



## CITY OF TUKWILA BUSINESS TAX RULES

### **Tukwila Tax Rule 3-26-001** **Motor Carriers – Trucking**

Pursuant to Tukwila Municipal Code (TMC) section 3.27.180, the Finance Director hereby adopts this Business Tax Rule to supplement TMC Chapter 3.26. This rule is designed to educate, inform, and assist taxpayers in filing business and occupation (B&O) tax returns, determining the amount of tax due, and meeting all other requirements established through TMC Chapters 3.26 and 3.27.

(1) Introduction. This rule provides an overview of the taxation of motor carriers and trucking activities within the City of Tukwila.

(2) Definitions.

(a) "Agent"—a person performing motor transportation service for another motor carrier under the other carrier's direction pursuant to a preexisting agreement which provides for a continuing relationship, precluding the exercise of discretion on the part of the agent in allocating traffic between the carrier and others. Agents may operate under their own operating authority or the operating authority of their principal.

(b) "Ancillary Activities"—activities conducted by the motor carrier that are not part of the contracted transportation charge, and include, but are not limited to, stevedoring, separately invoiced charges for loading, unloading, sorting, storage, and consolidation charges. If the contract between the shipper and motor carrier includes the requirement that the motor carrier pack, load, and store the property in addition to the transportation then those activities will be included as part of the motor transportation revenue, provided that any storage over one month will be deemed to be an ancillary activity charge whether or not the storage is part of the contract or invoiced separately.

(c) "Broker"—A person who sells, provides for, or arranges transportation by a motor carrier for compensation. A freight broker acts as a middle person in bringing a shipper and motor carrier together, for which they earn a commission

or mark-up between the amount billed to the shipper and the amount paid to the motor carrier. A broker is not licensed to operate as a motor carrier. A broker does not generally transport or contractually incur the obligation to transport property themselves. However, a person who acts as a broker and also acts as a motor carrier must segregate these activities on their books of record and tax returns.

(d) "Freight Forwarder"—a person providing transportation of property on a for-hire basis and in the ordinary course of its business:

- (i) assembles and consolidates shipments or provides for break-bulk and distribution operations of the shipments;
- (ii) assumes responsibility for the transportation from the place of receipt to the place of destination; and
- (iii) uses motor carriers for any part of the transportation services.

(e) "Motor carrier"—means the carriers defined as a "common carrier" or "contract carrier" in RCW 81.80.010, providing transportation of property for hire over public highways. The term includes "agents", "freight forwarders" and "owner-operators" if they are under contract to haul property.

(f) "Owner-Operator"—a person that leases motor carrier equipment with operators to motor carriers under federal or state leasing rules pertaining to motor carriers. It does not include persons leasing motor carrier equipment without operators.

(g) "Picking up"—means taking the first initial possession of freight or property by the motor carrier. Transfers between agents, motor carriers, or freight forwarders constitute a "pick-up," whereas transfers between transportation equipment owned by the same motor carrier does not constitute a "pick-up". Generally, "picking up" is the beginning of the transportation for that particular motor carrier. A motor carrier contracting with another as a subcontractor is "picking up" when it first takes possession of the freight or property.

(h) "Public highway"—every street, road, freeway or highway in the State of Washington.

(3) Measure of the tax on motor carriers of property for hire. Persons engaged as a motor carrier within the City of Tukwila are subject to tax under the Service and Other Activities (not apportioned) tax classification. The gross income of such person that is subject to tax shall be the gross income received from the transport of freight picked up in the City of Tukwila, regardless of where the business was solicited, and regardless of whether the person has an office, terminal, or place of business within the City.

(4) Taxing authority. The act of "picking up" property or freight within the City creates a "nexus" for taxation and requires the person to maintain a business license and report all applicable taxes.

(5) Measure of the tax on ancillary activities and commissions. Motor carriers engaging in ancillary activities shall separately record and report the gross income from such activities under the Service and Other Activities (Apportioned) tax classification. Brokers earning commissions by arranging the transportation between the shipper and the motor carrier shall report those commissions under the Service and Other Activities (Apportioned) classification. Gross income from ancillary activities and broker commissions are subject to the two-factor apportionment provision contained in TMC 3.26.077(F).

(6) Exemptions and deductions.

(a) Interstate Trucking. A deduction is allowed in the amount of the gross income received by a motor carrier from the transportation of property picked up within the City of Tukwila and delivered by the motor carrier to a point outside the State of Washington. A motor carrier that does not transport the property across the state boundary is not entitled to a deduction, even though the freight is destined for, and is ultimately transported, outside Washington. The contract maintained by the motor carrier shall determine whether the haul is deductible. Such contract may be with a shipper, carrier, consolidator, logistics firm, or any other person or party, provided that the motor carrier is required to transport the freight to a location outside the state. Freight forwarders, agents, and owner-operators are eligible for this deduction where the requirements of this section are met. The fact that the goods themselves are being transported under an interstate "through bill of lading" will not suffice as proof that the carrier was responsible for transporting the goods across Washington State

boundaries. (See section (7) for document requirements to substantiate the interstate haul).

