

2019 changes to Model Ordinance & Administrative Provisions

A city workgroup met over the summer to review changes needed to the B&O model ordinance. Workgroup members included: Bellevue, Burien, Kent, Seattle, Shoreline, Snoqualmie, and Tacoma.

In the 2019 session, two bills passed that impact city B&O tax administration: **HB 1403** related to service income apportionment and **HB 1059** related to annual tax filing deadlines. The last major revisions to the B&O tax model ordinance took effect January 1, 2013.

The workgroup revised the model ordinance to include changes to RCW 35.102 and to reflect other changes made to state law since 2013. Cities must adopt mandatory changes to model ordinance with same effective date: January 1, 2020.

The model ordinance changes are as follows:

- **Service apportionment definition of customer location hierarchy**

Core model ordinance .077 (5) to (7): adopts changes to service apportionment tests, definition of business activity tax, customer, and customer location, and alternative apportionment process effective January 1, 2020, as provided in **HB 1403**. The former language is moved to the legislative intent section to provide a reference.

The previous version defined “customer location” as where the majority of the “contacts” occurred between the business and the customer. The new definition establishes a hierarchy of factors, depending on whether the customer is residential or business:

For a customer not engaged in business and if the service requires the customer:

- a. to be physically present, where the service is performed;
- b. not to be physically present:
 - i. the customer's residence; or
 - ii. if the customer's residence is not known, the customer's billing/mailing address.

For a customer engaged in business:

- a. where the services are ordered from;
- b. if the location from which the services are ordered is not known, the customer's billing/mailing address; or
- c. at the customer's commercial domicile if none of the above is known.

- **Annual tax filing deadline**

Administrative provisions .040: Includes language linking the change to April 15 for annual tax return filing by referencing RCW 82.32.045 effective January 1, 2021, as provided in **HB 1059**.

- **Definition of engaging in business**

Core model ordinance .030: Definition of “engaging in business” removes the section for contracting with the city to align with the model business license definition adopted by cities last year.

- **Technical changes**

- Core model ordinance .060: Removes a reference to language repealed in 2008.
- Core model ordinance .090(7): makes technical changes to update the RCW reference to the tax exemption for motor vehicle fuel.
- Core model ordinance .030: Makes technical corrections to titles and individual words.

In addition, as part of the implementation of the change, a work group of city tax managers has drafted a proposed city B&O apportionment model rule to assist in uniformity of implementation.