

CITY OF OAKLAND
Agenda Report


OFFICE OF THE CITY CLERK
2006 MAR 27 PM 6:51

TO: Office of the City Administrator
ATTN: Deborah A. Edgerly, City Administrator
FROM: Finance and Management Agency
DATE: April 11, 2006

RE: **Informational Report on the Business Tax Board of Review Meeting
for the Third Quarter of Fiscal Year 2005/2006**

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

Respectfully Submitted,


for WILLIAM E. NOLAND, Agency Director
Finance and Management Agency

Prepared by: Terry Adelman,
Revenue Manager
Revenue Division

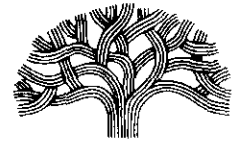
Attachments

FORWARDED TO THE
FINANCE AND MANAGEMENT COMMITTEE


OFFICE OF THE CITY ADMINISTRATOR

Item: _____
Finance and Management Committee
April 11, 2006

CITY OF OAKLAND



FINANCE AND MANAGEMENT AGENCY • 150 FRANK H. OGAWA PLAZA, SUITE 5342 • OAKLAND, CALIFORNIA 94612-2093

Revenue Division

(510) 238-2245
FAX (510) 238-6431
TDD (510) 238-3254

April 11, 2006

HONORABLE CITY COUNCIL
Oakland, California

Subject: Informational Report on the Business Tax Board of Review Meeting for the Third Quarter of FY 2005/2006

Members of the City Council:

This is an informational report on the Business Tax Board of Review meeting held during the 3rd quarter of fiscal year 2005/2006. 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 third quarter of fiscal year 2005/2006. The meeting was held on January 5, 2006. The following is a summary of the decisions rendered by the Board:

There were three (3) Board members present at this meeting, which was to hear a total of five (5) cases originally scheduled involving various disputes. The Board heard four (4) cases and one (1) case was unofficially heard at the appellant's request. The Appellant understood no decision could be made because she was personally acquainted with one of the Board members who recused himself, which left an insufficient number of Board members for a quorum. In two (2) cases, the Board voted to deny the appellants' requests; in one (1) case, the Board could not render a decision; and in two (2) cases, the appellants requested a hearing without their presence, and the Board voted to deny their requests. The five (5) cases heard were:

- 1) A request for exemption from the tax and subsequent waiver of the penalty and interest. Appellant identified through information provided by the Franchise Tax Board. The appellant appealed his case to the Board because he was not aware he was actually conducting business in Oakland. His argument was that he had an office in his home in San Francisco in prior years and that the City of San Francisco had never indicated the need for a business license or the payment of a Business Tax, and he felt that his property tax should more than cover his share of taxes paid to the city. His income tax records indicated a home office in Oakland; he claimed that only a very small amount of administrative work was done there. In addition, the appellant believed that because he was not notified earlier of the Business Tax obligation he should not be subject to any penalties or interest. *The Board voted unanimously in favor of the City.*

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- 2) A request for exemption from the tax and subsequent penalty and interest. The Appellant was identified through information provided by the Franchise Tax Board. The appellant appealed his case to the Board because he was not aware he was actually conducting business in Oakland. He said he works as a model and actor through an agency in San Francisco and uses only his cell phone to communicate with clients. He stated that he is not conducting any business from his home. However, he does claim the home office deduction on his income tax returns. *The Board unanimously voted to deny the appellant's request for an exemption from the tax and subsequent waiver of the penalty and interest.*
 - 3) A request to have the case heard before the Board in the absence of a quorum and with the knowledge no decision could be made. The Appellant wished to voice her side of the case and ask procedural questions regarding the applicability of the Business Tax to her type of business, as well as questions about the Board of Reviews role in the process. The appellant had questions regarding what types of exemptions are in place for low grossing businesses and the possibility of an amnesty. The newly enacted low gross receipts exemption was explained to her as well as the appropriate steps to make recommendations to City Council. *There was no vote taken on this case, as there was not an available quorum and the appellant was advised to approach Council to address changes she wishes to see in the Ordinance.*
 - 4) These appellants notified the Board Secretary that they would not be present, but requested this case be heard in their absence. A request for exemption from the tax and subsequent penalty and interest. The Appellants were identified through the efforts of the Tax Compliance Section using information from the Franchise Tax Board. The appellants appealed their case to the Board because they were not aware they were actually conducting business in Oakland. They are also pleading a hardship. Because both appellants were unemployed, they derived all of their income from freelance writing and sales of personal items. They stated that they were misinformed by their tax preparer that there was no business license required because they did not file a fictitious names statement. Business expense deductions were taken on income tax returns for the years in question. *It was found that the appellants did not qualify for the poverty exemption and the Board voted to deny their request for an exemption from the tax and subsequent penalty and interest.*

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- 5) This appellant notified the Board Secretary that she would not be present, but requested this case be heard in her absence. A request for exemption from the tax and subsequent penalty and interest. Appellant identified through the Tax Compliance Sections efforts. The Appellant believed she should not be subject to the Business Tax because she performed no work from her home in Oakland. There was also a question regarding the statute of limitations. It was noted that the appellant's records indicated that she was based in Oakland and doing business beginning in 2001 and is therefore subject to the business tax from that year and all subsequent years. Also, the appellant's income tax return indicated there was income derived from a business. *The Board, on a 3-0 decision, voted to deny the appellant's request for an exemption from the business tax and subsequent penalty and interest.*

Respectfully Submitted,



JAY SHAH
Chairperson, Business Tax Board of Review