(b) Empty containers as part of a round trip haul. There may be deducted from the measure of the tax the amount of gross income from the transport of empty containers picked up in the City if a loaded container transported from outside the City is exchanged for the empty container at the time of pick-up and the transport of the loaded container and empty container are billed to the customer as a round trip charge. Any charge for picking up and transporting an empty container that is not part of a round trip billing or represents a one-way haul of an empty container is subject to tax.

The intent of this subsection is to permit a deduction for empty containers consistent with the measure of the tax in section (3) above. This deduction is intended to apply where a driver picks up a loaded container outside the City, delivers it to a location inside the City, and picks up an empty container for the return trip. The location of the delivery of the loaded container and pick-up of the empty one need not be identical but must be within the City. The location where the loaded container was picked up outside the City and the location of delivery of the empty container must also be within the same city or location, and both hauls (loaded and empty) billed as a round trip charge to the same customer.

(c) Revenue from pick-ups outside the City. All revenues generated by transportation or moving of property which is picked up outside the City and delivered within the City or elsewhere shall be excluded from the measure of the tax regardless of where the solicitation of the business activity took place.

(7) Documentation required for exemptions and deductions. For each haul, the motor carrier (including agent or owner/operator) must maintain documentation showing the place of pick-up and place of delivery for which the motor carrier is responsible. All forms substantiating the points of pick-up and delivery and whether the transportation was an interstate haul may be in paper or in electronic form. Such forms or documents must clearly substantiate where pick-up occurred and, if the delivery was made to a point outside the state, that the motor carrier was required to transport the goods to the location outside the state. Valid documentation may include billing documents, bills of lading, master agreements, price lists, shipping contracts, interchange receipts, delivery receipts,

authorizations, work orders, interstate authority documentation, lease agreements and other documents showing the facts associated with the haul. Some of these documents, by themselves, will not be sufficient to prove an interstate deduction. The primary documents examined will be the invoice or billing document and the motor carrier's own bill of lading along with any contractual documents.

(8) Handling of solid waste. A person contracting to collect solid waste for non-residential customers (including any transportation, storage, or disposal of such material, including recyclable materials) is subject to the solid waste utility tax. A person contracting to collect the same from residential customers who is not subject to a franchise fee under a franchise agreement with the City for solid waste collection services shall be deemed to be a motor carrier and subject to the B&O tax under the Service and Other Activities (not apportioned) tax classification for pick-ups of such materials inside the City. A person that subcontracts with the collector to haul solid waste on behalf of the collector, whether for residential or non-residential customers, is likewise subject to B&O tax on the gross income from pick-ups within the City.

(9) Examples. The following examples show how the above rule will be applied:

(a) A motor carrier contracts to haul goods from Tukwila to Alaska, invoices the seller, and issues a bill of lading showing these points. The motor carrier picks up the freight in Tukwila and hauls it to an unrelated barge line in Bellingham, who then hauls the goods to Alaska under a subcontract with the motor carrier. Since the motor carrier has contracted and is paid to haul the goods to Alaska, and the barge line is acting as subcontractor to the motor carrier, then the motor carrier is taking the goods across the state lines and the interstate deduction applies to the motor carrier's revenues for the shipment.

(b) A freight broker with offices inside and outside of Tukwila arranges for transportation between various points in the country, including Tukwila. The shippers and carriers are in different states. The broker's job is arranging the transportation; the broker does not issue a bill of lading. The broker collects the price of the move from the shipper, pays the carrier, and keeps the difference. The transportation broker is merely brokering the transportation activity and therefore is taxable on its commission income or the difference between contract price and transportation costs. The transportation broker may not use

the interstate deduction since it is not a motor carrier. The gross income derived from providing transportation brokerage services is taxable under the Service and Other Activities (Apportioned) tax classification.

(c) A freight forwarder with a terminal in Tukwila contracts with and invoices a shipper (seller) to haul a shipment to Los Angeles. The forwarder picks up the shipment in Tukwila with its own truck and hauls it to the forwarder's terminal. A subcontract carrier (another motor carrier, agent, or owner-operator) hauls it to Los Angeles. The freight forwarder and the subcontract carrier are not taxable since both are contractually responsible for getting the shipment across state boundaries.

(d) A full load motor carrier contracts to haul goods from Denver to Bellingham. The carrier hauls the load from Denver to Tukwila, where it is given to a subcontract carrier to haul from Tukwila to Bellingham. The motor carrier is not taxable, but the subcontract carrier is taxable for the haul from Tukwila to Bellingham.

