

1 **CITY OF SEATTLE**

2 **ORDINANCE _____**

3 **COUNCIL BILL _____**

4 ..title

5 AN ORDINANCE imposing an income tax on high-income residents; providing solutions for
6 lowering the property tax burden and the impact of other regressive taxes, replacing
7 federal funding potentially lost through President Trump’s budget cuts, providing public
8 services, including housing, education, and transit, and creating green jobs and meeting
9 carbon reduction goals; and adding a new Chapter 5.65 to the Seattle Municipal Code.

10 ..body

11 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

12 Section 1. The City Council finds and declares as follows:

13 1. Seattle is a growing and prosperous city that can offer great schools, good jobs,
14 and healthy communities for all. However, Seattle faces many urgent challenges, including a
15 homelessness state of emergency; an affordable housing crisis; increased demand for City
16 services, including housing, education, and transit; education equity and racial achievement gaps;
17 escalating threats from climate change; and the threat of imminent and drastic reductions in
18 federal funding.

19 2. Seattle’s robust economic growth has created significant opportunity and wealth,
20 but it has also increased the lack of affordable housing, which is a significant financial strain on
21 low- and middle-income households.

22 3. Seattle is experiencing unprecedented three-percent population growth, making it
23 the fastest growing major city in the United States and pushing our population over 700,000,
24 which has increased the burden on City services, including housing, education, and transit.

25 4. Despite increased City funding and intensely focused efforts by City staff and
26 non-profit agencies, the scope and nature of homelessness has grown and worsened since the
27 Mayor declared a state of emergency on November 2, 2015, and the City Council ratified that

1 declaration. There are now over 3,000 homeless students in Seattle Public Schools. The 2017
2 Seattle/King County Point-in-Time Count of Persons Experiencing Homelessness found over
3 8,500 homeless individuals in Seattle. Substantially more resources are necessary to address this
4 crisis.

5 5. Washington State has among the most regressive tax systems in the United States.
6 According to the Institute on Taxation and Economic Policy, Washington State households with
7 incomes below \$21,000 paid on average 16.8 percent of their income in state and local taxes in
8 2015, whereas households with income in excess of \$500,000 paid only 2.4 percent. Seattle’s
9 sales tax, which is a highly regressive method of taxation, is among the highest in Washington
10 State, with its total sales tax rate exceeding 10 percent. Regressive taxes such as the sales tax
11 unfairly burden those who are least able to pay the taxes. As a result, regressive taxes contribute
12 to the financial strain on low- and middle-income households, deepen poverty, diminish
13 opportunity for low and middle-income families, disproportionately harm communities of color,
14 hinder efforts toward establishing a more equitable city, and protect and reinforce the privilege
15 of the wealthy.

16 6. The President of the United States has proposed to imminently eliminate millions
17 of dollars per year from Seattle’s budget both directly and indirectly through cuts to state
18 funding. Without additional revenue tools, Seattle is in a weak position to respond to proposed
19 federal budget cuts.

20 7. The City has made investments in its children to address education equity and
21 racial achievement gaps that persist in the City, such as through creation and support for the
22 Seattle Preschool Program, the Families and Education Levy, and college and career readiness

1 and success programs. But additional revenue tools are necessary to address the City's education
2 equity and racial achievement gaps.

3 8. In recognition of the serious threat of worsening climate change, Seattle has
4 adopted a goal of achieving zero net greenhouse gas emissions by 2050, and a Climate Action
5 Plan to achieve that goal, and additional resources are needed to meet this goal. Meanwhile,
6 President Trump has withdrawn the United States from the Paris Agreement and demonstrated
7 no commitment to slowing climate change, heightening the urgency of local action.

8 9. Seattle's urgent funding needs should be met through a tax on individual residents
9 with total income above \$250,000 per year (\$500,000 for joint filers).

10 10. According to the Tax Foundation, as of 2011, nearly 5,000 local governments
11 levied local income taxes, providing a critical source of revenue to meet local needs.

12 11. An income tax on high-income residents provides a progressive revenue source to
13 fund the crucial needs listed above and will help the City continue to grow and thrive for all of
14 its citizens.

15 12. Based on information and data from the City Budget Office, testimony and other
16 information and materials provided and available to the City Council and its committees, the
17 City Council has determined that a tax on total income in excess of \$250,000 per year for an
18 individual (and \$500,000 for joint filers) does not interfere with the right to earn wages within
19 the City or with the ability of individuals and households to amply provide for a high quality of
20 life.

21 13. Individuals earning total income above \$250,000 per year tend to have a
22 diversified income base; typically derive income from ownership, managerial, and/or profit-

1 sharing interests in businesses; and are not solely or primarily dependent on wages for their
2 income.

