

ORDINANCE NO. 1433

CITY OF LACEY

AN ORDINANCE OF THE CITY OF LACEY, WASHINGTON, RELATING TO BUSINESS AND OCCUPATION TAXES, AMENDING SECTION 3.02.100 OF THE LACEY MUNICIPAL CODE AND APPROVING A SUMMARY FOR PUBLICATION.

WHEREAS, the City Council has previously adopted the City Business and Occupation (B&O) Tax Model Ordinance as required by state law which provisions are contained within Chapters 3.02 and 3.02A of the Lacey Municipal Code and previously amended said provisions, and

WHEREAS, the City Council recognizes the local economic recovery from the most recent recession is slow and small business is a key component of the economy, and

WHEREAS, the City has adopted a business friendly approach to service delivery and the City Council adopted eight visions for the City including "A Vibrant, Diverse Economy",

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, as follows:

Section 1. Section 3.02.100 of the Lacey Municipal Code is hereby amended to read as follows:

- A. **Public Utilities.** This chapter shall not apply to any person in respect to a business activity with respect to which tax liability is specifically imposed under the provisions of Chapter 3.01 LMC.
- B. **Investments--Dividends from Subsidiary Corporations.** This chapter shall not apply to amounts derived by persons, other than those engaging in banking, loan, security, or other financial businesses, from investments or the use of money as such, and also amounts derived as dividends by a parent from its subsidiary corporations.
- C. **Insurance Business.** This chapter shall not apply to amounts received by any person who is an insurer or their appointed insurance producer upon which a tax based on gross premiums is paid to the state pursuant to RCW 48.14.020; and provided further, that the provisions of this subsection shall not exempt any bonding company from tax with respect to gross income derived from the completion of any contract as to which it is a surety, or as to any liability as successor to the liability of the defaulting contractor.

D. Employees.

1. This chapter shall not apply to any person in respect to the person's employment in the capacity as an employee or servant as distinguished from that of an independent contractor. For the purposes of this subsection, the definition of employee shall include those persons that are defined as such in the Internal Revenue Code, as hereafter amended.

2. A booth renter, as defined by RCW 18.16.020, is an independent contractor for purposes of this chapter.

E. Amounts Derived from Sale of Real Estate. This chapter shall not apply to gross proceeds derived from the sale of real estate. This, however, shall not be construed to allow an exemption of amounts received as commissions from the sale of real estate, nor as fees, handling charges, discounts, interest or similar financial charges resulting from, or relating to, real estate transactions. This chapter shall also not apply to amounts received for the rental of real estate if the rental income is derived from a contract to rent for a continuous period of thirty days or longer.

F. Mortgage Brokers' Third-Party Provider Services Trust Accounts. This chapter shall not apply to amounts received from trust accounts to mortgage brokers for the payment of third-party costs if the accounts are operated in a manner consistent with RCW 19.146.050 and any rules adopted by the director of financial institutions.

G. Amounts Derived from Manufacturing, Selling or Distributing Motor Vehicle Fuel. This chapter shall not apply to the manufacturing, selling, or distributing of motor vehicle fuel, as the term "motor vehicle fuel" is defined in RCW 82.36.010 and exempt under RCW 82.36.440; provided, that any fuel not subjected to the state fuel excise tax, or any other applicable deduction or exemption, will be taxable under this chapter.

H. Amounts Derived from Liquor, and the Sale or Distribution of Liquor. This chapter shall not apply to liquor as defined in RCW 66.04.010 and exempt in RCW 66.08.120.

I. Casual and Isolated Sales. This chapter shall not apply to the gross proceeds derived from casual or isolated sales, unless said sale would rise to the minimum amount of gross income pursuant to LMC 3.02.050.

J. Accommodation Sales. This chapter shall not apply to sales for resale by persons regularly engaged in the business of making retail sales of the type of property so sold to other persons similarly engaged in the business of selling such property, where:

1. The amount paid by the buyer does not exceed the amount paid by the seller to the vendor in the acquisition of the article; and
2. The sale is made as an accommodation to the buyer to enable the buyer to fill a bona fide existing order of a customer or is made within fourteen days to reimburse in kind a previous accommodation sale by the buyer to the seller.

K. Taxes Collected as Trust Funds. This chapter shall not apply to amounts collected by the taxpayer from third parties to satisfy third party obligations to pay taxes such as the retail sales tax, use tax, and admission tax.

L. Nonprofit Corporations or Nonprofit Organizations. This chapter shall not apply to nonprofit organizations exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, as hereafter amended, except with respect to retail sales of such persons. ~~Insurance Business. This chapter shall not apply to any person in respect to insurance business upon which a tax based on gross premiums is paid to the state; provided, that the provisions of this section shall not exempt any person engaging in the business of representing any insurance company, whether as general or local agent, or acting as broker for such companies; provided further, that the provisions of this section shall not exempt any bonding company from tax with respect to gross income derived from the completion of any contract as to which it is a surety, or as to any liability as successor to the liability of the defaulting contractor.~~

M. ~~Nonprofit Corporations or Nonprofit Organizations. This chapter shall not apply to nonprofit organizations exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, as hereafter amended, except with respect to retail sales of such persons.~~ Small Business Startup. This chapter shall not apply to any person whose gross proceeds of sales, gross income of the business, and value of products, including by-products, as the case may be, from all activities conducted within the city is equal to or less than \$500,000 annually and the person has conducted business within the city for a period of less than three years and has not previously conducted business within the city.

Section 2. This ordinance shall take effect on January 1, 2015.

Section 3. The Summary attached hereto is hereby approved for publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF LACEY,
WASHINGTON, at a regularly-called meeting thereof, held this 24th day of April,
2014.

CITY COUNCIL

By: Andy D. Ryde
Mayor

Approved as to form:
[Signature]
City Attorney

Attest:
Carol Little
City Clerk

SUMMARY FOR PUBLICATION

ORDINANCE NO. 1433

CITY OF LACEY

The City Council of the City of Lacey, Washington, passed on April 24, 2014, Ordinance No. 1433, entitled "AN ORDINANCE OF THE CITY OF LACEY, WASHINGTON, RELATING TO BUSINESS AND OCCUPATION TAXES, AMENDING SECTION 3.02.100 OF THE LACEY MUNICIPAL CODE AND APPROVING A SUMMARY FOR PUBLICATION."

The main points of the Ordinance are described as follows:

1. The Ordinance amends Lacey Municipal Code Section 3.02.100 to include a Small Startup Business exemption and amends paragraph L.
2. Sets an effective date of January 1, 2015
3. The Ordinance approves this Summary for publication.

A copy of the full text of this Ordinance will be mailed without charge to any person requesting the same from the City of Lacey.

Published: April 28, 2014.