(e) ABC Household Goods Mover, who is an agent of XYZ Van Lines, executes a contract and bill of lading on behalf of XYZ with a Tukwila homeowner to move the homeowner's household goods from Tukwila to Phoenix. XYZ Van Lines is the motor carrier named in the bill of lading. ABC provides a van, loads the goods, and hauls them to ABC's warehouse in Washington. The goods are then picked up by an owner-operator of another agent of XYZ Van Lines, who hauls them to Phoenix. XYZ Van Lines is the motor carrier and receives the interstate deduction. ABC is taxable on its haul to the warehouse because it has not crossed, or contracted to cross, a state border.

(f) Same facts as example (e) above, except ABC also hauls the goods from its warehouse to Phoenix with its own driver (employed or owner-operator). ABC is not taxable because it has transported the load across the border. An Owner-Operator driver would also not be taxable for the same reason.

(g) A regional motor carrier contracts to pick up goods in Salt Lake City and deliver the goods to Vancouver, WA. The carrier hauls the goods to Tukwila where they are transloaded into a delivery truck belonging to the regional motor carrier for delivery to Vancouver. The entire haul is not taxable because the freight was picked up in Salt Lake City and changes in equipment or

intermediate stoppages and storage does not change the place of pick-up if the goods are traveling under one invoice and one bill of lading by the same carrier.

(h) A motor carrier with a Tukwila terminal or office picks up freight in Kent and hauls it to Everett. There is no tax because there is no Tukwila pick-up.

(i) A regional, less-than-truckload, carrier contracts and invoices to haul a shipment from Tukwila to Billings, Montana. It interlines (subcontracts) the shipment with another regional carrier in Spokane who then continues the shipment to Billings. Both carriers are not taxable because both have contracted to cross the border. The interline carrier contracts to cross the border when it agrees to transport the shipment from Spokane to Billings.

(j) Same facts as example (i) above, except a national carrier is designated as the carrier on the bill of lading. (The national carrier is then presumed to be the entity that contracted to ship the goods from Tukwila to Billings.) The national carrier then subcontracts with the two regional carriers. The originating regional carrier is taxable, because it has not contracted to cross the border (only from Tukwila to Spokane). The second regional carrier is not taxable because it has contracted to haul the goods across the border and did not pick up the goods in Tukwila.

(k) A carrier picks up a loaded container at the Port of Seattle and drops it at a customer's location in Tukwila. The customer unloads the container and the next day the carrier picks it up and returns it to a container yard inside the Port of Seattle. The carrier bills the steamship lines for the round trip. The entire round-trip charge is not taxable because the pick-up of the loaded container was made outside of Tukwila. It makes no difference who was billed, or that the empty container was picked up the day after the loaded container was delivered.

(l) A carrier picks up an empty container at the Port of Seattle, hauls it to a customer's location in Tukwila, drops the empty container, then picks up a loaded container in Tukwila for the customer and hauls it to the Port of Seattle. The carrier bills the customer for the round trip. The round trip is taxable because the loaded container was picked up in Tukwila. It makes no difference that the empty container was picked up outside of Tukwila, because the empty and loaded containers were billed as a round trip.

(m) Same facts as example (l) above, except the carrier invoices the customer separately for hauling the empty container and the loaded container. The revenue from transporting the loaded container is taxable because the pick-up occurred in Tukwila. The revenue from transporting the empty container is not taxable because the pick-up was outside Tukwila and by invoicing separately it is presumed that the hauls were under separate contracts.

(n) ABC trucking signs a contract with the Smiths to move their furniture from Tukwila to Vancouver, WA. As part of the agreement, the Smiths desire to move out of their present home and wait for three weeks before the furniture is delivered to their new home in Vancouver. The packing, loading, and three weeks of storage is part of the move and is taxable under the Service and Other Activities (not apportioned) tax classification because the pick-up took place in Tukwila. If the Smiths were moving to Portland, OR then the entire contract amount is not taxable since the move is an interstate move and ABC was required to deliver the furniture outside the state. If the storage period were longer than one month, then the storage charges would be considered an ancillary charge and taxable under the Service and Other Activities (Apportioned) tax classification.

(o) XYZ Trucking is located in Seattle and contracts with the Smiths to pack, load, and store their property, while ABC Trucking contracts to move the property. The Smiths are located in Tukwila. XYZ Trucking is taxable under the Service and Other Activities (Apportioned) tax classification on these ancillary activities. Since ABC trucking is making the haul from Tukwila to Vancouver via the storage warehouse, ABC Trucking would be taxable under the Service and Other Activities (not apportioned) classification on the gross income from the haul, since pick-up occurred in Tukwila.

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