include a person selling any animal or substance obtained therefrom in connection with the person's business of operating a stockyard or a slaughter or packing house. "Farmer" does not include any person with respect to the business of taking, cultivating, or raising timber.

"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.

"Business and occupation tax" or "gross receipts tax" means a tax imposed on or measured by the value of products, the gross income of the business, or the gross proceeds of sales, as the case may be, and that is the legal liability of the business.

"City" means the City of Tacoma.

"Commercial or industrial use" means the following uses of products, including by-products, by the extractor or manufacturer thereof:

A. Any use as a consumer;

B. Any use in the manufacturing of products including articles, substances or commodities.

"Competitive telephone service" means the providing by any person of telecommunications equipment or apparatus, or service related to that equipment or apparatus such as repair or maintenance service, if the equipment or apparatus 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.

"Consumer" means the following:

A. Any person who purchases, acquires, owns, holds, or uses any tangible or intangible personal property irrespective of the nature of the person's 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 a consumer other than for the purpose of:

1. Resale as tangible or intangible personal property in the regular course of business;



1 2. Incorporating such property as an ingredient or component of real or personal property when installing, repairing, cleaning, altering, imprinting, improving, constructing, or decorating such real or personal property of or for consumers;

2 3. Incorporating such property as an ingredient or component of a new product or as a chemical used in processing a new product when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new product; or

3 4. Consuming the property in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon;

4 B. Any person engaged in any business activity taxable under Section 6A.30.050.A.9;

5 C. Any person who purchases, acquires, or uses any competitive telephone service as herein defined, other than for resale in the regular course of business;

6 D. Any person who purchases, acquires, or uses any personal, business, or professional service defined as a retail sale or retail service in Section 6A.30.030, other than for resale in the regular course of business;

7 E. Any person who is an end user of software;

8 F. Any person engaged in the business of "public road construction" with respect to tangible personal property when that person incorporates the tangible personal property as an ingredient or component of a publicly-owned street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle by installing, placing, or spreading the property in or upon the right-of-way of a publicly-owned street, place, road, highway, easement, bridge, tunnel, or trestle, or in or upon the site of a publicly-owned mass public transportation terminal or parking facility;

9 G. Any person who is an owner, lessee, or has the right of possession to or an easement in real property which is being constructed, repaired, decorated, improved, or otherwise altered by a person engaged in business;

10 H. Any person who is an owner, lessee, or has the right of possession to personal property which is being constructed, repaired, improved, cleaned, imprinted, or otherwise altered by a person engaged in business;

11 I. Any person engaged in "government contracting." Any such person shall be a consumer within the meaning of this subsection with respect to tangible personal property incorporated into, installed in, or attached to such building or other structure by such person;

12 Nothing contained in this or any other subsection of this section shall be construed to modify any other definition of "consumer."

13 "Delivery" means the transfer of possession of tangible personal property between the seller and the buyer or the buyer's representative. Delivery to an employee of a buyer is considered delivery to the buyer. Transfer of possession of tangible personal property occurs when the buyer or the buyer's representative first takes physical control of the property or exercises dominion and control over the property. Dominion and control means the buyer has the ability to put the property to the buyer's own purposes. It means the buyer or the buyer's representative has made the final decision to accept or reject the property, and the seller has no further right to possession of the property and the buyer has no right to return the property to the seller, other than under a warranty contract. A buyer does not exercise dominion and control over tangible personal property merely by arranging for shipment of the property from the seller to itself. A buyer's representative is a person, other than an employee of the buyer, who is authorized in writing by the buyer to receive tangible personal property and take dominion and control by making the final decision to accept or reject the property. Neither a shipping company nor a seller can serve as a buyer's representative. It is immaterial where the contract of sale is negotiated or where the buyer obtains title to the property. Delivery terms and other provisions of the Uniform Commercial Code (Title 62A RCW) do not determine when or where delivery of tangible personal property occurs for purposes of taxation.



“Digital automated service,” “digital code,” and “digital goods” have the same meaning as in RCW 82.04.192.

1 “Digital products” means digital goods, digital codes, digital automated services, and the services  
2 described in RCW 82.04.050(2)(g) and (6)(b).

3 “Director” means the Director of the Finance Department of the City or any officer, agent, or employee of  
4 the City designated to act on the Director’s behalf.

