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2019 NOV 21 PM 1:55

  
CITY ATTORNEY'S OFFICE

## OAKLAND CITY COUNCIL

# ORDINANCE NO. 13579 C.M.S.

INTRODUCED BY PRESIDENT PRO TEMPORE DAN KALB  
COUNCILMEMBER NOEL GALLO, AND PRESIDENT REBECCA KAPLAN

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ORDINANCE AMENDING THE OAKLAND MUNICIPAL CODE, CHAPTER 5.04, SECTION 5.04.420, TO FULLY OR PARTIALLY EXEMPT FROM THE BUSINESS TAX ON RESIDENTIAL PROPERTY RENTALS THOSE LANDLORDS WITH HOUSEHOLD INCOME OF 150 PERCENT OF AREA MEDIAN INCOME OR LESS WHO RENT OUT: (1) THREE OR FEWER ROOMS IN THEIR SINGLE FAMILY HOME OF PERSONAL RESIDENCE; OR (2) A UNIT FROM THEIR OWNER-OCCUPIED DUPLEX, OR SINGLE-FAMILY HOME WITH ONE OR TWO ACCESSORY DWELLING UNIT(S)

**WHEREAS**, the City of Oakland's current business tax rate on gross receipts for residential rental property is a flat 1.395%; and

**WHEREAS**, in 2005, the Oakland City Council amended the business tax ordinance to: (1) provide a small business exemption for persons with annual gross receipts of \$2,500 or less; and (2) eliminate an exemption for low income individuals (see Ordinance No. 12691 C.M.S.); and

**WHEREAS**, the City of Oakland has various tax provisions providing exemptions from other taxes, such as parcel taxes, for persons of low and even moderate income; and

**WHEREAS**, the Oakland City Council desires to provide tax relief to low-to-moderate income homeowners who are only minimally involved in the residential rental property business by virtue of renting three or fewer rooms in their own single-family home and/or units on the two or three-unit property where they live.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** Title 5, Chapter 5.04 of the Oakland Municipal Code containing the business tax requirements applicable to the rental of residential property is amended to add, delete or modify sections as set forth below (section numbers and titles are indicated in bold type; additions are indicated by underscoring and deletions are indicated by strike-through type.) Portions of regulations not cited or not shown in underscoring or strike-through are not changed.

## **SECTION 2. Code Amendments.**

Title 5, Chapter 5.04, sections 5.04.420 is amended as follows:

### **5.04.420 – Rental of residential property – Gross receipts.**

- A. Every person engaged in the business of conducting or operating an apartment house, lodging house, and every person engaged in the business of conducting or letting rooms, and/or any building structure, for dwelling, sleeping or lodging, including, and limited to, a single-family house, duplex, townhouse, condominium or co-operative, shall pay a business tax of thirteen dollars and ninety-five cents (\$13.95) or each one thousand dollars (\$1,000.00) of gross receipts or fractional part thereof.
- B. Every person engaged in the business of conducting or operating a hotel or motel shall pay a business tax of sixty dollars (\$60.00) per year or fractional part thereof for the first thirty-three thousand three hundred thirty-five dollars (\$33,335.00) or less of gross receipts, plus one dollar and eighty cents (\$1.80) for each additional one thousand dollars (\$1,000.00) of gross receipts, plus one dollar and eighty cents (\$1.80) for each additional one thousand dollars (\$1,000.00) of gross receipts or fractional part thereof in excess of thirty-three thousand three hundred thirty-five dollars (\$33,335.00), received from rentals to transients, as defined in Section 4.24.020. All other residential rental hotel and motel owners shall be taxed under the provisions of subsection A of this section.
- C. The tax basis for persons taxed pursuant to subsection A of this section shall include gross receipts as defined per Section 5.04.030 plus all payments made to the lessor, and/or paid to third parties on behalf of the lessor as part of said lease and/or paid to third parties on behalf of lessor as part of said lease agreement, including but not limited to, all taxes, insurance, mortgage payment, rent, and cash value of all services rendered to or on behalf of the lessor by said lessee in lieu of rental or lease fee payments.
- D. Tax Exemption/Reduction for Owner-Occupied Rental Property.**
1. For the purpose of this subsection D, "Owner" is defined as a natural person, who is an owner of record holding an interest equal to or greater than thirty-three percent (33%) in the property.
  2. For the purposes of this subsection D, "household income" shall not include the income of a person renting a room in a single-family house, townhouse or condominium unless the person is a member of the Owner's family.
  3. An Owner of a single-family house, townhouse or condominium who offers for rent no more than two (2) rooms in said house, townhouse or condominium shall be exempt from the business tax described in subsection A of this section if:

