

**CITY OF OAKLAND**  
**Agenda Report**

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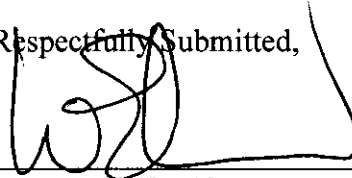
TO: Office of the City Administrator  
FROM: Deborah A. Edgerly  
DATE: September 14, 2004

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

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

Respectfully Submitted,



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WILLIAM E. NOLAND, Agency Director  
Finance and Management Agency

Prepared by: Debra Taylor Johnson,  
Revenue Manager  
Revenue Division

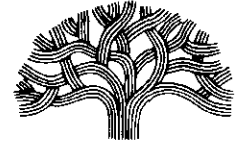
Attachment

FORWARDED TO THE FINANCE  
AND MANAGEMENT COMMITTEE

  
OFFICE OF THE CITY ADMINISTRATOR

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September 14, 2004

# CITY OF OAKLAND



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September 14, 2004

HONORABLE CITY COUNCIL  
Oakland, California

Subject: Information Report on the Business Tax Board of Review Meeting for the First 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 first 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 first quarter of fiscal year 2004/2005. The meeting was held on July 8, 2004. The following is a summary of the decisions rendered by the Board:

There were a total of twenty-five (25) cases originally scheduled at this meeting involving various disputes and one (1) discussion on an amendment to a revenue ruling. In five (5) cases, the appellant failed to appear, and the Board rendered its decisions in their absence; seven (7) cases were postponed until the next meeting; and in one (1) case, the appellant rescinded his appeal. The seventeen (17) cases and one (1) discussion heard were:

- 1) A request for a waiver of penalty and interest. The appellant appealed the decision of the Revenue Manager to deny her request. The appellant's employee died in 2001, and, during the upheaval, the 2002 business taxes were not paid timely. *The Board voted to deny the appellant's request for a waiver of penalty and interest.*
- 2) A request for a re-determination of an audit. The appellant owned multiple properties, some of which were utilized as rentals while others were renovated and sold. Staff reclassified the latter pursuant to Section 5.04.360 of the Oakland Municipal Code (Rehabilitation of Real Estate), thus resulting in an additional tax liability. *The Board voted to refer the case back to staff for further review and resolution.*
- 3) A request for an exemption from the tax. The appellant appealed the applicability of the tax on her rental property. The appellant was unaware of the City's business tax requirements on rental properties and was in a low-income bracket and utilized the

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- property as an additional source of income. *The Board voted to deny the appellant's request for an exemption from the tax.*
- 4) A request for an exemption from the tax. The appellant appealed the applicability of the tax on her husband's maintenance business operated out of their home. The appellant's 2000 Federal Income Tax return included a Schedule C, which indicated that he was in fact operating a business out of his home in Oakland. There were numerous expenses listed on the schedule and a Form 8829 (expenses for business uses of one's home) filed. *The Board voted to deny the appellant's request for an exemption from the tax.*
  - 5) A request for a re-determination of an audit. An audit of the appellant's business tax account revealed that the appellant failed to remit the 1999 business tax. The appellant claimed to have documentation illustrating that the taxes were paid through escrow. *The Board voted to refer the case back to staff to allow the appellant an opportunity to remit a copy of the closing statement to staff for review to determine if the tax had been paid through the escrow process.*
  - 6) A request for a waiver of interest. The appellant failed to register his company with the City at the time the business started. Upon receipt of notification, the appellant remitted the tax base and paid the tax and penalty. The appellant overstated the company's tax base and it was his contention that the interest should be waived since the tax and subsequent penalty had been overpaid. *The Board voted to refer the case back to staff to revise the tax base and the liability, accordingly, inclusive of penalty and interest assessments.*
  - 7) A request for an exemption from the tax. The appellant believed that the business tax was not applicable to her consulting business, in that all business activities are conducted at her client's location; her home in Oakland is used for mailing purposes only; and she does not have any provisions on her corporate tax returns to allow for any deductions for use of her home. *The Board voted to grant an exemption from the tax.*
  - 8) A request for an exemption from the tax. The appellant had the same circumstances as the previous and believed that the business tax was not applicable to her consulting business, in that all business activities are conducted at her client's location; her home in Oakland is used for mailing purposes only; and she does not have any provision on her corporate tax returns to allow for any deductions for use of her home. *The Board voted to grant an exemption from the tax.*
  - 9) A request for an exemption from the tax. The appellant reported revenues to the IRS for deferred compensation from his former employer under a newly established business entity in order to create a defined benefit plan for deferred compensation. *The Board voted to grant an exemption from the tax.*
  - 10) A request for reinstatement into the City's Business Tax Incentive Program (BTIP). The business was disqualified from the BTIP because its 2003 renewal was paid after the delinquent date. *The Board voted to allow the appellant back into the BTIP, citing*

