



# AGENDA REPORT

**TO:** Edward D. Reiskin  
City Administrator

**FROM:** Erin Roseman  
Director of Finance

**SUBJECT:** Owner-Occupied Business Tax  
Exemption & Possible Changes of  
Tax Rates on Residential Rental

**DATE:** June 21, 2022

City Administrator Approval

Date: Jun 23, 2022

## **RECOMMENDATIONS**

**Staff Recommends That The City Council Receive A Report and Recommendations From the Finance Department On Ordinance No. 13579 C.M.S., Which Provides A Provisional Tax Exemption Or Tax Reduction For Certain Owner-Occupied Residential Rental Properties Under Certain Conditions, Including Information On Outreach And Implementation.**

## **EXECUTIVE SUMMARY**

This report is being provided to update the City Council on the topics of implementation, outreach and fiscal impact of the small landlord exemption (["Oakland Municipal Code Section 5.04.420.D"](#)) that became effective January 2020, fully or partially exempting the payment of Business Tax for certain owner-occupied residential rental properties. The small landlord exemption applies to eligible property owners who engage in renting properties of up to three rooms in an owner-occupied residential single family residence, townhouse or condominium or the rental of up to two Accessory Dwelling Units ("ADUs") in an owner-occupied single family residence or a duplex.

To be eligible for full or partial exemption from the payment of Business Tax, City Council listed five criteria that must be met by the property owner: the owner lives in the property as his or her principal place of residence, has received a homeowner property tax exemption under the California Revenue and Taxation Code Section 218, has owned the property for at least one year immediately preceding the application of this exemption, meets the household income threshold and has no ownership in any other residential rental property in the City of Oakland.

In order to notify property owners about this exemption, staff used the eligibility criteria set forth to identify only the property owners that were eligible to receive the exemption and notified them via email.

In addition, staff has identified potential impacts to the City's revenues if any changes were to be made to the current residential property owner tax rates. Table 1 presents the financial impacts from lowering the existing Residential tax rates of \$13.95 per \$1,000 to a set of tax

rates under Business and Personal Services (Class E) and Miscellaneous (Class N), as approved by the City Council on May 26, 2022. The approved Progressive and Equitable Business Tax ballot measure tax rates for Class E and N are:

Classification	Proposal Tax Rates per \$1,000 by Bracket (Gross Receipts, mil \$)					
	Min Payment	\$0 - \$1M	\$1M - \$2.5M	\$2.5M - \$20M	\$20M - \$50M	Above \$50M
Class E: Business & Personal Svcs	\$60	\$1.40	\$2.10	\$2.80	\$4.00	\$4.50
Class N: Miscellaneous	\$60	\$1.20	\$1.50	\$2.40	\$3.90	\$5.50

Table 1 presents the financial impact of lowering tax rates for property owners, which would result in the City foregoing approximately \$5.2 million up to \$8.2 million in business tax revenues.

**Table 1:** Financial Impact from Possible Changes to Tax Rates on Residential Rentals

Exemption Scenarios	New Ballot Measure Rates	No. of Affected Taxpayers	No. of Affected Units	Current Revenue (in millions)	New Revenue (in millions)	Difference (in millions)
1 5 or Less Units	Same as Class E	15,879	30,829	\$8.59	\$1.2	(\$7.4)
2 \$150,000 GR or Less	Same as Class E	16,830	47,545	\$9.49	\$1.3	(\$8.2)
3 3 or Less Units and \$150K GR or less	Same as Class E	13,484	20,613	\$6.10	\$0.9	(\$5.2)
4 5 or Less Units	Same as Class N (*)	15,879	30,829	\$8.59	\$1.1	(\$7.5)

(\*) Class N of the adopted ballot measure is set to be based on payroll; this scenario uses the same set of rates under Class N, but the tax rates are to be based on gross receipts.

## **BACKGROUND / LEGISLATIVE HISTORY**

Oakland Municipal Code (“OMC”) Section 5.04.420 requires that “every person engaged in the business of conducting or letting rooms, and/or any building structure, for dwelling, sleeping or lodging, including, and not 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) for each one thousand dollars (\$1,000.00) of gross receipts or fractional part thereof.”

The last increases of the tax rates applicable to the gross receipts generated from the rental of residential and commercial property occurred 44 and 40 years ago, respectively. This is summarized in Table 2.