3 14. The City of Seattle, as a Washington first-class city with extensive powers,
4 including without limitation all the powers which are conferred upon other classes of cities and
5 towns, possesses in the legislative body of the City Council “all powers of taxation for local
6 purposes except those which are expressly preempted by the state” and also has the authority to
7 impose excise taxes for any lawful purpose and on any lawful activity, as provided by RCW
8 35A.11.020, 35.22.280(32), 35A.82.020, and 35.22.570.

9 Section 2. A new Chapter 5.65 is added to the Seattle Municipal Code as follows:

10 **Chapter 5.65 INCOME TAX ON HIGH-INCOME RESIDENTS**

11 **5.65.010 Use of tax receipts**

12 A. All receipts from the tax levied in this Chapter 5.65 shall be restricted in use and
13 shall be used only for: (1) lowering the property tax burden and the impact of other regressive
14 taxes; (2) replacing federal funding potentially lost through President Trump’s budget cuts; (3)
15 providing public services, including housing, education, and transit; (4) creating green jobs and
16 meeting carbon reduction goals; and (5) administering and implementing the tax levied by this
17 Chapter 5.65.

18 B. Any changes to the purposes in subsection 5.65.010.A must be approved by
19 ordinance and be subject to a public hearing and any applicable race and social justice initiative
20 analysis.

1 **5.65.020 Definitions**

2 The definitions contained in Chapter 5.30 of the Seattle Municipal Code shall be fully applicable
3 to this Chapter 5.65, except as may be expressly stated to the contrary herein. The following
4 additional definitions shall apply throughout this Chapter 5.65:

5 A. "Domicile" means a place where a person has a true, fixed, and permanent home,
6 to which the person intends to return after being away, such as due to vacation, business
7 assignment, educational leave, or military assignment.

8 B. "Individual" means a natural person.

9 C. "Internal Revenue Code" means the United States Internal Revenue Code of
10 1986, and amendments thereto, and other provisions of the laws of the United States relating to
11 federal income taxes, as the same may be or become effective at any time, or from time to time,
12 for the tax year.

13 D. "Permanent place of abode" means a building or structure where a person can live
14 that the person permanently maintains, whether the person owns it or not, and is suitable for
15 year-round use.

16 E. "Resident taxpayer" or "taxpayer" means an individual who:
17 1. Has a domicile in the City for the entire tax year; or
18 2. Does not have a domicile in the City for the entire tax year, but maintains
19 a permanent place of abode and spends in the aggregate more than 184 days of the tax year in the
20 City, unless the individual establishes to the satisfaction of the Director that the individual is in
21 the City only for temporary or transitory purposes.

22 F. "Tax year" means the calendar year during which tax liability is accrued.

G. “Total income” means the amount reported as income before any adjustments, deductions, or credits on a resident taxpayer’s United States individual income tax return for the tax year, currently listed as “total income” on line 22 of Internal Revenue Service Form 1040 or “total income” on line 15 of Internal Revenue Service Form 1040A.

5.65.030 Tax imposed—Rates

A. This chapter applies to income required to be included in total income under the Internal Revenue Code received on and after January 1, 2018.

B. There is imposed a tax on the total income of every resident taxpayer in the amount of their total income multiplied by the applicable rates as follows:

| Tax Filing Status | Total Income | Rate |
|--|---|-------------|
| Resident taxpayers whose Internal Revenue Service filing status was “single” or “married filing separately” for the tax year, including individuals making the election in subsection 5.65.040.A.1 | Total income in the tax year up to \$250,000 | 0% |
| | Amount of total income in the tax year in excess of \$250,000 | 2% |
| Resident taxpayers whose Internal Revenue Service filing status was “married filing jointly” for the tax year and not calculating total income based on “married filing separately” status as provided for under subsection 5.65.040.A.1 | Total income in the tax year up to \$500,000 | 0% |
| | Amount of total income in the tax year in excess of \$500,000 | 2% |

C. All total income amounts in the table in subsection 5.65.030.B shall automatically adjust annually on January 1, 2019, and on January 1 of every year thereafter consistent with the rate of growth of the prior year’s June-to-June Consumer Price Index (CPI-U) for the Seattle-Tacoma-Bremerton area as published by the United States Department of Labor. To calculate the new rate, the prior year’s rate will be multiplied by the sum of one and the annual percent change in the CPI-U. If the annual change is negative, no adjustment shall be made for the year.

1 **5.65.040 Non-resident spouses**

2 A. If a resident taxpayer is married to a non-resident taxpayer and has chosen
3 “married filing jointly” status on their federal tax return form for the tax year, the resident
4 taxpayer may either:

5 1. Calculate total income based on the amount of income that would have
6 been reported on the resident taxpayer’s federal tax return form for the tax year had the resident
7 taxpayer chosen “married filing separately” status; or

8 2. Treat the non-resident taxpayer spouse as a resident for purposes of taxes
9 imposed under this Chapter 5.65 for the tax year.