5 “Eligible gross receipts tax” means a tax which:

6 A. Is imposed on the act or privilege of engaging in business activities within Section 6A.30.050; and

7 B. Is measured by the gross volume of business, in terms of gross receipts and is not an income tax or  
8 value added tax; and

9 C. Is not, pursuant to law or custom, separately stated from the sales price; and

10 D. Is not a sales or use tax, business license fee, franchise fee, royalty, or severance tax measured by  
11 volume or weight, or concession charge, or payment for the use and enjoyment of property, property  
12 right, or a privilege; and

13 E. Is a tax imposed by a local jurisdiction, whether within or without the state of Washington, and not by  
14 a country, state, province, or any other non-local jurisdiction above the county level.

15 “Engaging in business.”

16 A. The term “engaging in business” means commencing, conducting, or continuing in business, and also  
17 the exercise of corporate or franchise powers, as well as liquidating a business when the liquidators  
18 thereof hold themselves out to the public as conducting such business.

19 B. This section sets forth examples of activities that constitute engaging in business in the City, and  
20 establishes safe harbors for certain of those activities so that a person who meets the criteria may engage  
21 in de minimis business activities in the City without having to register and obtain a business license or  
22 pay City business and occupation taxes. The activities listed in this section are illustrative only and are  
23 not intended to narrow the definition of “engaging in business” in subsection A above. If an activity is not  
24 listed, whether it constitutes engaging in business in the City shall be determined by considering all the  
25 facts and circumstances and applicable law.

26 C. Without being all inclusive, any one of the following activities conducted within the City by a person,  
or its employee, agent, representative, independent contractor, broker, or another acting on its behalf  
constitutes engaging in business and requires a person to register and obtain a business license.

1. Owning, renting, leasing, maintaining, or having the right to use, or using, tangible personal property,  
intangible personal property, or real property permanently or temporarily located in the City.

2. Owning, renting, leasing, using, or maintaining an office, place of business, or other establishment in  
the City.

3. Soliciting sales.

4. Making repairs or providing maintenance or service to real or tangible personal property, including  
warranty work and property maintenance.

5. Providing technical assistance or service, including quality control, product inspections, warranty  
work, or similar services on or in connection with tangible personal property sold by the person or on its  
behalf.

6. Installing, constructing, or supervising installation or construction of, real or tangible personal  
property.

7. Soliciting, negotiating, or approving franchise, license, or other similar agreements.

8. Collecting current or delinquent accounts.



- 1 9. Picking up and transporting tangible personal property, solid waste, construction debris, or excavated  
2 materials.
- 3 10. Providing disinfecting and pest control services, employment and labor pool services, home nursing  
4 care, janitorial services, appraising, landscape architectural services, security system services, surveying,  
5 and real estate services including the listing of homes and managing real property.
- 6 11. Rendering professional services such as those provided by accountants, architects, attorneys,  
7 auctioneers, consultants, engineers, professional athletes, barbers, baseball clubs, and other sports  
8 organizations, chemists, consultants, psychologists, court reporters, dentists, doctors, detectives,  
9 laboratory operators, teachers, and veterinarians.
- 10 12. Meeting with customers or potential customers, even when no sales or orders are solicited at the  
11 meetings.
- 12 13. Training or recruiting agents, representatives, independent contractors, brokers or others, domiciled or  
13 operating on a job in the City, acting on its behalf, or for customers or potential customers.
- 14 14. Investigating, resolving, or otherwise assisting in resolving customer complaints.
- 15 15. In-store stocking or manipulating products or goods sold to and owned by a customer, regardless of  
16 where sale and delivery of the goods took place.
- 17 16. Delivering goods in vehicles owned, rented, leased, used, or maintained by the person or another  
18 acting on its behalf.
- 19 17. Accepting or executing a contract with the City, irrespective of whether goods or services are  
20 delivered within or without the City, or whether the person's office or place of business is within or  
21 without the City.
- 22 D. If a person, or an employee, agent, representative, independent contractor, broker, or another acting on  
23 the person's behalf, engages in no other activities in or with the City but the following, it need not register  
24 and obtain a business license and pay tax.
- 25 1. Meeting with suppliers of goods and services as a customer.
- 26 2. Meeting with government representatives in their official capacity, other than those performing  
contracting or purchasing functions.
3. Attending meetings such as board meetings, retreats, seminars, conferences, or other meetings wherein  
the person does not provide training in connection with tangible personal property sold by the person or  
on its behalf. This provision does not apply to any board of director member or attendee engaging in  
business such as a member of a board of directors who attends a board meeting.
4. Renting tangible or intangible property as a customer when the property is not used in the City.
5. Attending, but not participating in, a "trade show" or "multiple vendor events." Persons participating at  
a trade show shall review the City's trade show or multiple vendor event ordinances.
6. Conducting advertising through the mail.
7. Soliciting sales by phone from a location outside the City.
- E. A seller located outside the City merely delivering goods into the City by means of a common carrier  
is not required to register and obtain a business license, provided that it engages in no other business  
activities in the City. Such activities do not include those in subsection (D).
- The City expressly intends that engaging in business include any activity sufficient to establish nexus for  
purposes of applying the tax under the law and the constitutions of the United States and the state of  
Washington. Nexus is presumed to continue as long as the taxpayer benefits from the activity that  
constituted the original nexus generating contact or subsequent contacts.



