

ORDINANCE NO. 1542

CITY OF LACEY

AN ORDINANCE RELATED TO BUSINESS AND OCCUPATION TAXES, AMENDING SECTIONS 3.02.100 AND 3.02.110 OF THE LACEY MUNICIPAL CODE AND APPROVING A SUMMARY FOR PUBLICATION.

WHEREAS, the City Council finds that amending the Lacey Municipal Code to exempt manufacturing and wholesale activities from the City's B&O tax will be in the public interest.

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 as follows:

3.02.100 Exemptions.

- 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.

M. **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 \$500,000.00 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.

N. Amounts Derived from Manufacturing or Selling at Wholesale. This chapter shall not apply to amounts derived from manufacturing or selling at wholesale.

Section 2. Section 3.02.110 of the Lacey Municipal Code is hereby amended as follows:

3.02.110 Deductions.

In computing the license fee or tax, there may be deducted from the measure of tax the following items:

- A. **Receipts from Tangible Personal Property Delivered Outside the State.** In computing tax, there may be deducted from the measure of tax under retailing or wholesaling amounts derived from the sale of tangible personal property that is delivered by the seller to the buyer or the buyer's representative at a location outside the state of Washington.
- B. **Cash Discount Taken by Purchaser.** In computing tax, there may be deducted from the measure of tax the cash discount amounts actually taken by the purchaser.

C. Credit Losses of Accrual Basis Taxpayers. In computing tax, there may be deducted from the measure of tax the amount of credit losses actually sustained by taxpayers whose regular books of account are kept upon an accrual basis.

~~D. Amounts Derived from Manufacturing or Selling at Wholesale. In computing tax, there may be deducted amounts derived from manufacturing or selling at wholesale.~~

~~E~~D. Constitutional Prohibitions. In computing tax, there may be deducted from the measure of the tax amounts derived from business which the city of Lacey is prohibited from taxing under the Constitution of the state of Washington or the Constitution of the United States.

~~F~~E. Amounts included in the gross receipts reported on the tax return derived from the sale of tangible personal property delivered to the buyer or the buyer's representative outside the City but within the state of Washington may be deducted from the measure of tax under the retailing or wholesaling classification.

~~G~~F. In computing the tax, a professional employer organization may deduct from the calculation of gross income the gross income of the business derived from performing professional employer services that is equal to the portion of the fee charged to a client that represents the actual cost of wages and salaries, benefits, workers' compensation, payroll taxes, withholding, or other assessments paid to or on behalf of a covered employee by the professional employer organization under a professional employer agreement.

~~H~~G. Interest on Investments or Loans Secured by Mortgages or Deeds of Trust. In computing tax, to the extent permitted by Chapter 82.14A RCW, there may be deducted from the measure of tax by those engaged in bank, loan, security or other financial businesses, amounts derived from interest received on investments or loans primarily secured by first mortgages or trust deeds on non-transient resident properties.

Section 3. SEVERABILITY. If any section, sentence, clause or phrase of this ordinance should be held to be invalid by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 4. CORRECTIONS. The City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.


Section 5. 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 28th day of
February, 2019.

CITY COUNCIL

By: 
Mayor

Approved as to form:



City Attorney

Attest:



City Clerk

SUMMARY FOR PUBLICATION

ORDINANCE NO 1542

CITY OF LACEY

The City Council of the City of Lacey, Washington, passed on February 28, 2019, Ordinance No. 1542, entitled "AN ORDINANCE RELATED TO BUSINESS AND OCCUPATION TAXES, AMENDING SECTIONS 3.02.100 AND 3.02.110 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 sections 3.02.100 and 3.02.110 of the Lacey Municipal Code to exempt amounts derived from manufacturing or selling at wholesale from the City's B&O tax.
2. 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: March 4, 2019.