

City of Seattle City Council approves the payroll expense tax

Overview

On July 6, 2020, the City of Seattle City Council approved the JumpStart Seattle Plan, Council Bill 119810 (CB 119810)¹, which imposes a payroll expense tax on persons engaging in business within Seattle. The JumpStart Seattle Plan focuses on the COVID-19 crisis and Seattle's long-term economic revitalization by investing in affordable housing and other essential city services.

The new legislation imposes a payroll expense tax of up to 2.4% on compensation paid in Seattle to employees during the period of January 1, 2021 through December 31, 2040. Certain businesses are exempt from this tax.

This alert summarizes the new City of Seattle payroll expense tax.

Imposing Payroll Expense Tax for Persons Engaging in Business Within Seattle

For all periods from January 1, 2021 through December 31, 2040, a payroll expense tax is imposed on persons² engaging in business within Seattle. The payroll expense tax is not imposed on the taxpayer's customer; the payroll expense tax is "a part of the businesses' operating overhead or cost of doing business."³ The payroll expense tax applies graduated rates:⁴

1. For businesses with payroll expense of up to \$99,999,999.99, the rate is:
 - a. 0.7% of the payroll expense of employees with annual compensation of \$150,000 to \$399,999.99; and
 - b. 1.7% of the payroll expense of employees with annual compensation of \$400,000 or more.
2. For businesses with payroll expense of \$100 million to \$999,999,999.99, the rate is:
 - a. 0.7% of the payroll expense of employees with annual compensation of \$150,000 to \$399,999.99; and
 - b. 1.9% of the payroll expense of employees with annual compensation of \$400,000 or more.
3. For businesses with payroll expense of \$1 billion or greater, the rate is:
 - a. 1.4% of the payroll expense of employees with annual compensation of \$150,000 to \$399,999.99; and
 - b. 2.4% of the payroll expense of employees with annual compensation of \$400,000 or more.

"Payroll expense" means the compensation paid in Seattle to employees.⁵ Compensation is paid in Seattle to an employee if:

- The employee is primarily assigned within Seattle;
- The employee is not primarily assigned to any place of business for the tax period and the employee performs 50% or more of his or her service for the tax period in Seattle; or
- The employee is not primarily assigned to any place of business for the tax period, and the employee does not

¹ A copy of Council Bill 119810 (CB 119810) is accessible [here](#).

² "Person" means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, co-partnership, joint venture, club, company, joint stock company, business trust, municipal corporation, political subdivision of the State of Washington, corporation, limited liability, association, society or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise and the United States or any instrument thereof. Seattle Municipal Code (SMC) § 5.30.040.

³ CB 119810, SMC § 5.38.090.

⁴ CB 119810, SMC § 5.38.030(B).

⁵ CB 119810, SMC § 5.38.020.

External Multistate Tax Alert

perform 50% or more of his or her service in any city, and the employee resides in Seattle.⁶

“Primarily assigned” means the business location of the taxpayer where the employee performs the employee’s duties.⁷ The terms, “compensation” and “primarily assigned”, are identically defined in the payroll apportionment factor for the City of Seattle business license tax under Rev. Code Wash. (RCW) § 35.102.130. Taxpayers doing business in Seattle may already be familiar with the “primarily assigned” standard as that standard is used to calculate the payroll factor for the apportionment of the City of Seattle business license tax.⁸

The JumpStart Seattle Plan exempts the following businesses from the payroll expense tax:

- Any business having a payroll expense of less than \$7 million in the most recent calendar year.⁹
- Any business engaged in business in Seattle as a grocery business.¹⁰
- Any individual who is an independent contractor for purposes of the business license tax and whose compensation is included in the payroll expense of another business subject to the payroll expense tax.¹¹
- Businesses that are preempted from taxation by cities pursuant to federal or state law, such as
 - Insurance businesses and their agents
 - Businesses that only sell, manufacture, or distribute motor vehicle fuel
 - Businesses that only distribute or sell liquor
 - Federal and state government agencies and any local government entity¹²

Considerations

Businesses doing business within Seattle and with payroll expense of at least \$7 million should be aware of the payroll expense tax. The payroll expense tax takes effect on January 1, 2021 and will be due and payable on a quarterly basis.¹³ The payroll expense tax for 2021 will be due on the same date as the business license tax payment for the fourth quarter of 2021.¹⁴

Contacts

If you have questions regarding the Seattle payroll expense tax or other Washington state tax matters, please contact any of the following Deloitte professionals:

Robert M. Wood
Senior Manager
Deloitte Tax LLP, Seattle
+1 206 716 7076
robwood@deloitte.com

Myles M. Brenner
Manager
Deloitte Tax LLP, Seattle
+1 206 716 6751
mybrenner@deloitte.com

For further information, visit our website at www.deloitte.com/us/multistatetax

Follow [@DeloitteTax](https://twitter.com/DeloitteTax)

This alert contains general information only and Deloitte is not, by means of this alert, rendering accounting, business, financial, investment, legal, tax, or other professional advice or services. This alert is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your business. Before making any decision or taking any action that may affect your business, you should consult a qualified professional adviser. Deloitte shall not be responsible for any loss sustained by any person who relies on this alert.

⁶ *Id.*

⁷ *Id.*

⁸ RCW § 35.102.130(3)(a); SMC § 5.45.081(G)(1).

⁹ CB 119810, SMC § 5.38.040(1).

¹⁰ CB 119810, SMC § 5.38.040(2).

¹¹ CB 119810, SMC § 5.38.040(3).

¹² CB 119810, SMC § 5.38.040(4).

¹³ CB 119810, SMC § 5.38.060.

¹⁴ *Id.*

External Multistate Tax Alert

About Deloitte

As used in this document, "Deloitte" means Deloitte Tax LLP, a subsidiary of Deloitte LLP. Please see www.deloitte.com/us/about for a detailed description of our legal structure. Certain services may not be available to attest clients under the rules and regulations of public accounting.

Copyright © 2020 Deloitte Development LLC. All rights reserved.