“Extracting” is the activity engaged in by an extractor and is reportable under the extracting classification.

1 “Extractor” means every person who from the person’s own land or from the land of another under a right  
2 or license granted by lease or contract, either directly or by contracting with others for the necessary labor  
3 or mechanical services, for sale or for commercial or industrial use, mines, quarries, takes or produces  
4 coal, oil, natural gas, ore, stone, sand, gravel, clay, mineral, or other natural resource product; or fells,  
5 cuts or takes timber, Christmas trees, other than plantation Christmas trees, or other natural products; or  
6 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; or persons meeting the definition of farmer.

“Extractor for hire” means a person who performs under contract necessary labor or mechanical services for an extractor.

“Gross income of the 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.

“Gross proceeds of sales” means the value proceeding or accruing from the sale of tangible personal property, digital goods, digital codes, digital automated services or for other 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.

“In this City” or “within this City” includes all federal areas lying within the corporate city limits of the City.

“Investment management services.”

A. “Investment management services” includes investment research, investment consulting, fund administration, fund distribution, investment transactions, or related investment services to persons or for or on behalf of a collective investment fund. A person is considered to be engaged in providing international investment management services if such person is providing investment management services and/or is a member of an affiliated group (a group of corporations under common ownership or control) primarily in the business of providing investment management services to collective investment funds, and at least 15 percent of the gross income of the person and/or affiliated group is derived from providing investment management services to any of the following:

1. Persons or collective investment funds residing outside the United States; or
2. Collective investment funds with at least 50 percent of their investment assets located or issued outside the United States.

B. For the purpose of this section, “collective investment fund” includes:

1. A mutual fund or other regulated investment company as defined in Section 851(a) of the Internal Revenue Code of 1986, as amended;
2. An investment company, as that term is used in Section 3(a) of the Investment Company Act of 1940, as well as any entity that would be an investment company for this purpose but for the exemptions contained in Section 3(c)(1) or (11) of the aforesaid 1940 Act;
3. An employee benefit plan, which includes any plan, trust, commingled employee benefit trust, or custodial arrangement that is subject to the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. Sec. 1001 et seq., or that is described in Sections 125, 401, 403, 408, 457, and



1 501(c)(9), and (17) through (23) of the Internal Revenue Code of 1986, as amended, or a similar plan maintained by a state or local government, or a plan trust, or custodial arrangement established to self-insure benefits required by federal, state, or local law;

2 4. A fund maintained by a tax-exempt organization, as defined in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, for operating, quasi-endowment, or endowment purposes;

3 5. Funds that are established for the benefit of such tax exempt organizations, such as charitable remainder trusts, charitable lead trusts, charitable annuity trusts, or other similar trusts; or

4 6. Collective investment funds similar to those described in subsections (B)(1) through (5) of this section created under the laws of a foreign jurisdiction.

5 “Manufacturer,” “to manufacture.”