10 B. If the resident taxpayer chooses to calculate total income as provided for under
11 subsection 5.65.040.A.1, the resident taxpayer must include with their return filed with the City
12 documentation sufficient to show how the resident taxpayer allocated income reported on the
13 federal tax return between the resident taxpayer and the non-resident spouse. The resident
14 taxpayer may complete and submit to the City Internal Revenue Service Form 8958 to satisfy
15 this documentation requirement.

16 **5.65.050 Preempted sources of income**

17 Any sources of income included in income reported on a resident taxpayer’s federal tax return
18 that the laws of the United States prohibit cities from taxing, or that a court with jurisdiction to
19 bind the City has determined cannot lawfully be included, shall not be included in a resident
20 taxpayer’s total income for purposes of calculating taxes due under this Chapter 5.65. This
21 includes, but is not limited to, interest or dividend income on stocks and obligations of any
22 authority, commission, or instrumentality of the United States.

1 **5.65.060 Credit for income taxed in other jurisdictions**

2 A. A resident taxpayer shall be allowed a credit against the income tax owed under
3 this Chapter 5.65 for a tax year in the amount determined under subsection 5.65.060.B, where:

4 1. The taxpayer's total income for the year includes (a) revenue from a
5 business, profession, or rental of real or tangible personal property outside the City; (b) gains
6 from the sale or exchange of real or tangible personal property outside the City; (c) salaries,
7 wages, commissions, or other compensation for work done or services performed or rendered
8 outside the City; or (d) if the taxpayer has a domicile in the City for the entire tax year, income
9 from intangible property; and

10 2. The taxpayer is subject to and has paid an income tax on such income to
11 another state or local government.

12 B. The amount of the credit shall be the amount of actual tax that the taxpayer paid
13 on the income described in subsection 5.65.060.A.1 to any other state or local government;
14 provided, however, that the tax owed after the credit shall not be less than the amount of tax that
15 would be payable if the income described in subsection 5.65.060.A.1 were disregarded.

16 **5.65.070 Who files—When due and payable—Reporting—Failure to file returns—**
17 **Amended returns**

18 A. Tax returns under this Chapter 5.65 must be filed by resident taxpayers whose
19 total income is subject to a rate above zero percent in subsection 5.65.030.B, regardless of
20 whether any tax is owed.

21 B. The return for any deceased individual who would have to file under subsection
22 5.65.070.A shall be made and filed by their executor, administrator, or other person charged with
23 their estate.

1 C. Taxes shall be paid as provided in this Chapter 5.65 and accompanied by a return
2 on forms as prescribed by the Director. The return shall be signed by the taxpayer personally or
3 by a responsible officer or agent of the taxpayer. The individual signing the return shall swear or
4 affirm that the information in the return is true and complete. The Director is authorized, but not
5 required, to make electronically available tax return forms to taxpayers, but failure of the
6 taxpayer to receive any such forms shall not excuse the taxpayer from filing returns and making
7 payment of the taxes, when and as due under this Chapter 5.65.

8 D. All taxes imposed under this Chapter 5.65 shall be due and payable annually. Tax
9 returns and payments are due on or before April 15 of the year following the tax year. The
10 Director may extend the time for filing the annual return for a period of not more than one year
11 upon written request by the taxpayer showing good cause why an extension is necessary. Interest
12 and penalties shall not be assessed if the return is filed and the tax due is paid within the
13 extended time and all other filing and payment requirements of this Chapter 5.65 are satisfied.

14 E. If April 15 or any other date computed in this subsection is a Saturday, Sunday, or
15 City or federal legal holiday, the date of such event or action shall be the next succeeding day
16 which is not a Saturday, Sunday, or City or federal legal holiday. Tax returns and taxes not
17 received on or before the due date are subject to penalties and interest in accordance with this
18 chapter, in addition to any other civil or criminal sanction or remedy that may be available.

19 F. Any return or remittance which is transmitted to the City by United States mail is
20 deemed filed or received on the date stamped by the United States Postal Service upon the
21 envelope containing it. The Director may allow electronic filing of returns or remittance from
22 any taxpayer. A return or remittance that is transmitted to the City electronically shall be deemed
23 filed or received according to procedures set forth by the Director.

1 G. If any taxpayer fails, neglects, or refuses to file a return as and when required in
2 this Chapter 5.65, the Director is authorized to determine and assess the amount of the tax due by
3 obtaining facts and information upon which to base their estimate of the tax due. Such
4 assessment shall be deemed prima facie correct and shall be the amount of tax owed to the City
5 by the taxpayer. The Director shall notify the taxpayer by mail of the amount of tax so
6 determined, together with any penalty and interest due; the total of such amounts shall thereupon
7 become immediately due and payable.

8 H. Within 60 days after the final determination of any federal, state, or local tax
9 liability affecting the amount of tax owed under this Chapter 5.65, that taxpayer shall make and
10 file an amended return with the City based upon such final determination and pay any additional
11 municipal income tax shown due thereon or make a claim for refund of any overpayment, unless
12 the tax or overpayment is less than \$10. Interest and penalties shall not be imposed on any
13 additional tax owed under this subsection if the amended return is timely filed and the additional
14 tax owed is timely paid.