- a. the Owner currently lives in the house, townhouse or condominium as his or her principal place of residence and has received the homeowner property tax exemption on their County property assessment under California Revenue and Taxation Code section 218; and
  - b. the Owner has owned and lived in the house, townhouse or condominium as his or her principal place of residence for at least one (1) year immediately preceding the application of this exemption; and
  - c. the Owner's total household income from all sources is less than or equal to 150% of the Area Median Income (AMI); and
  - d. the Owner has no ownership interest in any other residential rental property in the City of Oakland.
4. An Owner of a single-family house, townhouse or condominium who offers for rent three (3) rooms in said house, townhouse or condominium shall only be required to pay the business tax described in subsection A of this section on one-third (1/3) of the total gross receipts if the Owner satisfies all of the conditions set forth above in subsections D.3.a-d of this section.
5. An Owner of a duplex, or a single-family house with one or two accessory dwelling unit(s) (ADUs) shall be exempt from the business tax described in subsection A of this section if:
- a. the Owner currently lives in one of the dwelling units as his/her principal place of residence and has received the homeowner property tax exemption on their County property assessment under California Revenue and Taxation Code section 218; and
  - b. the Owner has owned the property and lived in one of the dwelling units as his/her principal place of residence for at least one (1) year immediately preceding the application of this exemption; and
  - c. for duplexes, the rental unit is a "Covered Unit" as defined in O.M.C. section 8.22.020; and
  - d. the Owner's total household income from all sources is less than or equal to 150% of the Area Median Income (AMI); and
  - e. the Owner has no ownership interest in any other residential rental property in the City of Oakland
6. The exemption and reduction to the business tax described in subsection A provided for in this subsection D shall apply only to rental agreements with a tenancy term of 30 days or more; it shall not apply to Short Term Residential Rentals.
7. The exemption and reduction to the business tax described in subsection A provided for in this subsection D shall not be applied retroactively to taxes paid or due on or before December 31, 2019.
8. The exemption and reduction to the business tax described in subsection A provided for in this subsection D is a provisional adjustment to the business tax and shall be effective from January 1, 2020 through December 31, 2030 ("Effective Term"). On January 1, 2031 and thereafter, the tax

rate described in subsection A shall be applied without consideration of subsection D, unless the Effective Term is further extended by the City Council.

9. The City Administrator or designee may create regulations to implement this subsection including, but not limited to, documentation requirements to verify Owner occupancy and income requirements set forth in this subsection D, and an administrative option of receiving tax savings pursuant to subsection D through rebate to property owner. Prior to adoption of any regulations pursuant to this section, the City Administration must publicize and hold at least one community meeting for stakeholders and the public.

**SECTION 3. Severability.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

**SECTION 4. Effective Date.** This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise, this ordinance shall become effective upon the seventh day after final adoption.

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IN COUNCIL, OAKLAND, CALIFORNIA,

**JAN 21 2020**

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND  
PRESIDENT KAPLAN — 8

NOES - 0

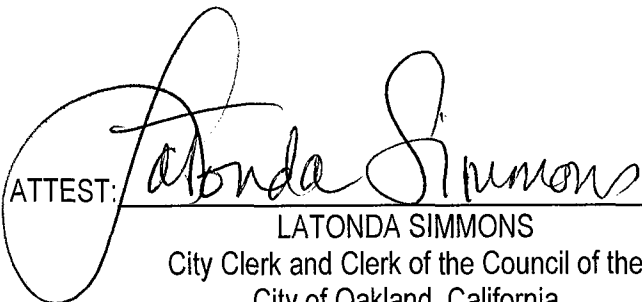
ABSENT - 0

ABSTENTION - 0

Introduction Date

**DEC 10 2019**

ATTEST:



LATONDA SIMMONS  
City Clerk and Clerk of the Council of the  
City of Oakland, California

## NOTICE AND DIGEST

### **ORDINANCE AMENDING THE OAKLAND MUNICIPAL CODE, CHAPTER 5.04, SECTION 5.04.420, TO FULLY OR PARTIALLY EXEMPT FROM THE BUSINESS TAX ON RESIDENTIAL PROPERTY RENTALS THOSE LANDLORDS WITH HOUSEHOLD INCOME OF 150 PERCENT OF AREA MEDIAN INCOME OR LESS WHO RENT OUT: (1) THREE OR FEWER ROOMS FROM THEIR SINGLE FAMILY HOME OF PERSONAL RESIDENCE; OR (2) A UNIT FROM THEIR OWNER-OCCUPIED DUPLEX, OR SINGLE-FAMILY HOME WITH ONE OR TWO ACCESSORY DWELLING UNIT(S)**

This ordinance amendment will provide a provisional tax exemption or tax reduction for certain owner-occupied residential rental properties under certain conditions.

Specifically, an owner of a single-family house, townhouse or condominium who offers for rent no more than two (2) rooms in said house, townhouse or condominium will be exempt from the residential rental business tax if the owner: 1) currently lives in the house, townhouse or condominium as his/her principal place of residence and has received the homeowner property tax exemption on their County property assessment under California Revenue and Taxation Code section 218; 2) has owned and lived in the house, townhouse or condominium as his/her principal place of residence for at least one (1) year immediately preceding application of the exemption; 3) has a total household income from all sources of no more than 150% of the Area Median Income; and 4) has no ownership interest in any other residential rental property in the City of Oakland.

An owner of a single-family house, townhouse or condominium who satisfies all four of the above-noted conditions and offers for rent no more than three (3) rooms in said house, townhouse or condominium will only be required to pay the residential rental business tax on 1/3 of their total gross receipts.

An owner of a duplex, or a single-family house with one or two accessory dwelling units (ADUs) will be exempt from the residential rental business tax if: 1) the owner currently lives in one of the dwelling units as his or her principal place of residence and has received the homeowner property tax exemption on their County property assessment under California Revenue and Taxation Code section 218; 2) the owner has owned the property and lived in one of the dwelling units as his or her principal place of residence for at least one (1) year immediately preceding application of this tax exemption; 3) the rental unit in a duplex is a "Covered Unit" as defined in O.M.C. section 8.22.020; 4) the owner's total household income from all sources is no more than 150% of the Area Median Income; and 5) the owner has no ownership interest in any other residential rental property in the City of Oakland.

The tax exemptions and reductions set forth above will not apply to Short Term Residential Rentals; they will only apply to rental agreements with tenancy terms of 30 days or more.