6 A. “Manufacturer” means every person who, either directly or by contracting with others for the  
7 necessary labor or mechanical services, manufactures for sale or for commercial or industrial use from  
8 the person’s own materials or ingredients any products. When the owner of equipment or facilities  
9 furnishes or sells to a customer, prior to manufacture, materials or ingredients equal to less than  
10 20 percent of the total value of all materials or ingredients that become a part of the finished product, the  
11 owner of the equipment or facilities will be deemed to be a processor for hire and not a manufacturer. A  
12 business not located in the City that is the owner of materials or ingredients processed for it in the City by  
13 a processor for hire shall be deemed to be engaged in business as a manufacturer in the City.

14 B. “To manufacture” means all activities of a commercial or industrial nature wherein labor or skill is  
15 applied, by hand or machinery, to materials or ingredients so that as a result thereof a new, different or  
16 useful product is produced for sale or commercial or industrial use, and shall include:

17 1. The production of special made or custom made articles;

18 2. The production of dental appliances, devices, restorations, substitutes, or other dental laboratory  
19 products by a dental laboratory or dental technician;

20 3. Crushing and/or blending of rock, sand, stone, gravel, or ore, and

21 4. The producing of articles for sale, or for commercial or industrial use, from raw materials or prepared  
22 materials by giving such materials, articles, and substances of trade or commerce new forms, qualities,  
23 properties, or combinations, including, but not limited to, such activities as making, fabricating,  
24 processing, refining, mixing, slaughtering, packing, aging, curing, mild curing, preserving, canning, and  
25 the preparing and freezing of fresh fruits and vegetables.

26 “To manufacture” shall not include the production of digital goods or the production of computer  
software if the computer software is delivered from the seller to the purchaser by means other than  
tangible storage media, including the delivery by use of a tangible storage media where the tangible  
storage media is not physically transferred to the purchaser.

“Manufacturing” means the activity conducted by a manufacturer and is reported under the  
manufacturing classification.

“Newspaper,” “magazine,” “periodical.”

A. “Newspaper” means a publication offered for sale regularly at stated intervals at least once per week  
and printed on newsprint in tabloid or broadsheet format folded loosely together without stapling, glue, or  
any other binding of any kind.

B. “Magazine” or “periodical” means any printed publication, other than a newspaper, issued and offered  
for sale regularly at stated intervals at least once every three months, including any supplement or special  
edition of the publication. Any publication meeting this definition qualifies regardless of its content.

“Office” or “place of business” means a fixed location or permanent facility where the regular business of  
the person is conducted and which is either owned by the person or over which the person exercises legal  
dominion and control. The regular business of the person is presumed conducted at a location:





- 1 A. Whose address the person uses as his or her business mailing address; and  
2 B. Where the place of primary use is shown on a telephone billing or a location containing a telephone  
3 line, listed in a public telephone directory or other similar publication, under the business name; and  
4 C. Where the person holds him- or herself out to the general public as conducting his or her regular  
5 business through signage or other means; and  
6 D. Where the person is required to obtain any appropriate state and local business license or registration  
7 unless he or she is exempted by law from such requirement.

8 A vehicle such as a pick-up, van, truck, boat or other motor vehicle is not an office or place of business.  
9 A post office box is not an office or place of business.

10 If a person has an office or place of business, the person's home is not an office or place of business  
11 unless it meets the criteria for office or place of business above. If a person has no office or place of  
12 business, the person's home or apartment within the City will be deemed the place of business.

13 "Option to purchase" shall mean a continuing offer or contract by which owner stipulates with another  
14 that the latter shall have the right to buy property at a fixed dollar price within a certain time. An  
15 agreement is only an option when no obligation rests on the potential buyer to make any payment except  
16 such as may be agreed upon by the parties as consideration to support the option until the potential buyer  
17 has made up his or her mind within a time specified to complete the purchase. The use of the term "fair  
18 market value" or any other like term shall not be substituted for a fixed dollar price in determining if an  
19 "option to purchase" exists.

20 "Person" means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust,  
21 estate, firm, co-partnership, joint venture, club, company, joint stock company, business trust, municipal  
22 corporation, political subdivision of the state of Washington, corporation, limited liability company,  
23 association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal,  
24 nonprofit, or otherwise, and the United States or any instrumentality thereof.

25 "Precious metal bullion" or "monetized bullion."

26 A. "Precious metal bullion" means any precious metal which has been put through a process of smelting  
or refining, including, but not limited to, gold, silver, platinum, rhodium, and palladium, and which is in  
such state or condition that its value depends upon its contents and not upon its form.

