



BUSINESS OF THE CITY COUNCIL CITY OF MERCER ISLAND

AB 5620
November 4, 2019
Regular Business

AGENDA BILL INFORMATION

TITLE:	AB 5620: Update Business and Occupation Tax Municipal Code Language	<input type="checkbox"/> Discussion Only
RECOMMENDED ACTION:	Set Ordinance No. 19C-18, amending Chapter 4.10 MICC related to business and occupation tax, for second reading and adoption on the November 19, 2019 Consent Calendar.	<input checked="" type="checkbox"/> Action Needed: <input checked="" type="checkbox"/> Motion <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution

DEPARTMENT:	City Manager	Matthew Mornick, Special Projects Consultant
COUNCIL LIAISON:	n/a	
EXHIBITS:	Ordinance No. 19C-18	
CITY COUNCIL PRIORITY:	n/a	

AMOUNT OF EXPENDITURE	\$ n/a
AMOUNT BUDGETED	\$ n/a
APPROPRIATION REQUIRED	\$ n/a

SUMMARY

BACKGROUND

In 2019, the Washington state legislature passed two bills that impact cities with a business and occupation (“B&O”) tax: [HB 1403](#) relates to service income apportionment and [HB 1059](#) involves annual tax filing deadlines. These two bills are the result of recent State efforts to improve the business climate and simplify administration of business licenses and B&O tax with [House Bill 2005](#).

MODEL ORDINANCE AMENDMENTS

Passage of HB 2005 in 2017 established a Task Force whose charge, among others, was to examine different B&O tax allocation and apportionment methods. The Task Force met monthly between August 2017 – September 2018. Members included Department of Revenue staff, representatives from Cities with local B&O taxes, and business representatives. They researched B&O tax collection practices in other states and alternatives to how tax service was being divided across multiple cities.

Through the Association of Washington Cities (“AWC”), a city workgroup – including Bellevue, Burien, Kent, Seattle, Shoreline, Snoqualmie, and Tacoma – reviewed changes resulting from this legislation and proposed model language to effectuate the new law uniformly across taxing jurisdictions.

Updates to Chapter 4.10 of the Mercer Island City Code align with changes set forth by the AWC workgroup and are reflected in Exhibit 1. These updates must be approved with a January 1, 2020 effective date.

MERCER ISLAND B&O TAX

The City of Mercer Island charges a 0.10% B&O tax on gross income earned from local business activities each calendar year. Businesses who earn \$150,000 or less on an annual basis are exempt from the tax. Businesses who earn greater than \$150,001 of gross income, also known as service income, are required to file an annual B&O tax return at the end of each calendar year. Over 4,000 private companies do business in Mercer Island. Just over 750 license holders paid B&O taxes generating approximately \$679,000 of revenue in 2018.

HB 1403 AND HB 1059

House Bill 1403 updates how businesses apportion, or divide, their taxable income between taxing jurisdictions when business is taking place in more than one jurisdiction. Service income apportionment is now based on a hierarchy of factors, allowing businesses to portion out B&O tax payments to relevant jurisdictions based on the type of customer and the customer's location, information found in typical commercial transaction receipts. Service income is the gross amount invoiced by a business for performing a licensed service. HB 1403 also includes a new burden of proof for a taxpayer seeking alternative apportionment.

House Bill 1059 changes the filing deadline for B&O tax annual filers to April 15, thus aligning the tax filing process with Federal tax reporting deadlines. Before passage of HB 1059, annual B&O tax returns were due to the City end of January – 30 days after the end of each calendar year. In accordance with generally accepted accounting procedures ("GAAP"), the City would accrue B&O revenue to the year in which it was earned, typically finalizing B&O revenue totals end of February when most annual returns were received. With the new law, Finance staff will evaluate the impacts to financial reporting deadlines and decide whether to hold year-end revenue accruals open through April.

The Finance Department will notify local B&O taxpayers of the updated ordinance. The new filing deadlines will go into effect in 2021 when 2020 taxes are filed. Staff will monitor B&O tax revenues over the next few years. The amendments outlined in Exhibit 1 ensure compliance with HB 1403 and HB 1059, making the tax easier to administer, more understandable, and more consistent for B&O taxpayers.

The City Council Rules of Procedure require a second reading of ordinances. Since the proposed code amendments are simple and straightforward, the City Council could suspend the Rules and adopt the Ordinance at Monday's meeting. Otherwise, it should be set for second reading and adoption on the November 19, 2019 Consent Calendar.

RECOMMENDATION

Set Ordinance No. 19C-18, amending Chapter 4.10 MICC related to service income apportionment and annual filing deadlines for business and occupation tax, for second reading and adoption on the November 19, 2019 Consent Calendar.

Or, alternatively:

1. Suspend the City Council Rules of Procedures Section 6.3 requiring a second reading of an ordinance.
2. Adopt Ordinance No. 19C-18, amending Chapter 4.10 of the Mercer Island City Code related to business and occupation tax.