**Table 2:** History Business Tax Rates on Rental of Properties:

Business Tax Rates on Rental Properties per \$1,000 of Gross Receipts				
Ordinance No.	Property Type	Adopted Date	Effective Date	Tax Rate
9177 CMS	Residential & Commercial	6/26/1975	1/1/1976	\$0.90
9623 CMS	Commercial	6/29/1978	7/1/1978	\$1.80

Business Tax Rates on Rental Properties per \$1,000 of Gross Receipts				
Ordinance No.	Property Type	Adopted Date	Effective Date	Tax Rate
9625 CMS	Residential	6/29/1978	6/29/1978 <sup>1</sup>	\$13.95
10088 CMS	Commercial & Industrial	6/30/1981	1/1/1982	\$13.95

### **Exemptions from the Business Tax Ordinance:**

Oakland Municipal Code (OMC) Sections 5.04.620 and 630 grant business tax exemptions to:

1. small businesses whose annual gross receipts do not exceed \$3,300;
2. “every institution, corporation, organization or association that qualifies for nonprofit tax-exempt status under either state or federal law,” and
3. “the owner of an affordable housing project that has received federal and/or state low-income housing tax credits in connection with the affordable housing ownership.”

On January 21, 2020, the City Council adopted [Ordinance No. 13579 C.M.S](#) amending OMC Section 5.04.420 to fully or partially exempt the required payment of business tax for owner-occupied residential rental properties that meet certain conditions. The adopted Ordinance is in effect from January 2020 through December 2030 unless further extended by the City Council and summarized as follows in Table 3:

**Table 3:** Owner-Occupied Exemption Criteria

Number of Rooms Rented	Property Type	Owner Occupied	Fully Exempt	Partially Exempt	% of Exemption
1	SFH, Townhouse, Condo	Yes	Yes		100%
2	SFH, Townhouse, Condo	Yes	Yes		100%
3	SFH, Townhouse, Condo	Yes		Yes	67%
1 ADU	SFH & Duplex	Yes	Yes		100%
2 ADUs	SFH & Duplex	Yes	Yes		100%

To be eligible for full or partial exemption from the payment of Business Tax, the property owner must meet ALL of the following criteria:

1. Lives in the single-family house, townhouse or condominium as his or her principal place of residence; and,
2. Receives a homeowner property tax exemption on their County property assessment under California Revenue and Taxation Code Section 218; and,
3. Has owned and lived in the house, townhouse or condominium as his or her principal place of residence for at least one year immediately preceding the application of this exemption; and,

<sup>1</sup> Emergency Ordinance - Proposition 13 passed on 6/6/1978

4. Has a total household income<sup>2</sup> from all sources of less than or equal to 150% of the Area Median Income (\$149,925 for 2022); and,
5. Has no ownership interest in any other residential rental property in the City of Oakland.

***Impact of the current Small Landlord Business Exemption:***

Table 4 summarizes the financial impact for each of the first three years following the implementation of the small landlord business tax exemption.

**Table 4:** Summary of the Current Home Owner-Occupied Exemption

Tax Year	No. of Request	No. of Approved Exemption	No. of Denied Exemption	Average Annual Gross Rent	Amount
2020	47	22	25	\$21,635	\$8,125.17
2021	28	23	5	\$23,414	\$6,031.65
2022	38	23	15	\$19,354	\$5,783.40
<b>Total</b>	<b>113</b>	<b>68</b>	<b>45</b>	<b>\$21,468</b>	<b>\$19,940.22</b>

As a note, the Council's adoption of the Progressive and Equitable Business Tax Ballot Measure for the November 2022 election on May 26, 2022 does not include changes to the tax rates that affect small landlord businesses under classes M and O.

**ANALYSIS AND POLICY ALTERNATIVES**

***Impact of the Possible Changes to Business Tax Rates for Residential Property Owners:***

In response to City Council's requests, staff developed four different scenarios that would change the tax rate of \$13.95 per \$1,000 to a new set of tax rates classified as Business and Personal Services (Class E) or Miscellaneous (Class N) under the adopted Progressive and Equitable Business Tax Ballot Measure. The approved ballot measure tax rates for these two classifications are:

Classification	Proposal Tax Rates per \$1,000 by Bracket (Gross Receipts, mil \$)					
	Min Payment	\$0 - \$1M	\$1M - \$2.5M	\$2.5M - \$20M	\$20M - \$50M	Above \$50M
E: Business & Personal Svcs	\$60	<b>\$1.40</b>	\$2.10	\$2.80	\$4.00	\$4.50
N: Miscellaneous	\$60	<b>\$1.20</b>	\$1.50	\$2.40	\$3.90	\$5.50

The four scenarios analyzed are as follows:

1. Owners with 5 or fewer rental units: the rate would change from \$13.95 per \$1,000 to a new rate of \$1.40 per \$1,000 in annual gross receipts (Class E rates).
2. Owners with annual gross receipts of \$150,000 or less: the rate would change from \$13.95 per \$1,000 to a new rate of \$1.40 per \$1,000 in annual gross receipts (Class E rates).