B. "Monetized bullion," for purposes of this section, means coins or other forms of money manufactured  
from gold, silver, or other metals and heretofore, now, or hereafter used as a medium of exchange under  
the laws of this state, the United States, or any foreign nation, but does not include coins or money sold to  
be manufactured into jewelry or works of art.

"Processing for hire" means the performance of labor and mechanical services upon materials or  
ingredients belonging to others so that as a result a new, different, or useful product is produced for sale  
or commercial or industrial use. A processor for hire is any person who would be a manufacturer if that  
person were performing the labor and mechanical services upon that person's own materials or  
ingredients. If a person furnishes or sells to a customer, prior to manufacture, materials or ingredients  
equal to 20 percent or more of the total value of all materials or ingredients that become a part of the  
finished product the person will be deemed to be a manufacturer and not a processor for hire.

"Product" or "byproduct."

A. "Product" means tangible personal property, including articles, substances, or commodities created,  
brought forth, extracted, or manufactured by human or mechanical effort.

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.



“Retailing” means the activity of engaging in making sales at retail and is reported under the retailing classification.

1 “Retail service” shall include the sale of or charge made for personal, business, or professional services  
2 including amounts designated as interest, rents, fees, admission, and other service emoluments however  
3 designated, received by persons engaging in the following business activities:

4 A. Amusement and recreation services including, but not limited to, golf, pool, billiards, skating,  
5 bowling, swimming, bungee jumping, ski lifts and tows, basketball, racquetball, handball, squash, tennis,  
6 batting cages, day trips for sightseeing purposes, and others, when provided to consumers. “Amusement  
7 and recreation services” also include the provision of related facilities such as basketball courts, tennis  
8 courts, handball courts, swimming pools, and charges made for providing the opportunity to dance. The  
9 term “amusement and recreation services” does not include instructional lessons to learn a particular  
10 activity such as tennis lessons, swimming lessons, or archery lessons.

11 B. Abstract, title insurance, and escrow services;

12 C. Credit bureau services;

13 D. Automobile parking and storage garage services;

14 E. Landscape maintenance and horticultural services, but excluding (1) horticultural services provided to  
15 farmers, and (2) pruning, trimming, repairing, removing, and clearing of trees and brush near electric  
16 transmission or distribution lines or equipment, if performed by or at the direction of an electric utility;

17 F. Service charges associated with tickets to professional sporting events;

18 G. The following personal services: physical fitness services, tanning salon services, tattoo parlor  
19 services, steam bath services, Turkish bath services, escort services, and dating services.

20 H. The term shall also include the renting or leasing of tangible personal property to consumers and the  
21 rental of equipment with an operator.

22 “Royalties” means compensation for the use of intangible property, such as copyrights, patents, licenses,  
23 franchises, trademarks, trade names, and similar items.

24 “Sale,” “casual or isolated sale.”

25 A. “Sale” means any transfer of the ownership of, title to, or possession of property for a valuable  
26 consideration and includes any activity classified as a “sale at retail,” “retail sale,” or “retail service.” 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.

B. “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 on a routine or continuous basis.

“Sale at retail,” “retail sale.”

A. “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 presents a resale certificate under RCW 82.04.470 and who:

1. Purchases for the purpose of resale as tangible personal property in the regular course of business  
without intervening use by such person; or

2. Installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of  
or for consumers, if such tangible personal property becomes an ingredient or component of such real or  
personal property without intervening use by such person; or