15 **5.65.080 Payment methods**

16 A. Taxes, interest, and penalties shall be paid to the Director in United States
17 currency by bank draft, certified check, cashier's check, personal check, money order, or cash, or
18 by wire transfer or electronic payment if such wire transfer or electronic payment is authorized
19 by the Director. If payment so received is not paid by the bank on which it is drawn, the
20 taxpayer, by whom such payment is tendered, shall remain liable for payment of the tax, interest,
21 and/or penalties, the same as if such payment had not been tendered. Acceptance of any sum by
22 the Director shall not discharge the tax due unless the amount paid is the full amount due.

1 B. The Director shall keep full and accurate records of all funds received or
2 refunded. The Director shall apply payments first against all penalties, then interest owing, and
3 finally upon the tax, without regard to any direction of the taxpayer.

4 C. Any payment made that is returned for lack of sufficient funds or for any other
5 reason will not be considered received until payment by certified check, money order, or cash of
6 the original amount due, plus a “non-sufficient funds” (NSF) charge in an amount to be set by
7 the Director.

8 D. The Director is authorized, but not required, to mail tax return forms or written
9 reminders to taxpayers, but failure of the taxpayer to receive any such forms or reminders shall
10 not excuse the taxpayer from filing returns and making payment of the taxes, when and as due
11 under this Chapter 5.65.

12 **5.65.090 Records to be preserved—Examination—Estoppel to question assessment**

13 A. Every person who is liable for, or who the Director believes to be liable for, any
14 tax owed under this Chapter 5.65 shall keep and preserve, for a period of three years after filing a
15 tax return or two years after the date the tax was paid, whichever is later, such records as may be
16 necessary to determine taxpayer’s domicile and residence and the amount of any tax for which
17 the person may be liable; which records shall include copies of all federal, state, and local
18 income tax returns and reports made by the person.

19 B. Upon written request by the Director or a duly authorized agent, the taxpayer is
20 required to furnish the opportunity for the Director or authorized agent to investigate and
21 examine the records as defined in subsection 5.65.090.A, at a reasonable time and place
22 designated in the request.

1 C. If a person does not keep the necessary records within the City, it shall be
2 sufficient if that person:

3 1. Produces within the City such records as may be required by the Director,
4 or

5 2. Bears the cost of examination by the Director or duly authorized agent at
6 the place where the pertinent records are kept; provided that the person electing to bear such cost
7 shall pay in advance to the Director the estimated amount thereof including round-trip fare,
8 lodging, meals, and incidental expenses, subject to adjustment upon completion of the
9 examination.

10 D. Any person who fails, or refuses a Department request, to provide or make
11 available records shall be forever barred from questioning in any administrative or court action
12 the correctness of any assessment of taxes made by the City for any period for which such
13 records have not been provided, made available, or kept and preserved.

14 **5.65.100 Underpayment of tax, interest, or penalty**

15 A. If, upon examination of any returns, or from other information obtained by the
16 Director, the Director determines that a tax, interest, or penalty less than that properly due has
17 been paid, the Director shall assess the additional amount found to be due and shall add thereto
18 interest on the tax and penalties only. The Director shall notify the person by mail of the
19 additional amount, which shall become due and shall be paid within 30 days from the date of the
20 notice, or within such time as the Director may provide in writing.

21 B. The Director shall compute interest based on the underpayment rate under the
22 Internal Revenue Code, currently set forth in 26 U.S.C. § 6621.

23 **5.65.110 Time in which assessment may be made**

1 The Director shall assess, or correct an assessment for, additional taxes, penalties, or
2 interest for a tax year within the later of (1) three years after the tax was due or the return was
3 filed, whichever is later, or (2) one year after a final decision in any administrative or judicial
4 review initiated by the taxpayer under this chapter for the tax year; provided, however, the time
5 limit may be extended if both the Director and the taxpayer consent in writing to the extension.

6 **5.65.120 Overpayment of tax, penalty, or interest—Credit or refund—Interest rate**

7 A. If, upon receipt of an application for a refund, or during an audit or examination
8 of the taxpayer’s tax returns or other records, the Director determines that the amount of tax,
9 penalty, or interest paid is in excess of that properly due, the excess amount shall be credited to
10 the taxpayer’s account or shall be refunded to the taxpayer. Except as provided in subsection
11 5.65.120.B, an application for a refund must be filed within three years after the tax was due or
12 paid, whichever is later.

13 B. The execution of a written waiver shall extend the time for applying for, or
14 making, a refund or credit of any taxes paid during, or attributable to, the years covered by the
15 waiver if, prior to the expiration of the waiver period, an application for refund of such taxes is
16 made by the taxpayer or the Director discovers that a refund or credit is due.

