

Seattle City Council Approves New Payroll Tax

Seattle businesses may soon be subject to a new tax on payroll. Earlier this week, the Seattle City Council passed Council Bill. No. 119810, known as Jump Start Seattle. The measure, which was approved by a veto-proof majority, now awaits action from Mayor Durkan. If enacted, the ordinance would impose a sliding rate tax on businesses with \$7 million or more in annual payroll and would take effect January 1, 2021. The tax applies only to positions earning more than \$150,000 a year. Below is an overview of the ordinance's key provisions.

The tax applies to most for-profit and nonprofit entities with \$7 million or more in annual payroll

The tax applies to "businesses" with annual payroll expenses of at least \$7 million. "Businesses" include entities that engage in activities to gain, benefit, or advantage the entity or a third person or class.

But the ordinance exempts several types of otherwise qualifying entities: (1) federal and state government agencies; (2) local governmental entities, which encompasses special purpose entities; (3) non-profit health care providers (for certain compensation levels and for the first three years); (4) grocery stores; and (5) insurance businesses, motor vehicle fuel manufacturers and distributors, liquor businesses, and any other businesses preempted from city taxation.

"Payroll expenses" mean compensation paid in Seattle to employees

"Payroll expenses" refer to all compensation paid in Seattle to employees. To be "paid in Seattle," the compensation must be issued to (1) an employee who is primarily assigned within Seattle, or alternatively (2) to an employee unassigned during the tax period who (a) performs 50% or more of their service in Seattle or (b) resides in Seattle. The residence qualification could be particularly relevant to unassigned remote workers.

"Compensation" means earnings in cash or other mediums for services rendered or work performed. Incentive and guaranteed payments, commissions, bonuses, net distributions, and settlements are taxable compensation. Capital returns, investment income, and other passive income of owners of pass-through entities are excluded.

"Employee" is broadly defined and includes members of different business associations

An "employee" includes any individual who performs "work, labor, or personal services of any nature" and receives compensation from a business. "Employee" also extends to members of limited liability companies and professional limited liability companies, as well as partners, sole proprietors, and owners of pass-through entities.

The ordinance levies a sliding rate tax on employees compensated at \$150,000 or more

The tax is assessed only on positions earning more than \$150,000 annually. The tax rate increases progressively based on total annual payroll and is further adjusted for compensation levels. The breakdown of the rates is as follows:

Lower-Tier (payroll from \$7 million to \$99.9 million)

0.7% tax on individual employee compensation from \$150,000 to \$399,999.99

1.7% tax on individual employee compensation at or above \$400,000

Mid-Tier (payroll from \$100 million to \$999.9 million)

0.7% tax on individual employee compensation from \$150,000 and \$399,999.99

1.9% tax on individual employee compensation at or above \$400,000

Upper Tier (payroll from \$1 billion or more)

1.4% tax on annual individual employee compensation from \$150,000 to \$399,999.99

2.4% tax on annual individual employee compensation at or above \$400,000

Beginning January 1, 2022, these amounts will be adjusted annually to reflect inflation.

The tax could be replaced by future county or state taxes and will sunset in 2040

The ordinance expresses the Council's intent to revisit the payroll tax if replacement revenue from regional or state progressive taxes becomes available and provides the City with equivalent funding.

Likewise, the payroll tax is scheduled to expire on December 31, 2040.

Revenue will provide relief related to COVID-19 but exact appropriations will be made in the future

The tax is expected to generate about \$200 million annually. The Council passed a companion spending plan ordinance that directs the repayment of the City's Emergency Management Fund and Revenue Stabilization Fund that was used to address economic impacts caused by COVID-19. Other spending priorities are set forth at a high-level, including efforts to address homelessness and to support local businesses. Exact appropriations will be made as part of the budget process in the future.

Pacifica Law Group has assisted numerous for-profit and nonprofit entities with tax compliance and is prepared to advise and assist our clients on the new payroll tax and related rules and regulations as they emerge.

Gerry Johnson	Gerry.Johnson@pacificalawgroup.com	206.245.1700
Jon Jurich	Jon.Jurich@pacificalawgroup.com	206.245.1717
Jamie Lisagor	Jamie.Lisagor@pacificalawgroup.com	206.245.1734
Faith Li Pettis	Faith.Pettis@pacificalawgroup.com	206.245.1715
Will Singer	Will.Singer@pacificalawgroup.com	206.602.1216
Kai Smith	Kai.Smith@pacificalawgroup.com	206.602.1225

Dated: July 9, 2020

A Note: This publication is for informational purposes and does not provide legal advice. It is not intended to be used or relied upon as legal advice in connection with any particular situation or facts. The information herein is provided as of the date it is written.

Copyright © 2020 Pacifica Law Group LLP. All rights reserved.

To subscribe to our mailing list, please contact Mia Wiltse at Mia.Wiltse@pacificalawgroup.com.