

CITY OF OAKLAND
Agenda Report

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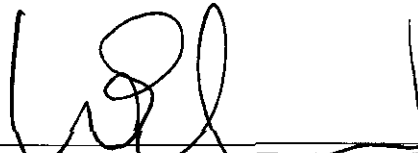
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TO: Office of the City Administrator
ATTN: Deborah A. Edgerly, City Administrator
FROM: Finance and Management Agency
DATE: February 8, 2005

RE: **INFORMATIONAL REPORT ON THE BUSINESS TAX BOARD
OF REVIEW MEETINGS FOR THE SECOND QUARTER OF
FISCAL YEAR 2004/2005**

Attached is the second quarter report from the Business Tax Board of Review. A representative from the Board will be available to answer questions.

Respectfully Submitted,

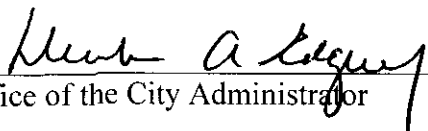


WILLIAM E. NOLAND, Agency Director
Finance and Management Agency

Prepared by: Anna Lawrence, Acting
Revenue Manager
Revenue Division

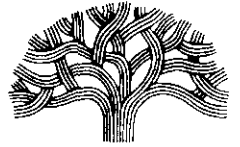
Attachments

FORWARDED TO THE FINANCE AND
MANAGEMENT COMMITTEE


Office of the City Administrator

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Finance and Management Committee
February 8, 2005

CITY OF OAKLAND



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HONORABLE CITY COUNCIL
Oakland, California

Subject: Information Report on the Business Tax Board of Review Meeting for the Second Quarter of FY 2004/2005

Members of the City Council:

This is an informational report on the Business Tax Board of Review meeting held during the second quarter of fiscal year 2004/2005. Per the request of the Finance and Management Committee, a brief narrative on the decisions by the Board, as well as appeals made by taxpayers, are outlined. The Business Tax Board of Review has convened one (1) regular meeting in the second quarter of fiscal year 2004/2005. The meeting was held on December 3, 2004. The following is a summary of the decisions rendered by the Board:

There were a total of eighteen (18) cases originally scheduled at this meeting involving various disputes. In one (1) case, the appellant failed to appear, and the Board rendered its decision in his absence; three (3) cases were postponed until the next meeting; and in one (1) case, the appeal was canceled and resolved by staff. The fourteen (14) cases heard were:

- 1) A request for a waiver of penalty and interest. The appellant was unaware of the City's business tax requirements for rental properties. The City does not have the discretion to waive the penalty and interest due to the appellant not having received prior notification. *The Board voted to deny the appellant's request for a waiver of penalty and interest.*
- 2) A request for a waiver of penalty and interest. The appellant was unaware of the City's business tax requirements for rental properties. The City does not have the discretion to waive the penalty and interest due to the appellant not having received prior notification. *The Board voted to deny the appellant's request for a waiver of penalty and interest*

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- 3) A request for a waiver of penalty and interest. The appellant had remitted the 2004 payment, which was received after the March 1 deadline date. The appellant claimed she had mailed the payment on time and, upon being advised by the Business Tax Section that the 2004 tax was not paid, promptly remitted a duplicate payment, including late fees. However, she advised the Board that they had made a payment for another account, which was received timely and that the late payment must have gotten lost in the mail. *The Board voted to refer this case back to staff to work with the appellant to reach a resolution on this issue.*
- 4) A request for a waiver of the penalty and interest. This appellant did not appear at the hearing and the Board rendered its decision in his absence. The appellant had claimed he was unaware of business tax requirements for rental properties and had requested a waiver of the penalty and interest. Pursuant to the provisions of the Business Tax Ordinance, such waivers are not permitted. *The Board voted to deny the appellant's request for a waiver of the penalty and interest.*
- 5) A request for a waiver of the penalty and interest. The appellant had requested this waiver, due to a change in tax base information for several years. He had notified the Revenue Audit Section that he had discovered that his company was not calculating the tax bases correctly and had inadvertently underpaid the tax for several years. There should have been two separate business tax accounts, but they had only been paying under one account. Upon meeting with staff and correcting this error, this resulted in additional taxes and penalty and interest accrued on the additional tax. The appellant paid the additional tax and requested a waiver on the penalty and interest. *The Board voted to grant the appellant's request for a waiver on the penalty and interest since the appellant did this tax base change voluntarily.*
- 6) A request to change the 2nd/3rd year tax methodology. The appellant's business activity began in Oakland in 2001 and she moved to Emeryville in 2002. However, she is still conducting business activity in Oakland, so she must retain her Oakland business tax account. Under the provisions of the Business Tax Ordinance, the tax base for the second and third years is based upon the revenues received during the second year. She requested that she be allowed to have this method changed. *The Board voted to refer this case back to staff for further review and resolution and would be allowed the option to have her case heard again if not satisfied with staff's decision.*
- 7) A request for reinstatement into the City's Business Tax Incentive Program (BTIP). The business was disqualified from the BTIP because its 2003 first year/2004 second year renewal tax was paid well after the delinquent date. *The Board voted to deny the appellant's request for reinstatement back into the BTIP, citing Section 5.04.151(F) of the Oakland Municipal Code, which stipulates that no business incentive shall apply to a business that is delinquent or identified through the City's non-compliance program.*
- 8) A request for reinstatement into the City's Business Tax Incentive Program (BTIP). The business was disqualified from the BTIP because they failed to pay the 2004 business tax timely. However, staff had previously advised the appellant that this company was