17 C. Refunds shall be made by means of vouchers approved by the Director and by the
18 issuance of a City check, warrant, or wire transfer drawn upon and payable from such funds as
19 the City may provide.

20 D. Any final judgment for which a recovery is granted by any court of competent
21 jurisdiction for tax, penalties, interest, or costs paid by any person shall be paid in the same
22 manner as provided in subsection 5.65.120.C, upon the filing with the Director a certified copy
23 of the order or judgment of the court.

1 E. The Director shall compute interest on refunds or credits of amounts paid or other
2 recovery allowed a taxpayer based on the overpayment rate under the Internal Revenue Code,
3 currently set forth in 26 U.S.C. § 6621.

4 **5.65.130 Monetary penalties**

5 A. A taxpayer who fails to pay tax owed under this Chapter 5.65 when due is liable,
6 in addition to interest, to a penalty of one percent of the amount of the unpaid tax for each month
7 or fraction of a month, not to exceed a total penalty of 25 percent of the unpaid tax. If any part of
8 any underpayment of tax owed under this chapter is due to intentional disregard of this Chapter
9 5.65 or rules or regulations adopted by the Director under Section 5.65.190, but without intent to
10 defraud, an additional penalty of \$10 or 10 percent of the total amount of the deficiency in the
11 tax, whichever is greater, shall be added. If any part of the underpayment is due to fraudulent
12 intent to evade the tax imposed under this chapter, an additional penalty of 100 percent of the
13 deficiency shall be added.

14 B. Any person who fails to file a return with the Director on or before the due date,
15 who fails to include all of the information required to be shown on the return, or who includes
16 incorrect information on a return shall pay a penalty of \$250 for each return with respect to
17 which such a failure occurs; provided, however, the penalty shall be waived if the failure to
18 include all of the information required or the inclusion of incorrect information is corrected by
19 the taxpayer within 30 days of written notice from the Director as provided for under subsection
20 5.65.130.D. If the act or omission is due to intentional disregard of this Chapter 5.65 or rules or
21 regulations adopted by the Director under Section 5.65.190, but without intent to defraud, an
22 additional penalty of \$500 shall be added. If the act or omission is due to fraudulent intent to
23 evade the tax imposed under this Chapter 5.65, an additional penalty of \$1,000 shall be added.

1 C. If a claim for refund or credit under this Chapter 5.65 is made for an excessive
2 amount, unless it is shown that the claim for such excessive amount is due to reasonable cause,
3 the person making such claim shall be liable for a penalty in an amount equal to 20 percent of the
4 excessive amount. For purposes of this Section 5.65.130, the term “excessive amount” means, in
5 the case of any person, the amount by which the claim for refund or credit for any tax year
6 exceeds the amount of such claim allowable under this Chapter 5.65 for such tax year.

7 D. The Director shall notify a person by mail of any penalties, which shall become
8 due and shall be paid within 30 days from the date of the notice, or within such time as the
9 Director may provide in writing.

10 E. For the purposes of this Section 5.65.130, “return” means any document that a
11 person is required by the City to file to satisfy or establish a tax obligation under this Chapter
12 5.65, and that has a due date defined under this Chapter 5.65 or rules or regulations adopted by
13 the Director under Section 5.65.190.

14 F. In the case of a joint return, any penalty imposed based on intentional disregard of
15 this Chapter 5.65 or fraudulent intent shall not apply with respect to a spouse unless some part of
16 the act or omission giving rise to the penalty was due to the intentional disregard of this Chapter
17 5.65 by, or fraudulent intent of, such spouse.

18 **5.65.140 Cancellation of penalties**

19 A. The Director may cancel any penalties assessed under subsection 5.65.130.A or
20 5.65.130.B if the taxpayer shows that the act or omission giving rise to the penalty was due to
21 reasonable cause and not willful neglect. Willful neglect is presumed unless the taxpayer shows
22 that they exercised ordinary care and prudence in making arrangements to complete and file an

1 accurate return and pay the tax owed by the due date but, nevertheless, failed to do so due to
2 circumstances beyond their control.

3 B. A request for cancellation of penalties must be received by the Director within 60
4 days after the date the Director mails the notice that the penalties are due. The request must be in
5 writing and contain competent proof of all pertinent facts supporting a reasonable cause
6 determination. In all cases the burden of proving the facts rests upon the taxpayer.

7 **5.65.150 Amnesty**

8 The Director may from time to time declare periods of amnesty in which penalties assessed
9 under subsections 5.65.130.A, 5.65.130.B or 5.65.130.C, or any combination thereof, may be
10 waived. Such periods of amnesty and the terms thereof may be established upon a finding by the
11 Director that they are likely to have the effect of increasing revenues to the City.

