

Other:

Washington Superior Court Denies Local Business Group's Claims and Deems Seattle Payroll Tax Valid

Case No. 20-2-17576-5 SEA, Wash. Super. Ct., King County (6/7/21). In a lawsuit filed by a local business group seeking to declare the City of Seattle, Washington's (City) payroll expense tax on certain employers engaging in business within the City that took effect January 1, 2021 [see Council Bill No. 119811, passed with veto-proof margin by City Council on 7/6/20, and returned unsigned by mayor 7/17/20, and previously issued Multistate Tax Alert, for more details on this new payroll tax] "unlawful, invalid, and unconstitutionally void," the Washington Superior Court for King County (Court) denied the local business group's motion for summary judgment and instead granted the City's motion for summary judgment that such tax is constitutional. In doing so, the Court reasoned that the City has authority to tax all business activities in the City, and that its new payroll expense tax is an excise tax measured by payroll expenses and paid by businesses that engage in business with employees in the City wherein the employees themselves do *not* pay the tax. In this respect, it is a tax levied on business entities rather than on their employees. Accordingly, the Court concluded that the City's payroll expense tax is a permissible tax on the privilege of doing business and that, as a matter of law, it is a valid excise tax on business under the taxing authority granted to cities by the Washington State Constitution and statutes. The local business group had claimed that "in substance and in truth" the underlying ordinance's taxable incident is "the right to earn a living – which the Washington Supreme Court has already ruled cities may not do."

URL: <https://seattle.legistar.com/LegislationDetail.aspx?ID=4576782&GUID=88DA4466-D6B8-4BDF-8572-994FB5E98933>

URL: <https://www2.deloitte.com/us/en/pages/tax/articles/city-of-seattle-city-council-approves-the-payroll-expense-tax.html?id=us:2em:3na:stm:awa:tax:060421&sfid=7015Y000003WdNDQAO>

Effective as of January 1, 2021, the City's payroll expense tax is imposed on some businesses at a rate of up to 2.4% of defined compensation paid in the City to employees that exceed \$150,000 of total compensation in a calendar year. Under City ordinance, payroll generally is sourced to the City based on where an employee is primarily assigned, and businesses with less than \$7 million of Seattle-sourced payroll are exempted – as are other select taxpayers such as some grocery and insurance businesses. The 2020 enacting ordinance includes a sunset of the payroll expense tax on December 31, 2040 [see Payroll expense tax, City of Seattle Dept. of Fin. and Admin. Services, License and Tax Administration (1/21) and Seattle Rule 5-980 Payroll Expense Tax, City of Seattle Dept. of Fin. and Admin. Services, License and Tax Administration (eff. 1/1/21) for additional details on the City of Seattle payroll expense tax]. Please contact us with any questions.

URL: <http://www.seattle.gov/license-and-tax-administration/business-license-tax/other-seattle-taxes/payroll-expense-tax>

URL: http://clerk.seattle.gov/~CFS/CF_321847.pdf

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