

# CITY OF OAKLAND

## AGENDA REPORT

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2009 MAY 28 PM 4: 36

TO: Office of the City Administrator  
ATTN: Dan Lindheim  
FROM: Finance and Management Agency  
DATE: June 9, 2009

RE: **An Ordinance Establishing a Time-Limited Business License Tax, Parking Tax, Transient Occupancy Tax and Utility Users Tax Amnesty Program Forgiving Payment of Penalties and Interest on Penalties Applicable to Under-reported and Unreported Business Taxes, Parking Taxes, Transient Occupancy Taxes, and Utility Users Taxes for the Period of August 1, 2009 through October 31, 2009**

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### SUMMARY

Staff has prepared an ordinance establishing a time-limited tax amnesty program to forgive payment of penalties and interest on penalties applicable to under-reported and unreported Business License Tax, Parking Tax, Transient Occupancy Tax and Utility Users Tax. The proposed amnesty program will encourage payment of delinquent taxes by non-compliant taxpayers and generate revenue to meet the immediate financial challenges confronting the City.

The proposed tax amnesty program would be in effect for a 90 day period from August 1, 2009 through October 31, 2009. The resulting revenue has already been included in the Fiscal Year 2009-11 Budget. Staff would implement an extensive public outreach effort to advertise the tax amnesty program and inform potential non-compliant taxpayers.

### FISCAL IMPACT

The proposed tax amnesty program is projected to raise \$600,000 in General Purpose Fund (1010); Business License Tax Organization (08431); Revenue Accounts: Business Tax (45111), Utility Consumption Tax (41512), Parking Tax (41519), or Transient Occupancy Tax (41515). The program would require extraordinary one-time program expenditures of approximately \$100,000 in Operations and Management (O&M) expenses for advertising, mailings, public outreach and other administrative support. The resulting net GPF revenue of \$500,000 is included in the Proposed Budget for FY2009-2011.

### BACKGROUND

Staff has deployed a variety of approaches and tools to improve tax compliance and increase revenue from existing taxes. Those efforts have proven successful in the past by increasing revenue and promoting fair and equitable tax enforcement. The results of those efforts are evident in the growth of Business License Taxes that have increased significantly over the past three years despite the downturn in the economy. Staff proposes to offer a tax amnesty program, a proven initiative for tax compliance when deployed in a strategic and well planned manner.

Item: \_\_\_\_\_  
Finance & Management Committee  
June 9, 2009

The City of Oakland previously offered time-limited tax amnesty programs in 1989 and 1991. Both efforts proved effective in promoting greater compliance and increasing revenues.

Staff has been researching tax amnesty programs to learn best practice approaches that will achieve optimal results in terms of tax compliance and increased revenue, which are customer-friendly and efficient. Staff has conferred with other cities that initiated recent tax amnesty programs, including San Jose and Los Angeles. The City of Los Angeles just launched a 90-day tax amnesty program that started on May 1, 2009. San Jose's most recent tax amnesty program was offered in 2006 and was projected to generate about \$1 million. The budgeted cost to administer San Jose's tax amnesty program was approximately \$230,000. San Jose's tax amnesty initiative produced actual new revenue of \$1.3 million, but their costs for program administration proved insufficient as they under-estimated costs for extraordinary staff support and outreach efforts.

### **KEY ISSUES AND IMPACTS**

The City is facing serious financial challenges and needs to maximize revenue collections from existing sources.

The City of Oakland has deployed a variety of successful tax compliance and enforcement efforts over recent years and believes the implementation of a time-limited tax amnesty would be appropriate and effective.

### **PROGRAM DESCRIPTION**

Staff recommends the initiation of a tax amnesty program covering Oakland's locally administered taxes for a limited 90 day period, starting August 1, 2009 and ending on October 31, 2009. Given staff workload demands stemming from annual tax and fee renewal processing and planned delinquency enforcement efforts, the proposed tax amnesty period is the optimum period to accommodate a tax amnesty program and minimize workload conflicts. The keys to a successful tax amnesty program are effective public education and outreach, and adequate resources and processing capacity to meet customer service demands. Operations and Management funding in the amount of \$100,000 would be required to administer the program with the expectation that additional General Purpose Fund revenue of approximately \$600,000 would be generated.

The tax amnesty program would offer a limited time period (90 days) opportunity for waiver of penalties and interest on penalties for any under-reported or un-reported tax liabilities. The base tax liability, related fees, and charges along with interest due on the tax liability would not be waived as a part of the tax amnesty program. No refunds would be provided to taxpayers who already paid tax liabilities prior to August 1, 2009 and any taxpayer whose tax liability is already secured by a judgment lien or property lien would not be eligible for the tax amnesty. The tax amnesty would cover the City administered local taxes including: Business License Tax, Parking Tax, Transient Occupancy Tax and the Utility Users Tax.