12 **5.65.160 Review of Director's assessment or denial of refund**

13 A. Any person, except one who has failed to comply with Section 5.65.090,
14 aggrieved by the amount of the tax, interest, or penalty assessed by the Director or by the denial
15 of a refund by the Director, and having paid any tax, interest, or penalty owing, except as
16 provided in subsection 5.65.160.C, may:

17 1. Appeal the Director's assessment or refund denial to the Hearing
18 Examiner by filing a petition for review with the Office of the Hearing Examiner pursuant to
19 Section 5.65.170; or

20 2. File a complaint in King County Superior Court for refund of taxes paid.

21 The petition or complaint shall be filed within 30 days from the date that the assessment
22 or denial notice was mailed to the taxpayer, or within the period covered by any extension of said
23 due date granted in writing by the Director. The Director may extend the due date for filing an

1 appeal with the Hearing Examiner or a refund suit with the Superior Court only if the taxpayer,
2 within the 30-day period, makes written application showing good cause why an extension is
3 necessary.

4 B. The Director's assessment or refund denial shall be regarded as prima facie
5 correct, and the person shall have the burden to prove that the tax assessed or paid by them is
6 incorrect, either in whole or in part, and to establish the correct amount of tax.

7 C. Assessments may be appealed to the Hearing Examiner without prior payment;
8 provided, however, that interest shall continue to accrue on unpaid taxes and penalties to the full
9 extent permitted by law.

10 D. The methods for obtaining review of the Director's assessment or refund denial
11 set forth in this Section 5.65.160 and Sections 5.65.170 and 5.65.180 are exclusive, and must be
12 strictly complied with.

13 **5.65.170 Appeal to the Hearing Examiner**

14 A. A person electing to appeal to the Hearing Examiner pursuant to Section 5.65.160
15 must provide a copy of the petition to the Director and the City Attorney on or before the date
16 the petition is filed with the Hearing Examiner. If no such petition is filed with the Hearing
17 Examiner and provided to the Director and City Attorney within the 30-day period, and a
18 complaint is not filed, the assessment covered by the notice shall become final and no refund
19 request may be made for the audit period covered in that assessment.

20 B. The petition shall set forth the reasons why the assessment should be reversed or
21 modified. The petition shall also include the amount of the tax, interest or penalties that the
22 taxpayer believes to be due. If the appeal is from the denial of a refund, the petition shall set
23 forth the amount of refund or credit believed to be due.

1 C. The Hearing Examiner shall fix the time and place of the hearing and notify the
2 taxpayer thereof. The hearing shall be conducted in accordance with the procedures for hearing
3 contested cases in Chapter 3.02.

4 D. The Hearing Examiner may, by subpoena, require the attendance of any person at
5 the hearing, and may also require them to produce pertinent records. Any person served with
6 such a subpoena shall appear at the time and place therein stated and produce the records
7 required, if any, and shall testify truthfully under oath administered by the Hearing Examiner as
8 to any matter required of them pertinent to the appeal; and it shall be unlawful for them to fail or
9 refuse to do so. The City Attorney shall seek enforcement of a Hearing Examiner subpoena in an
10 appropriate court.

11 E. The Hearing Examiner shall ascertain the correct amount of the tax, interest, or
12 penalty due either by affirming, reversing, or modifying an action of the Director. Reversal or
13 modification is proper if the Director's assessment or refund denial violates the terms of this
14 Chapter 5.65 or rules or regulations adopted by the Director under Section 5.65.190.

15 **5.65.180 Judicial review of the Hearing Examiner's decision**

16 A. The taxpayer, any other person beneficially interested, or the Director of Finance
17 and Administrative Services, may obtain judicial review of the decision of the Hearing Examiner
18 by applying for a writ of review in the King County Superior Court within 14 days from the date
19 of the decision in accordance with the procedure set forth in Chapter 7.16 RCW, other applicable
20 law and court rules.

21 B. The decision of the Hearing Examiner shall be final and conclusive unless review
22 is sought in compliance with this Section 5.65.180.

23 **5.65.190 Director of Finance and Administrative Services to make rules**

1 The Director shall have the power and it shall be the Director's duty, from time to time,
2 to adopt, publish, and enforce rules and regulations not inconsistent with this Chapter 5.65 or
3 with law for the purpose of carrying out the purposes and provisions of this Chapter 5.65, and it
4 shall be unlawful to violate or fail to comply with any such rule or regulation.

5 **5.65.200 Ancillary authority of Director**

6 The Director is authorized to enter into agreements with any other taxing jurisdiction,
7 including the Internal Revenue Service of the United States and state and other local jurisdictions
8 that impose taxes on personal income, earned or unearned:

9 A. To acquire such taxpayer information necessary to most effectively collect the
10 taxes imposed by this Chapter 5.65, determine whether individuals are or are not required to file
11 a return for taxes under this Chapter 5.65, determine the amount of taxes due under this Chapter
12 5.65, conduct audits, and otherwise enact the provisions of this Chapter 5.65; or

13 B. To conduct an audit or a joint audit of a taxpayer by using an auditor employed by
14 The City of Seattle, another public entity, or a contract auditor; provided that such contract
15 auditor's pay is not in any manner based upon the amount of tax assessed.