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subject to two separate business tax accounts, in that they are conducting two different business activities. The appellant said that there was a lot of confusion around this issue, which caused a delay in the correct declaration being sent. *The Board voted to grant the appellant's request for reinstatement into the BTIP.*

- 9) A request to appeal the denial of the five-year exemption on the commercial rental property. This case was originally heard at the previous meeting, in which staff had denied the appellant's request to be allowed to pay the business tax at the lower rate for the five-year duration. The case was referred back to staff, pending submission of additional documentation. The appellants did not furnish the requested information and had their case re-heard at this meeting, and stated that they had already submitted all the documentation they deemed necessary. *The Board voted to grant the appellant's request for allowance of the five-year exemption.*
- 10) A request to appeal the results of an audit relative to the reclassification of the company's industry code. This company has always been classified under that of Administrative Headquarters, the office of which only conducts administrative work for their parent company. However, it was discovered through a survey that this company does have conduct work that results in gross receipts, which prompted the City to change their business classification to Professional/Semi-professional Services. The appellant explained that the majority of their work is administrative activity and that they should not be classified under the new rate. *The Board voted to have the appellant's business tax account changed back to the Administrative Headquarters industry code but to also create another business tax account under which they would report and pay the tax based upon actual gross receipts received at that location.*
- 11) A request to change the 2nd year/3rd year tax methodology. This case is one of many that centers on the AB63 issue. The appellant had paid a portion of the tax, but was protesting the tax method, in which the second and third years' taxes are both based upon the revenues received during the second year. *The Board voted to deny the appellant's request to change the tax methodology relative to his situation.*
- 12) A request to waive the penalty and interest. This is another AB63 issue, in that the appellant claimed she was unaware of the City's business tax requirements and does most of her work outside Oakland city limits. She said she responded promptly to all notification sent to her by the City, the first of which was well after she responded, which resulted in higher interest. *The Board voted to deny the appellant's request for a waiver of the penalty and interest, but agreed to allow her to pay the interest calculated back to her initial contact with the City.*
- 13) A request to waive the penalty and interest. This is another AB63 issue, in that the appellant claimed she was unaware of the City's business tax requirements and does all of her actual work outside Oakland city limits, but uses her Oakland home as the business location. She said staff initially told her that she was not subject to the business tax, but after review of her Schedule C, was later told that she is considered to be operating a business in Oakland. *The Board voted to deny the appellant's request for a waiver of the*

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penalty and interest, but agreed to allow her to pay the interest calculated back to her initial contact with the City.

- 14) A request for exemption from the business tax and subsequent waiver of the penalty and interest. This is another AB63 issue, in which the appellant said she is a writer and is not conducting business in Oakland. She said her work is conducted at either non-Oakland locations or via the Internet. She uses her Oakland home as the business location and does perform a portion of her work there. *The Board voted to deny her request for exemption of the tax and the penalty and interest and advised her that her next step would be for her and other folks in this situation to take this issue back to City Council and then to court.*

Respectfully Submitted,



JAY SHAH
Chairperson, Business Tax Board of Review