### **SUSTAINABLE OPPORTUNITIES**

Economic: Increase revenue from existing local taxes without increasing tax rates and improve tax compliance; generating revenue to support essential municipal services such as police, fire, and public works.

Environmental: There are no identified environmental opportunities.

Social Equity: The limited-time amnesty will promote the fair and equitable treatment of all taxpayers.

### **DISABILITY AND SENIOR CITIZEN ACCESS**

There are no impacts on disability and senior.

### **RECOMMENDATION AND RATIONALE**

Staff recommends the City Council approve the proposed ordinance establishing a time-limited Business License Tax, Parking Tax, Transient Occupancy Tax and Utility Users Tax amnesty program, forgiving payment of penalties and interest on penalties applicable to under-reported and un-reported Business License Tax, Parking Tax, Transient Occupancy Tax and Utility Users Tax. This action is necessary to increase tax compliance and raise needed revenue to support crucial public services, as well as to meet the \$500,000 revenue expectation included in the Fiscal Year 2009-11 Proposed Budget.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff requests that the City Council approve the proposed ordinance establishing a time-limited Business License Tax, Parking Tax, Transient Occupancy Tax and Utility Users Tax amnesty program forgiving penalties and interest on penalties applicable to under-reported and un-reported Business License Tax, Parking Tax, Transient Occupancy Tax and Utility Users Tax.

Respectfully submitted,

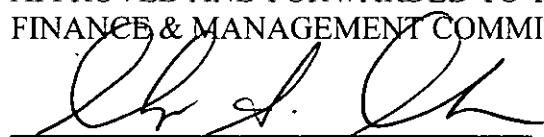


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Joseph T. Yew, Jr.  
Finance Director/City Treasurer

Prepared by:  
Terry Adelman, Revenue Manager  
Revenue Division

APPROVED AND FORWARDED TO THE  
FINANCE & MANAGEMENT COMMITTEE:



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Office of the City Administrator

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND, CALIF.**ORDINANCE NO. \_\_\_\_\_ C.M.S.****2009 MAY 28 PM 4:35**

**AN ORDINANCE ESTABLISHING A TIME-LIMITED BUSINESS LICENSE TAX, PARKING TAX, TRANSIENT OCCUPANCY TAX AND UTILITY USERS TAX AMNESTY PROGRAM FORGIVING PAYMENT OF PENALTIES AND INTEREST ON PENALTIES APPLICABLE TO UNDER-REPORTED AND UNREPORTED BUSINESS TAXES, PARKING TAXES, TRANSIENT OCCUPANCY TAXES, AND UTILITY USERS TAXES FOR THE PERIOD OF AUGUST 1, 2009 THROUGH OCTOBER 31, 2009**

**WHEREAS**, Chapter 5.04 of the Oakland Municipal Code requires every person engaging in business within the City of Oakland to apply for and obtain a business tax certificate, and to submit an annual declaration reporting the gross receipts generated by the business and other information necessary to determine tax liability, imposes penalties, interest and other charges for non-compliance; and

**WHEREAS**, Business License Taxes on under-reported and un-reported gross receipts generated by business activity represent debt owed to the City and uncollected revenues; and

**WHEREAS**, Chapter 4.16 of the Oakland Municipal Code imposes a tax on the rental of every parking space in a parking station in the City of Oakland, and every parking station operator is required to register with the city, collect parking taxes from occupants at parking stations, and file tax returns and pay monthly parking taxes to the City, and imposes penalties, interest and other charges for non-compliance; and

**WHEREAS**, Chapter 4.16 of the Oakland Municipal Code states that the Tax Administrator may bring an action in the courts of the state to collect the amount of delinquent taxes, penalties and interest for under-reported or un-reported parking taxes; and

**WHEREAS**, Chapter 4.24 of the Oakland Municipal Code requires each operator of a hotel to register such operation with the City of Oakland, and to collect transient occupancy taxes from transient occupants, submit periodic tax returns and remit collected taxes to the City, and imposes penalties, interest and other charges for non-compliance; and

**WHEREAS**, Transient Occupancy Taxes on under-reported and un-reported transient occupancy rental receipts represent debt owed to the City and uncollected revenues; and

**WHEREAS**, Chapter 4.28 of the Oakland Municipal Code imposes a tax on telephone, electricity, gas, cable and alternate fuel users and requires every person receiving payment of charges from a service user to collect and remit with a return such taxes on a periodic basis, and imposes penalties, interest and other charges for non-compliance; and

**WHEREAS**, Utility Users Taxes on under-reported and un-reported utility services represent debt owed to the City and uncollected revenues; and

**WHEREAS**, the City Council finds and determines that implementation of a Tax Amnesty Program for Business License Tax, Parking Tax, Transient Occupancy Tax and Utility Users Tax, including a short-term waiver of penalties and interest on penalties, will allow and encourage the payment of delinquent taxes by non-compliant taxpayers while helping the City to raise tax revenues without increasing taxes or imposing new taxes; now, therefore

**THE COUNCIL OF THE CITY OF OAKLAND DOES HEREBY ORDAIN  
AS FOLLOWS:**

**SECTION 1.** The City Council finds and determines the forgoing recitals to be true and correct and hereby adopts and incorporates them into this Ordinance.

