



CITY OF OAKLAND

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2016 SEP -1 AM 10:10 **AGENDA REPORT**

TO: Sabrina B. Landreth
City Administrator

FROM: Margaret L. O'Brien
Revenue & Tax
Administrator

SUBJECT: Supplemental Report Regarding Tax
& Fee Assessment On TNCs

DATE: August 21, 2016

City Administrator Approval

Date:

8/31/16

RECOMMENDATION

Staff Recommends That The Finance Committee Accept This Supplemental Report Regarding Tax And Fee Assessment On Transportation Network Companies ("TNC") Operating In The City Of Oakland.

REASON FOR SUPPLEMENTAL

At the January 26, meeting of the Finance Committee, the Committee directed the City Administrator and the City Attorney to explore all viable options for taxing TNCs and the drivers.

Transportation Network Companies ("TNC") Drivers, Business Tax Liability

The Tax Administrator has determined that TNC drivers who generate revenue derived from the business activities of picking-up and dropping-off fares in Oakland are subject to the City's Business Tax. The TNC drivers are classified under OMC Section 5.04.410-Transportation of persons and goods, and taxed at a flat rate of \$72 annually. Currently, TNCs such as Uber and Lyft do not provide the City with the names of their contractors operating in the City. Thus, the challenge for staff is identifying and noticing TNC contractors.

Staff recommends that the City Administrator issue an administrative subpoena requiring TNCs to provide the names and other necessary information to the City to enable the enforcement of the City's Business Tax Ordinance.

Transportation Network Companies, Business Tax Liability

TNCs are currently regulated by the California Public Utilities Commission ("CPUC"). After extensive research of the CPUC code, it is determined that the City cannot tax TNCs unless the TNC maintains an office in the City. The CPUC classifies TNCs as charter-party carriers.

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The Public Utilities Code prohibits a city from imposing a business license tax on a charter-party carrier operating limousines unless the company maintains a business office in the City. Furthermore, TNCs appear to operate as a "limousine" defined in CPUC code Section 5359(c).¹ Thus, under section 5371.4² of the CPUC code, the City cannot impose the business license tax until such time a TNC maintains an office within the City.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends that the Finance Committee accept this Supplemental Informational Report Regarding Tax And Fee Assessment On Transportation Network Companies ("TNC") Operating in the City Of Oakland.

For questions regarding this report, please contact MARGARET O'BRIEN, Revenue & Tax Administrator, 510-238-7480.

Respectfully submitted,


MARGARET L. O'BRIEN
Revenue & Tax Administrator,
Revenue Management Bureau

¹ "Limousine means any sedan or sport utility vehicle, of either standard or extended length, with a seating capacity of no more than 10 passengers including the driver, used in the transportation of passengers for hire on a prearranged basis [...]."

² "The governing body of any city [...] may not impose a fee on charter-party carriers operating limousines. However, the governing body of any city [...] may impose a business license fee on, and may adopt and enforce any reasonable rules and regulations pertaining to operations within its boundaries for any charter-party carrier domiciled or maintaining a business office within that city [...]."