- 1 3. Purchases for the purpose of consuming the property purchased in producing for sale a new article of  
2 tangible personal property or substance, of which such property becomes an ingredient or component or  
3 is a chemical used in processing, when the primary purpose of such chemical is to create a chemical  
4 reaction directly through contact with an ingredient of a new article being produced for sale; or
- 5 4. Purchases for the purpose of consuming the property purchased in producing ferrosilicon which is  
6 subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a  
7 chemical reaction directly through contact with an ingredient of ferrosilicon; or
- 8 5. Purchases for the purpose of providing the property to consumers as part of competitive telephone  
9 service, as defined in RCW 82.04.065. The term shall include every sale of tangible personal property  
10 which is used or consumed or to be used or consumed in the performance of any activity classified as a  
11 "sale at retail" or "retail sale" even though such property is resold or utilized as provided in (1), (2), (3),  
12 (4), or (5) of this subsection following such use.
- 13 6. Purchases for the purpose of satisfying the person's obligations under an extended warranty as defined  
14 in subsection (F) of this section, if such tangible personal property replaces or becomes an ingredient or  
15 component of property covered by the extended warranty without intervening use by such person.
- 16 B. "Sale at retail" or "retail sale" also means every sale of tangible personal property to persons engaged  
17 in any business activity which is taxable under Sections 6A.30.050.A.7 or .9.
- 18 C. "Sale at retail" or "retail sale" shall include the sale of or charge made for tangible personal property  
19 consumed and/or for labor and services rendered with respect to the following:
- 20 1. The installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of  
21 or for consumers, including charges made for the mere use of facilities with respect thereto, but excluding  
22 charges made for the use of coin-operated laundry facilities when such facilities are situated in an  
23 apartment house, rooming house, or mobile home park for the exclusive use of the tenants thereof, and  
24 also excluding sales of laundry service to nonprofit health care facilities, and excluding services rendered  
25 with respect to live animals, birds and insects;
- 26 2. 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;
3. The charge for labor and services rendered with respect to constructing, repairing, or improving any  
structure upon, above, or under any real property owned by an owner who conveys the property by title,  
possession, or any other means to the person performing such construction, repair, or improvement for  
the purpose of performing such construction, repair, or improvement and the property is then reconveyed  
by title, possession, or any other means to the original owner;
4. The sale of or charge made for labor and services rendered with respect to the cleaning, fumigating,  
razing, or moving of existing buildings or structures, but shall not include the charge made for janitorial  
services; and for purposes of this section, the term "janitorial services" shall mean those cleaning and  
caretaking services ordinarily performed by commercial janitor service businesses including, but not  
limited to, wall and window washing, floor cleaning and waxing, and the cleaning in place of rugs, drapes  
and upholstery. The term "janitorial services" does not include painting, papering, repairing, furnace or  
septic tank cleaning, snow removal, or sandblasting. Prior to 2003, fumigating, razing, or moving of  
buildings would be taxable under the service classification;
5. The sale of or charge made for labor and services rendered with respect to automobile towing and  
similar automotive transportation services, but not with respect to those required to report and pay taxes  
under RCW 82.16. Prior to 2003, this activity would be taxable under the service classification;



1 6. The sale of and charge made for the furnishing of lodging and all other services, except telephone  
2 business and cable service, by a hotel, rooming house, tourist court, motel, trailer camp, and the granting  
3 of any similar license to use real property, as distinguished from the renting or leasing of real property,  
4 and it shall be presumed that the occupancy of real property for a continuous period of one month or more  
5 constitutes a rental or lease of real property and not a mere license to use or enjoy the same. For the  
6 purposes of this subsection, it shall be presumed that the sale of and charge made for the furnishing of  
7 lodging for a continuous period of one month or more to a person is a rental or lease real property and not  
8 a mere license to enjoy the same;

9 7. The installing, repairing, altering, or improving of digital goods for consumers;

10 8. The sale of or charge made for tangible personal property, labor and services to persons taxable  
11 under (1), (2), (3), (4), (5), (6), and (7) of this subsection when such sales or charges are for property,  
12 labor, and services which are used or consumed in whole or in part by such persons in the performance of  
13 any activity defined as a "sale at retail" or "retail sale" even though such property, labor, and services  
14 may be resold after such use or consumption. Nothing contained in this subsection shall be construed to  
15 modify subsection A of this section and nothing contained in subsection A of this section shall be  
16 construed to modify this subsection.

17 D. "Sale at retail" or "retail sale" shall also include the providing of competitive telephone service to  
18 consumers.

19 E. 1. "Sale at retail" or "retail sale" shall also include the sale of prewritten software other than a sale to a  
20 person who presents a resale certificate under RCW 82.04.470, regardless of the method of delivery to the  
21 end user. For purposes of this subsection E(1) the sale of the prewritten computer software includes the  
22 sale of or charge made for a key or an enabling or activation code, where the key or code is required to  
23 activate prewritten computer software and put the software into use. There is no separate sale of the key  
24 or code from the prewritten computer software, regardless of how the sale may be characterized by the  
25 vendor or by the purchaser.