16 **5.65.210 Mailing of notices**

17 A. Any notice required by this Chapter 5.65 to be mailed to any taxpayer shall be
18 sent by ordinary mail, addressed to the address of the taxpayer as shown by the records of the
19 Director.

20 B. Failure of the taxpayer to receive any mailed notice shall not release the taxpayer
21 from any tax, interest, or penalties, nor shall such failure operate to extend any time limit set by
22 the provisions of this Chapter 5.65. It is the responsibility of the taxpayer to inform the Director
23 in writing of a change in the taxpayer's address.

1 C. Nothing in this Section 5.65.210 prohibits the Director or duly authorized agent
2 from delivering an assessment by a tax administrator by personal service.

3 **5.65.220 Tax declared additional**

4 The tax on income levied by this Chapter 5.65 shall be additional to any other tax
5 imposed or levied under any law or any other ordinance of The City of Seattle except as herein
6 otherwise expressly provided.

7 **5.65.230 Public disclosure—Confidentiality—Information sharing**

8 A. For purposes of this Section 5.65.230:

9 1. “Disclose” means to make known to any person in any manner whatever a
10 return or tax information.

11 2. “Return” means a tax or information return or claim for refund required
12 by, or provided for or permitted under, this Chapter 5.65 which is filed with the Director by, on
13 behalf of, or with respect to a person, and any amendment or supplement thereto, including
14 supporting schedules, attachments, or lists that are supplemental to, or part of, the return so filed.

15 3. “Tax information” means:

16 a. A taxpayer’s identity;
17 b. The nature, source, or amount of the taxpayer’s income, payments,
18 receipts, exclusions, credits, assets, liabilities, net worth, tax liability deficiencies,
19 overassessments, or tax payments, whether taken from the taxpayer’s returns, records, or any
20 other source;

21 c. Whether the taxpayer’s return was, is being, or will be examined or
22 subject to other investigation or processing; and

1 d. Other data received by, recorded by, prepared by, furnished to, or
2 collected by the Director with respect to the determination of the existence, or possible existence,
3 of liability, or the amount thereof, of a person under this Chapter 5.65 for a tax, penalty, interest,
4 or criminal offense.

5 However, data, material, or documents that do not disclose information related to an identifiable
6 taxpayer do not constitute tax information under this Section 5.65.230.

7 4. “City agency” means every City office, department, division, bureau,
8 board, commission, or other City agency.

9 5. “Taxpayer identity” means the taxpayer’s name, address, telephone
10 number, social security number, or any combination thereof, or any other information disclosing
11 the identity of the taxpayer.

12 B. Returns and tax information are confidential and privileged to the full extent
13 permitted by law, and except as authorized by this Section 5.65.230 or applicable law, neither the
14 Director nor any other person shall disclose any return or tax information.

15 C. This Section 5.65.230 does not prohibit the Director or an authorized designee
16 from:

17 1. Disclosing such return or tax information in a civil or criminal judicial
18 proceeding or an administrative proceeding (a) in respect to any tax imposed under this Chapter
19 5.65 if the taxpayer is a party in the proceeding; or (b) in which the taxpayer about whom such
20 return or tax information is sought and the City or a City agency are adverse parties in the
21 proceeding;

22 2. Disclosing, subject to such requirements and conditions as the Director
23 prescribes by rules or regulations adopted pursuant to Section 5.65.190, such return or tax

1 information regarding a taxpayer to (a) such taxpayer or, in the case of a jointly filed return,
2 either of the individuals with respect to whom the return is filed; (b) to such person or persons as
3 that taxpayer may designate in a request for, or consent to, such disclosure; (c) to any other
4 person, at the taxpayer's request, to the extent necessary to comply with a request for
5 information or assistance made by the taxpayer to such other person; or (d) to the administrator,
6 executor, or trustee of a deceased taxpayer's estate, or any heir at law, next of kin, or beneficiary
7 under the will of such decedent. However, tax information not received from the taxpayer must
8 not be so disclosed if the Director determines that such disclosure would compromise any
9 investigation or litigation by any federal, state, or local government agency in connection with
10 the civil or criminal liability of the taxpayer or another person, or that such disclosure is contrary
11 to any agreement entered into by the Director that provides for the reciprocal exchange of
12 information with other government agencies, which agreement requires confidentiality with
13 respect to such information, unless such information is required to be disclosed to the taxpayer
14 by the order of any court;

15 3. Publishing statistics in a form that does not disclose information with
16 respect to identifiable taxpayers;

17 4. Disclosing such return or tax information, for official purposes only, to the
18 Mayor or City Attorney, or to any City agency, or to any member of the City Council or their
19 authorized designees dealing with matters of taxation or revenue;

20 5. Permitting the Director's records to be audited and examined by the
21 proper City, state, or federal officer, their agents and employees;

1 6. Disclosing any such return or tax information in response to, or in support
2 of a request for, a search warrant, subpoena, or other order issued by hearing examiner or a court
3 of competent jurisdiction; or

4 7. Disclosing any such return or tax information to the proper officer of the
5 Internal Revenue Service or the tax department of any state or local jurisdiction, for official
6 purposes.