**SECTION 2.** It is the intent of the City Council to institute a Tax Amnesty Program for a period of three months starting August 1, 2009 and ending on October 31, 2009, waiving all penalties and interest on penalties owed by eligible Business License Tax (O.M.C. 5.04), Parking Tax (O.M.C. 4.14), Transient Occupancy Tax (O.M.C. 4.24) and Utility Users Tax (O.M.C. 4.28) taxpayers as provided that the amounts owed based on true and complete reporting as defined herein, are paid on or after August 1, 2009 and on or before October 31, 2009; and

**SECTION 3.** The City Administrator, the Director of the Finance and Management Agency, the Revenue Manager and other appropriate officers of the City are hereby authorized and directed, jointly and severally, to do any and all things which they deem necessary or advisable in order to effectuate the purposes of this Ordinance, including, but not limited to, advertising, publishing and otherwise providing notice of the Tax Amnesty Program and establishing procedures for the application for and granting of tax amnesty.

**SECTION 4.** For any eligible taxpayer who meets the requirements of the Tax Amnesty Program: The tax penalties and interest on penalties imposed under Oakland Municipal Code Sections 5.04 Business License Tax, Oakland Municipal Code 4.16 Parking Tax, Oakland Municipal Code 4.24 Transient Occupancy Tax and Oakland Municipal Code 4.28 shall not apply to any taxes for the tax periods for which tax amnesty is requested and paid, which are owed as a result of the non-reporting or under-reporting of tax liabilities or the nonpayment of any taxes. No criminal action shall be brought against the taxpayer for any tax period for which the taxpayer has complied with the requirements of the Tax Amnesty Program based upon the non-reporting or under-reporting of tax liabilities or the nonpayment of any taxes.

**SECTION 5.** The Tax Amnesty Program shall apply to any taxpayer who, on or after August 1, 2009, and on or before October 31, 2009, files an application for tax penalty amnesty and complies with the following conditions:

- a. Files completed tax statements or returns along with required documentation for all periods and taxes for which the taxpayer has not previously filed a tax statement or return and files completed amended tax statements or returns for all periods and taxes for which the taxpayer under-reported the taxes due; and
- b. Pays in full all taxes, interest, fees and costs due.

**SECTION 5.** The tax penalty and interest on tax penalty shall apply and no refund or credit shall be granted if, prior to the time the taxpayer makes a request for tax penalty amnesty pursuant to the provisions of the Tax Amnesty Program, the penalty has been paid by the taxpayer. Any tax penalty and interest on tax penalty shall not be subject to waiver under the Tax Amnesty Program for any debt or obligation owed by the taxpayer that has been secured by a lien or judgment.

**SECTION 6.** If, subsequent to October 31, 2009, the Director of the Finance and Management Agency issues a billing, deficiency determination or assessment based upon a statement or return filed pursuant to the Tax Amnesty Program, penalties and interest on penalties shall be imposed only with respect to the difference between the amount paid and correct amount of tax. This Section shall not invalidate any waiver granted under Section 4.

**SECTION 6.** This ordinance shall become effective as provided in section 216 of the Charter of the City of Oakland.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2009

**PASSED BY THE FOLLOWING VOTE:**

AYES-        BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN,  
                 REID, AND PRESIDENT BRUNNER

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_

LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California

DATE OF ATTESTATION: \_\_\_\_\_

**AN ORDINANCE ESTABLISHING A TIME-LIMITED BUSINESS LICENSE TAX, PARKING TAX, TRANSIENT OCCUPANCY TAX AND UTILITY USERS TAX AMNESTY PROGRAM FORGIVING PAYMENT OF PENALTIES AND INTEREST ON PENALTIES APPLICABLE TO UNDER-REPORTED AND UNREPORTED BUSINESS TAXES, PARKING TAXES, TRANSIENT OCCUPANCY TAXES AND UTILITY USERS TAXES**

**NOTICE AND DIGEST**

This Ordinance authorizes the establishment of a Time-Limited Business License Tax, Parking Tax, Transient Occupancy Tax, and Utility Users Tax Amnesty Program implemented by the City for forgiving payment of penalties and interest on penalties applicable to under-reported and unreported business taxes, parking taxes, transient occupancy taxes, and utility users taxes. The Tax Amnesty Program, if approved, would be implemented between the period of August 1 and October 31, 2009