



Bob Ferguson  
**ATTORNEY GENERAL OF WASHINGTON**  
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August 1, 2017

Robert M. McKenna  
Daniel J. Dunne  
Orrick, Herrington & Sutcliffe LLP  
701 5th Avenue, Suite 5600  
Seattle, WA 98104-7097

Re: Request for Attorney General to challenge the constitutionality of Seattle City  
Ordinance 125339

*R.B.*

Dear Mr. McKenna and Mr. Dunne:

I write in response to your letter of July 21, 2017, concerning an ordinance recently adopted by the City of Seattle imposing a tax on a portion of the gross income of Seattle residents. Your letter explains that you represent several individuals who oppose the ordinance. You explain that you believe the ordinance to be unconstitutional on the basis of several arguments that you outline. You ask that our office challenge the constitutionality of the ordinance.

We consider litigation at the request of taxpayers to be appropriate where the action we are asked to challenge is clearly contrary to law, the litigation ultimately would benefit taxpayers in their capacity as taxpayers, and the potential recovery likely exceeds the cost to taxpayers of bringing the action. As you no doubt remember, this standard is rarely met: I cannot recall a challenge we have filed based on a taxpayer demand letter in my many years with the Attorney General's Office. And based upon the information you provided, I cannot conclude that these criteria are met here. For that reason, our office will not take the action requested in your letter.

To the extent your request is made as a prerequisite to asserting taxpayer standing, please understand that this letter expresses no view as to whether the requirements for taxpayer standing would be met.

Sincerely,

JEFFREY T. EVEN

*Deputy Solicitor General*