7 **5.65.240 Tax constitutes debt**

8 Any tax due and unpaid under this Chapter 5.65, and all interest and penalties thereon, shall
9 constitute a debt to the City and may be collected in the same manner as any other debt in like
10 amount, which remedy shall be in addition to all other existing remedies.

11 **5.65.250 Unlawful actions—Criminal offenses**

12 A. It shall be unlawful for any person subject to the provisions of this Chapter 5.65:

13 1. To violate or fail to comply with any of the provisions of this Chapter
14 5.65, or any rule or regulation adopted by the Director;

15 2. To make any false statement on any return;

16 3. To aid or abet any person in any attempt to evade payment of a tax owed
17 under this Chapter 5.65;

18 4. To fail to appear or testify in response to a subpoena issued pursuant to
19 Section 3.02.120 in any proceeding to determine compliance with this Chapter 5.65;

20 5. To testify falsely in any investigation, audit, or proceeding conducted
21 pursuant to this Chapter 5.65;

22 6. In any manner to hinder or delay the City or any of its officers in carrying
23 out the provisions of this Chapter 5.65.

1 B. Each violation of or failure to comply with the provisions of this Chapter 5.65
2 shall constitute a separate offense. Any person who commits an act defined in subsection
3 5.65.250.A is guilty of a gross misdemeanor, punishable in accordance with Section 12A.02.070.
4 The provisions of Chapters 12A.02 and 12A.04 apply to the offenses defined in subsection
5 5.65.250.A, except that liability is absolute and none of the mental states described in Section
6 12A.04.030 need be proved.

7 C. Prosecution pursuant to this Section 5.65.250 shall not be commenced more than
8 three years after the Director knew or should have known that the act(s) constituting the offense
9 occurred. The penalties and punishments established by this Section 5.65.250 shall be in addition
10 to all other penalties provided by law.

11 D. Upon a determination that a person is subject to criminal prosecution under this
12 Section 5.65.250, the Director and agents of the Director, who are commissioned as non-
13 uniformed special police officers pursuant to Section 5.55.225, may issue citations and make
14 arrests for criminal violations of this Section 5.65.250.

15 **5.65.260 Closing agreement provisions**

16 The Director may enter into an agreement in writing with any person relating to the liability of
17 such person in respect of any tax imposed by this Chapter 5.65 and administered by the Director
18 for any taxable period(s). Upon approval of such agreement, evidenced by execution thereof by
19 the Director and to the person so agreeing, the agreement shall be final and conclusive as to the
20 tax liability or tax immunity covered thereby and, except upon a showing of fraud or
21 malfeasance, or misrepresentation of a material fact:

22 A. The case shall not be reopened as to the matters agreed upon, or the agreement
23 modified, by the Director or the taxpayer; and

1 B. In any suit, action, or proceeding, such agreement, or any determination,
2 assessment, collection, payment, abatement, refund, or credit made in accordance therewith,
3 shall not be annulled, modified, set aside, or disregarded.

4 **5.65.270 Charge-off of uncollectible taxes**

5 The Director may charge off any tax, penalty, or interest that is owed by a taxpayer, if the
6 Director ascertains that the cost of collecting such amounts would be greater than the total
7 amount that is owed or likely to be collected from the taxpayer.

8 **5.65.280 Reporting**

9 A. The Department shall submit to the Council and Executive, and make available to
10 the public, a report that indicates how revenues raised by the tax imposed in this Chapter 5.65
11 were expended within six months of the end of any tax year in which expenditures of such
12 revenues were made.

13 B. The Department annually shall submit to the Council and Executive, and make
14 available to the public, a report that makes recommendations for improvements and amendments
15 to this Chapter 5.65, including but not limited to code changes required to enhance enforcement
16 and collection of the tax imposed.

17 **5.65.290 Severability**

18 The provisions of this ordinance are declared to be separate and severable. The invalidity of any
19 clause, sentence, paragraph, subdivision, section, or portion of this ordinance, or the invalidity of
20 its application to any person or circumstance, does not affect the validity of the remainder of this
21 ordinance or the validity of its application to other persons or circumstances.

1 Passed by the City Council the _____ day of _____, 2017,

2 and signed by me in open session in authentication of its passage this _____ day of

3 _____, 2017.

4 _____

5 President _____ of the City Council

6 Approved by me this _____ day of _____, 2017.

7 _____

8 Edward B. Murray, Mayor

9 Filed by me this _____ day of _____, 2017.

10 _____

11 Monica Martinez Simmons, City Clerk

12 (Seal)