26 The term "sale at retail" or "retail sale" does not include the sale of or charge made for:

a. Custom software or;

b. The customization of prewritten software.

2. a. The term also includes the charge made to consumers for the right to access and use prewritten  
computer software, where possession of the software is maintained by the seller or a third party,  
regardless of whether the charge for the service is on a per use, per user, per license, subscription, or  
some other basis.

b. i. The service described in 2.a. of this subsection E includes the right to access and use prewritten  
software to perform data processing.

ii. For purposes of this subsection 2.b., "data processing" means the systematic performance of operations  
on data to extract the required information in an appropriate form or to convert the data to usable  
information. Data processing includes check processing, image processing, form processing, survey  
processing, payroll processing, claim processing, and similar activities.

F. "Sale at retail" or "retail sale" shall also include the sale of or charge made for an extended warranty to  
a consumer. For purposes of this subsection, "extended warranty" means an agreement for a specified  
duration to perform the replacement or repair of tangible personal property at no additional charge or a  
reduced charge for tangible personal property, labor, or both, or to provide indemnification for the  
replacement or repair of tangible personal property, based on the occurrence of specified events. The term  
"extended warranty" does not include an agreement, otherwise meeting the definition of extended  
warranty in this subsection, if no separate charge is made for the agreement and the value of the  
agreement is included in the sales price of the tangible personal property covered by the agreement.

G. "Sale at retail" or "retail sale" shall also include the sale of or charge made for labor and services  
rendered with respect to the building, repairing, or improving of any street, place, road, highway,



1 easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle  
2 which is owned by a municipal corporation or political subdivision of the state of Washington or by the  
3 United States, and which is used or to be used primarily for foot or vehicular traffic including mass  
4 transportation vehicles of any kind (Public road construction).

5 H. "Sale at retail" or "retail sale" shall also include the sale of or charge made for labor and services  
6 rendered with respect to the constructing, repairing, decorating, or improving of new or existing buildings  
7 or other structures under, upon, or above real property of or for the United States, any instrumentality  
8 thereof, or a county or city housing authority created pursuant to RCW 35.82, including the installing or  
9 attaching of any article of tangible personal property therein or thereto, whether or not such personal  
10 property becomes a part of the realty by virtue of installation (government contracting).

11 I. "Sale at retail" or "retail sale" shall not include the sale of services or charges made for the clearing of  
12 land and the moving of earth of or for the United States, any instrumentality thereof, or a county or city  
13 housing authority. Nor shall the term include the sale of services or charges made for cleaning up for the  
14 United States, or its instrumentalities, radioactive waste, and other byproducts of weapons production and  
15 nuclear research and development. (This should be reported under the service and other classification.)

16 J. "Sale at retail" or "retail sale" shall not include the sale of or charge made for labor and services  
17 rendered for environmental remedial action . (This should be reported under the service and other  
18 classification.)

19 K. "Sale at retail" or "retail sale" shall also include the following sales to consumers of digital goods,  
20 digital codes, and digital automated services:

- 21 1. Sales in which the seller has granted the purchaser the right of permanent use;
- 22 2. Sales in which the seller has granted the purchaser a right of use that is less than permanent;
- 23 3. Sales in which the purchaser is not obligated to make continued payment as a condition of the sale; and
- 24 4. Sales in which the purchaser is obligated to make continued payment as a condition of the sale.

25 A retail sale of digital goods, digital codes, or digital automated services under this subsection K includes  
26 any services provided by the seller exclusively in connection with the digital goods, digital codes, or  
digital automated services, whether or not a separate charge is made for such services.

For purposes of this subsection, "permanent" means perpetual or for an indefinite or unspecified length of  
time. A right of permanent use is presumed to have been granted unless the agreement between the seller  
and the purchaser specifies or the circumstances surrounding the transaction suggest or indicate that the  
right to use terminates on the occurrence of a condition subsequent.

L. "Sale at retail" or "retail sale" shall also include the installing, repairing, altering, or improving of  
digital goods for consumers.

"Sale at wholesale" or "wholesale sale" means any sale of tangible personal property, digital goods,  
digital codes, digital automated services, prewritten computer software, or services described in section  
E.2.a which is not a retail sale, and any charge made for labor and services rendered for persons who are  
not consumers, in respect to real or personal property and retail services, if such charge is expressly  
defined as a retail sale or retail service when rendered to or for consumers. Sale at wholesale also includes  
the sale of telephone business to another telecommunications company as defined in RCW 80.04.010 for  
the purpose of resale, as contemplated by RCW 35.21.715.

