

ORDINANCE NO. 06-820

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY WASHINGTON, AMENDING SECTIONS 5.02.030, 5.02.050, AND 5.02.140(D) OF THE BLACK DIAMOND MUNICIPAL CODE REGARDING BUSINESS AND OCCUPATION TAX RATES AND ESTABLISHING A SUNSET PROVISION FOR IMPOSITION OF THE TAX

WHEREAS, the City of Black Diamond has the highest B & O Tax rate in the state of Washington; and

WHEREAS, the City Council desires to reduce the tax rate for the various classifications and phase out the B & O Tax entirely by 2010; now therefore,

THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, ORDAINS AS FOLLOWS:

SECTION 1. Section 5.02.030 of the Black Diamond Municipal Code is hereby amended by the addition of two new definitions to read as follows:

"Value proceeding or accruing." "Value proceeding or accruing" means the consideration, whether money, credits, rights, or other property expressed in terms of money, a person is entitled to receive or which is actually received or accrued. The term shall be applied, in each case, on a cash receipts or accrual basis according to which method of accounting is regularly employed in keeping the books of the taxpayer. The value proceeding or accruing from sales on the installment plan under conditional contracts of sale shall be reported as of the dates when the payments become due.

"Value of products."

(1) The value of products, including by-products, extracted or manufactured, shall be determined by the gross proceeds derived from the sale thereof whether such sale is at wholesale or at retail, to which shall be added all subsidies and bonuses received from the purchaser or from any other person with respect to the extraction, manufacture, or sale of such products or by-products by the seller.

(2) Where such products, including by-products, are extracted or manufactured for commercial or industrial use; and where such products, including by-products, are shipped, transported or transferred out of the city, or to another person, without prior sale or are sold under circumstances such that the gross proceeds from the sale are not indicative of the true value of the subject matter of the

sale; the value shall correspond as nearly as possible to the gross proceeds from sales in this state of similar products of like quality and character, and in similar quantities by other taxpayers, plus the amount of subsidies or bonuses ordinarily payable by the purchaser or by any third person with respect to the extraction, manufacture, or sale of such products. In the absence of sales of similar products as a guide to value, such value may be determined upon a cost basis. In such cases, there shall be included every item of cost attributable to the particular article or article extracted or manufactured, including direct and indirect overhead costs. The city clerk-treasurer may prescribe rules for the purpose of ascertaining such values. (3) Notwithstanding subsection (2) above, the value of a product manufactured or produced for purposes of serving as a prototype for the development of a new or improved product shall correspond to (a) the retail selling price of such new or improved product when first offered for sale; or (b) the value of materials incorporated into the prototype in cases in which the new or improved product is not offered for sale.

SECTION 2. Section 5.02.050 of the Black Diamond Municipal Code is hereby amended to read as follows:

5.02.050 Imposition of the tax - Tax or fee levied.

A. Except as provided in subsections B and C of this section, there is levied upon and shall be collected from every person a tax for the act or privilege of engaging in business activities within the city, whether the person's office or place of business be within or without the city. The tax shall be in amounts to be determined by application of rates against gross proceeds of sale, gross income of business, or value of products, including by-products, as the case may be, as follows:

1. Upon every person engaging within the city in business as a manufacturer; as to such persons, the amount of the tax with respect to such business shall be equal to the value of the products, including by-products, manufactured within the city, multiplied by the rate of fifteen one-hundredths of one percent (.15%). Effective January 1, 2009, the rate shall be one-tenth of one percent (.1%). The measure of the tax is the value of the products, including by-products, so manufactured, regardless of the place of sale or the fact that deliveries may be made to points outside the city.

2. Upon every person engaging within the city in the business of making sales at wholesale; as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of such sales of the business without regard to the place of delivery of articles, commodities or merchandise sold, multiplied by the rate of one-tenth of one percent (.1%). Effective January 1, 2009, the rate shall be five one-hundredths of one percent (.05%).

3. Upon every person engaging within the city in the business of making sales at retail; as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of such sales of the business, without regard to the place of delivery of articles, commodities or merchandise sold, multiplied by the rate of one-tenth of one percent (.1%). Effective January 1, 2009, the rate shall be five one-hundredths of one percent (.05%).

4. Upon every person engaging within the city in the business of (i) printing, (ii) both printing and publishing newspapers, magazines, periodicals, books, music, and other printed items, (iii) publishing newspapers, magazines and periodicals, (iv) extracting for hire, and (v) processing for hire; as to such persons, the amount of tax on such business shall be equal to the gross income of the business multiplied by the rate of fifteen one-hundredths of one percent (.15%). Effective January 1, 2009, the rate shall be one-tenth of one percent (.1%).

5. Upon every person engaging within the city in the business of making sales of retail services; as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of sales multiplied by the rate of two-tenths of one percent (.2%). Effective January 1, 2009, the rate shall be fifteen one-hundredths of one percent (.15%)

6. Upon every other person engaging within the city in any business activity other than or in addition to those enumerated in the above subsections; as to such persons, the amount of tax on account of such activities shall be equal to the gross income of the business multiplied by the rate of fifteen one-hundredths of one percent (.15%). Effective January 1, 2009, the rate shall be one-tenth of one percent (.1%). This subsection includes, among others, and without limiting the scope hereof (whether or not title to material used in the performance of such business passes to another by accession, merger or other than by outright sale), persons engaged in the business of developing, or producing custom software or of customizing canned software, producing royalties or commissions, and persons engaged in the business of rendering any type of service which does not constitute a sale at retail, a sale at wholesale, or a retail service.

B. The gross receipts tax imposed in this section shall not apply to the first thirty-two thousand dollars in 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 during any calendar year, or if on a quarterly reporting basis, to the first eight thousand dollars in 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 during any quarter.

C. Sunset Provision. The City of Black Diamond shall cease to impose and levy a Business and Occupation Tax under this Chapter on January 1, 2010.

SECTION 3. Subsection 5.02.140(D) of the Black Diamond Municipal Code is hereby amended to read as follows:

D. For purposes of the tax imposed by this chapter, any person whose value of products, gross proceeds of sales, or gross income of the business, subject to tax after all allowable deductions, is equal to or less than thirty-two thousand dollars in the current calendar year, if reporting on an annual basis, or equal to or less than eight thousand dollars during the current quarter, if reporting in a quarterly basis, shall file a return, declare no tax due on their return, and submit the return to the city clerk-treasurer. The gross receipts and deduction amounts shall be entered on the tax return even though no tax may be due.

SECTION 4. Effective Date. This Ordinance shall be effective January 1, 2007. A summary of this Ordinance may be published in lieu of publishing the Ordinance in its entirety.

SECTION 5. If any provision of this Ordinance is determined to be invalid or unenforceable for any reason, the remaining provisions of this Ordinance shall remain in force and effect.

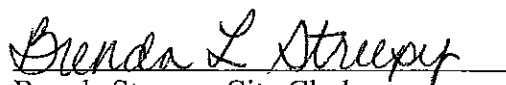
Introduced the 7 day of December, 2006.

Passed by a majority of the City Council at a meeting held on the 7th day of December, 2006.



Mayor Howard Botts

Attest:



Brenda Streepy, City Clerk

APPROVED AS TO FORM:

Loren D. Combs, City Attorney

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