<sup>2</sup> Household income does not include the income of a person renting a room in a single-family house, townhouse or condominium unless the person is a family member.

3. Owners with 3 rental units or fewer AND annual gross receipts of \$150,000 or less: the rate would change from \$13.95 per \$1,000 to a rate of \$1.40 per \$1,000 in annual gross receipts (Class E rates).
4. Owners with 5 or fewer rental units: the rate would change from \$13.95 per \$1,000 to a rate of \$1.20 per \$1,000 in annual gross receipts (Class N rates).

**Financial impact of the scenarios:**

Under the current tax rate, the four scenarios generate approximately \$6.10 – \$9.5 million:

Class Change Scenarios		No. of Affected Taxpayers	Current Revenue (in millions)	Average Annual Gross Rent per Taxpayer	Average Payment per Taxpayer
1	5 or Less Units	15,879	\$8.59	\$38,778	\$541
2	\$150,000 GR or Less	16,830	\$9.49	\$40,421	\$564
3	3 or Less Units <b>and</b> \$150K GR or less	13,484	\$6.10	\$32,429	\$452
4	5 or Less Units	15,879	\$8.59	\$38,778	\$541

Under the proposed tax rate, the four scenarios would generate approximately \$0.90 - \$1.30 million:

Class Change Scenarios		No. of Affected Taxpayers	New Revenue <sup>3</sup> (in millions)	Average Annual Gross Rent per Taxpayer <sup>4</sup>	Average Payment per Taxpayer
1	5 or Less Units	15,879	\$1.20	\$38,778	\$54.29
2	\$150,000 GR or Less	16,830	\$1.30	\$40,421	\$56.59
3	3 or Less Units <b>and</b> \$150K GR or less	13,484	\$0.90	\$32,429	\$45.57
4	5 or Less Units	15,879	\$1.10	\$38,778	\$46.53

Table 5 shows that the average annual decrease per landlord would range from \$387 to \$488 which translates into a decrease in Business Tax revenue ranging from \$5.2 million to \$8.2 million.

**Table 5:** Estimated Change in Business Tax Revenue

	Scenario 1	Scenario 2	Scenario 3	Scenario 4
	≤ 5 Units to Class E	≤ \$150k to Class E	≤ 3 Units & >=\$150K to Class E	≤ 5 Units to Class N
<b>Below Threshold:</b>				
Number of Taxpayers	15,879	16,830	13,434	15,879
Number of Rental Units	30,829	47,545	20,613	30,829
Total Gross Receipts (\$M)	\$616.0	\$680.1	\$437.5	\$616.0
Revenue at Current Rate (\$M)	\$8.59	\$9.49	\$6.10	\$8.59

<sup>3</sup> Potential Revenues under the proposed rates have been adjusted for inflation

<sup>4</sup> The Average Annual Gross Rent is based on the assumption that rents charged by landlords do not change.

Revenue at Proposed Rate (\$M)	\$1.2	\$1.3	\$0.9	\$1.1
Change in BLT Revenue (\$M)	(\$7.4)	(\$8.2)	(\$5.2)	(\$7.5)
Avg Change per Taxpayer (\$)	(\$468)	(\$488)	(\$387)	(\$472)
<b>Above Threshold:</b>				
Number of Taxpayers	2,508	1,557	4,953	2,508
Number of Rental Units	57,386	40,670	67,602	57,386
Total Gross Receipts (\$M)	\$922.1	\$858.1	\$1,100.7	\$922.1
Revenue at Current Rate (\$M)	\$12.9	\$12.0	\$15.4	\$12.9
Revenue at Proposed Rate (\$M)	\$12.9	\$12.0	\$15.4	\$12.9
Change in BLT Revenue (\$M)	\$0	\$0	\$0	\$0
<b>TOTAL CHANGE (\$M)</b>	<b>(\$7.4)</b>	<b>(\$8.2)</b>	<b>(\$5.2)</b>	<b>(\$7.5)</b>

Staff recommends that City Council keep the current residential tax structure and defer any possible changes until a comprehensive implementation of the current owner-occupied exemption has been fully effectuated. Staff further recommends a provision to the ballot measure that allows City Council to adjust the existing residential tax rate or adopt additional categories of exemptions at a later date without voter approval.

#### **Implementation of Ordinance No. 13579 and Outreach to Affected Property Owners:**

The five criteria outlined in the Background section specified that the owner had to meet all the conditions stated under Section 5.04.420 in order to qualify for the exemption. This allowed staff to identify only the property owners who could qualify for the exemption, and subsequently contact them. After performing an analysis of the internal business tax data and running it against the Alameda County property tax data, staff identified 786 property owners who could be eligible for the exemption out of the approximately 30,000 registered rental businesses.