"Services" means any activity that does not fall within one of the other tax classifications of the City.

"Software," "prewritten software," "custom software," "customization of canned software," "master  
copies," or "retained rights."

A. "Prewritten software" or "canned software" means computer software, including prewritten upgrades,  
that is not designed and developed by the author or other creator to the specifications of a specific  
purchaser. The combining of two or more prewritten computer software programs or prewritten portions



1 thereof does not cause the combination to be other than prewritten computer software. Prewritten  
2 computer software includes software designed and developed by the author or other creator to the  
3 specifications of a specific purchaser when it is sold to a person other than such purchaser. Where a  
4 person modifies or enhances computer software of which said person(s) is not the author or creator, the  
5 person shall be deemed to be the author or creator only of the person's modifications or enhancements.  
6 Prewritten computer software or a prewritten portion thereof that is modified or enhanced to any degree,  
7 where such modification or enhancement is designed and developed to the specifications of a specific  
8 purchaser, remains prewritten computer software; however, where there is a reasonable, separately stated  
9 charge or an invoice or other statement of the price given to the purchaser for the modification or  
10 enhancement, the modification or enhancement shall not constitute prewritten computer software.

11 B. "Custom software" means software created for a single person.

12 C. "Customization of canned software" means any alteration, modification, or development of  
13 applications using or incorporating canned software to specific individualized requirements of a single  
14 person. Customization of canned software includes individualized configuration of software to work with  
15 other software and computer hardware, but does not include routine installation. Customization of canned  
16 software does not change the underlying character or taxability of the original canned software.

17 D. "Master copies" of software means copies of software from which a software developer, author,  
18 inventor, publisher, licensor, sublicensor, or distributor makes copies for sale or license. The software  
19 encoded on a master copy and the media upon which the software resides are both ingredients of the  
20 master copy.

21 E. "Retained rights" means any and all rights, including intellectual property rights such as those rights  
22 arising from copyrights, patents, and trade secret laws, that are owned or are held under contract or  
23 license by a software developer, author, inventor, publisher, licensor, sublicensor, or distributor.

24 F. "Software" means any information, program, or routine, or any set of one or more programs, routines,  
25 or collections of information, used or intended for use to convey information that causes one or more  
26 computers or pieces of computer-related peripheral equipment, or any combination thereof, to perform a  
task or set of tasks. "Software" includes the associated documentation, materials, or ingredients,  
regardless of the media upon which that documentation is provided, that describes the code and its use,  
operation, and maintenance and that typically is delivered with the code to the consumer. All software is  
classified as either canned or custom.

"Taxpayer" means any person as herein defined required to have a registration under this Subtitle 6A or  
liable for the collection of any tax or fee under this subtitle, or who engages in any business or who  
performs any act for which a tax or fee is imposed by this subtitle.

"Trauma-related patient care" is care required by a patient who meets the clinical protocols established in  
accordance with RCW 70.168 and WAC 246-976, as adopted by the Department of Health.

"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 the Internal Revenue Code Section 501(c)(3), as hereafter amended, if such educational  
institution grants college credit for coursework successfully completed through the educational program  
or an approved branch campus of a foreign degree-granting institution, in compliance with RCW 28B.90  
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.



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“Value proceeding or accruing” means the consideration, whether money, credits, rights, or other property expressed in terms of money, a person is entitled to receive or which is 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.

“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.

B. Where such products, including by-products, are extracted or manufactured for commercial or industrial use; and where such products, including by-products, are shipped, transported, or transferred out of the City 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; 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. In the absence of sales of similar products as a guide to value, such value may be determined upon a cost basis. In such cases, there shall be included every item of cost attributable to the particular article or article extracted or manufactured, including direct and indirect overhead costs. The Director may prescribe rules for the purpose of ascertaining such values.

C. Notwithstanding subsection B above, 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 to (1) the retail selling price of such new or improved product when first offered for sale; or (2) the value of materials incorporated into the prototype in cases in which the new or improved product is not offered for sale.

“Wholesaling” means engaging in the activity of making sales at wholesale, and is reported under the wholesaling classification.