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*Section 5.04.520 of the Oakland Municipal Code, which allows the Finance Director the discretion of allowing a grace period of ten (10) calendar days from the delinquent date in which a business can pay the tax without imposition of penalty and interest assessments.*

- 11) A discussion on amending Director of Finance Ruling No. 27. The City engages in various types of housing financings for tax-exempt bond projects from non-profit organizations to community-based organizations. For some of these projects, the City issues tax-exempt bonds through its regular revenue bond program or participates with another governmental agency in issuing those bonds. In order to qualify for most of the bonds that are used, the borrower has to receive from the State of California a “volume cap”, which limits the amount of taxes and bonds that can be issued within the State of California in any calendar year.

All of these projects, which are low-income housing projects or mixed-income housing projects, can be developed through tax-credit programs, which are also limited in the amount that can be undertaken in the State in any calendar year. Some of the borrowers in the non-profit community that participate in the City’s tax-exempt bond program are also participating in tax-credit programs. However, whenever one participates in a tax-credit program, one’s status as a non-profit developer changes, as the tax credit requires the developer to form a different type of partnership, in that they become for-profit entities for the purposes of the development of the low-income housing project.

Whenever this occurs, the entity falls outside the City’s statute for an exemption of the business tax. In light of this issue, staff suggested amending Director of Finance Ruling No. 27 to allow the continued exemption for residential rental projects to allow them to have the same kind of tax benefits that non-profits have when they’re undertaking the identical type of development. *The Board voted to refer this matter to the City Council in the form of an ordinance amendment.*

- 12) A request for an exemption from the tax. The appellant is a limited partnership between a for-profit entity and a non-profit entity. The appellant was required to structure the business in this fashion to be eligible for Federal and State tax credits to develop the property to provide low-income housing. *The Board voted to defer its decision until Council made a determination of an ordinance amendment allowing for an exemption from the tax.*
- 13) A request for an exemption from the tax. The appellant, with similar circumstances as the previous, is a limited partnership between a for-profit entity and a non-profit entity. The appellant was required to structure the business in this fashion to be eligible for Federal and State tax credits to develop the property to provide low-income housing. *The Board voted to defer its decision until Council made a determination of an ordinance amendment allowing for an exemption from the tax.*
- 14) The appellant did not appear at the meeting and the Board heard the case and rendered its decision in her absence. The appellant requested a waiver of penalty and interest on the

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- basis that she was not aware of the business tax requirements on rental properties. *The Board voted to deny the appellant's request to waive the penalty and interest.*
- 15) The appellant did not appear at the meeting and the Board heard the case and rendered its decision in his absence. The appellant requested a waiver of penalty and interest on the basis that he was not aware of the business tax requirements on rental properties. *The Board voted to deny the appellant's request to waive the penalty and interest.*
- 16) The appellant did not appear at the meeting and the Board heard the case and rendered its decision in her absence. The appellant requested a waiver of penalty and interest on the basis that she was not aware of the business tax requirements on rental properties. *The Board voted to deny the appellant's request to waive the penalty and interest.*
- 17) The appellant did not appear at the meeting and the Board heard the case and rendered its decision in his absence. The appellant requested a waiver of penalty and interest on the basis that he was unaware of the business tax requirements on business conducted within the jurisdictional boundaries of the City of Oakland. *The Board voted to deny the appellant's request to waive the penalty and interest.*
- 18) The appellant did not appear at the meeting and the Board heard the case and rendered its decision in her absence. The appellant requested reinstatement into the City's Business Tax Incentive Program (BTIP). The business was disqualified from the BTIP because its 2004 renewal was paid after the delinquent date. *The Board voted to allow the appellant back into the BTIP, citing Section 5.04.520 of the Oakland Municipal Code, which allows the Finance Director the discretion of allowing a grace period of ten (10) calendar days from the delinquent date in which a business can pay the tax without imposition of penalty and interest assessments.*

Respectfully Submitted,



JAY SHAH  
Chairperson, Business Tax Board of Review