The identification was based on three criteria, and they were:

1. Homeowners had an active business tax account.
2. Mailing address and physical address was associated with the same parcel and;
3. The owner must have received a homeowner's property tax exemption.

Staff sent eligible property owners direct notices using their email on file (which they have previously identified as their preferred choice of receiving communication) with information on the approved ordinance, and instructions for applying for the exemption. It also included a web link to the relevant Frequently Asked Questions (FAQ) page and information on how to contact the City with additional questions. All property owners that qualify for the exemption are required to recertify on an annual basis to continue receiving the exemption. The existing statute allows homeowners to apply for a refund of taxes paid if they did not receive an exemption notice from the City or have not requested for refund.

Staff acknowledges that the outreach efforts could have been more robust at the outset. The outreach was muted, partially due to the timing in which the outreach was to be accomplished. The ordinance went into effect on January 21, 2020 and the City transitioned to telecommuting and providing essential services shortly thereafter.

To enhance the initial implementation, staff will carry out additional outreach to further educate property owners who may have not been aware of the exemption. Additional considerations to be taken into account for the next phase of implementation include, notifying eligible property owners in multiple languages by mail and by email in Spanish, Cantonese, and Vietnamese, expanding the notification to all residential taxpayers that could potentially qualify for the exemption including those that use PO Box as a their mailing address and conducting townhall meetings to further educate taxpayers about the exemption.

With the public safety orders being modified, daily in person appointments are now available to the public with a modified working schedule, and staff is available to address additional exemption inquiries.

Based on the foregoing analysis, staff recommends that the City Council not recommend further changes to business license tax rates at this time, but rather provide an opportunity for improved implementation and subsequent analysis of the changes adopted by the City Council in 2019.

### **FISCAL IMPACT**

Under the current small property owner exemption, the City has issued refunds of \$19,940.22, and if any of the above-mentioned scenarios were to be approved by the City Council, the City would forego \$5.2 million to \$8.2 million in Business Tax revenues.

**Table 6:** Impact of the Current Owner-Occupied Exemption

Tax Year	No. of Request	No. of Approved Exemption	No. of Denied Exemption	Average Annual Gross Rent	Amount
2020	47	22	25	\$21,635	\$8,125.17
2021	28	23	5	\$23,414	\$6,031.65
2022	38	23	15	\$19,354	\$5,783.40
<b>Total</b>	<b>113</b>	<b>68</b>	<b>45</b>	<b>\$21,468</b>	<b>\$19,940.22</b>

Given that it has been almost three years since staff did the initial outreach, it is likely that there are more property owners who could qualify for the exemption program. The expanded outreach could potentially increase the financial impact by a range of \$260,000 to \$400,000.

**Table 7:** Estimated Impact of Scenario 1 through 4

Estimated Impact of Scenarios	Scenario 1	Scenario 2	Scenario 3	Scenario 4
	≤ 5 Units to Class E	≤ \$150k to Class E	≤ 3 Units & ≤ \$150K to Class E	≤ 5 Units to Class N
Change in BLT Revenue (\$M)	(\$7.4)	(\$8.2)	(\$5.2)	(\$7.5)
Avg Change per Affected Taxpayer (\$)	(\$468)	(\$488)	(\$387)	(\$472)

### **PUBLIC OUTREACH / INTEREST**

No outreach was deemed necessary for this informational report beyond the standard Council agenda noticing procedures.

### **COORDINATION**

This report has been coordinated with the Budget Bureau of the Finance Department and Office of the City Attorney.

### **SUSTAINABLE OPPORTUNITES**

**Economic:** The existing owner-occupied exemption provides financial relief to low income homeowners who provide rentals in their primary residence. The alternative scenarios could extend the financial relief to those property owners who are renting up to five rental units or generate up to \$150,000 in total gross receipts.

**Environmental:** There are no environmental opportunities.

**Race & Equity:** The existing owner-occupied exemption eliminates or reduces the amount of business tax for low income property owners who are renting up to three rooms or two ADUs in their primary residence.



**ACTION REQUESTED OF THE CITY COUNCIL**

Staff recommends that the City Council receive this Informational Report regarding 1) the implementation and outreach to property owners and fiscal impacts to the City following the adoption of Ordinance No. 13579 C.M.S that amended the Oakland Municipal Code Section 5.04.420 to fully or partially exempt the required payment of Business Tax for owner-occupied residential rental property; and 2) the potential financial impact from possible changes to the Business Tax rates on residential rental properties.

For questions regarding this report, please contact Rogers Agaba, Acting Revenue & Tax Administrator, (510) 238-7009.

Respectfully submitted,



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