



FILED
OFFICE OF THE CITY CLERK
OAKLAND

19 MAY 16 PM 3:36

AGENDA REPORT

TO: City Council and members of the
Public

FROM: Dan Kalb & Noel Gallo,
City Councilmembers

SUBJECT: Business tax exemption for small
landlords

DATE: May 16, 2019

RECOMMENDATION

ADOPT AN 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 Personal Income of 100 Percent of Area Median Income or Less Who Rent Out (1) Two or Fewer Rooms From Their Single Family Home of Personal Residence or (2) A Unit From Their Owner-Occupied Two-Unit Parcel

SUMMARY

This legislation would create a limited exemption for the business tax on gross receipts from the rental of residential property. Specifically, residential landlords with a personal income of 100% of Area Median Income or Less who (1) rent out two or fewer rooms from their personal residence and/or the second unit from their owner-occupied 'covered' two-unit parcel, and (2) have owned the property for at least five consecutive years, and (3) have no other ownership interest in any other residential rental property in the City of Oakland are eligible for the tax exemption. The exemption is a full exemption for applicable room rentals within the owners home and reduces the tax by 50% for applicable second units.

BACKGROUND/LEGISLATIVE HISTORY

In October of 2018, Councilmember Noel Gallo filed a scheduling request regarding a possible initial version of this ordinance, which, after some rescheduling and rethinking, was ultimately not submitted. The current proposed ordinance accompanying this report is the result of Councilmembers Gallo and Kalb collaborating on this topic.

ANALYSIS

The City of Oakland's current business license tax rate on gross receipts for residential rental property is a flat 1.395%. In other tax areas of the City of Oakland such as certain parcel taxes, various tax provisions provide specific tax exemptions for persons of low or even moderate income. The authors of this legislation would like to provide tax relief to low-to-moderate income homeowners who are only minimally involved in the residential rental property business

Item: _____
Finance & Management Committee
May 28, 2019

by virtue of renting only a room or two in their own primary residence and/or only one other unit on their 2-unit property in which they live. This could be particularly helpful for owners of newly covered owner-occupied duplexes.

FISCAL IMPACT

The authors of this ordinance have requested information from the Finance Department regarding the business tax revenue loss resulting from this ordinance, which, due to be limited to low-to-moderate income landlords, is anticipated to be relatively small. This proposal is not retroactive.

PUBLIC OUTREACH / INTEREST

Councilmember Gallo and his office conducted public outreach with residents requesting relief from the business license tax for rental property activity.

COORDINATION

The City Attorney's office and Finance Department were consulted on the legislation.

SUSTAINABLE OPPORTUNITIES

Economic: The ordinance is intended to promote the economic vitality of Oakland by providing financial relief to low-to-moderate income home owners who are the smallest of landlords, only providing rentals where they live.

Environmental: There are no environmental opportunities associated with this ordinance.

Social Equity: The ordinance is intended to promote social equity by eliminating or reducing the business license tax bill for low-to-moderate income landlords only renting up to two rooms and/or one other unit from the property on which they live.

ACTION REQUESTED BY THE CITY COUNCIL

Councilmembers Kalb and Gallo recommend the City Council:

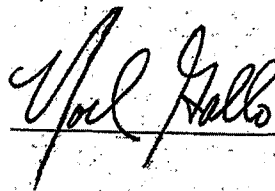
Adopt an Ordinance Amending The Oakland Municipal Code, Chapter 5.04, Section 5.04.420, to Fully or Partially Exempt From The Business Tax On Residential Property Rentals those Landlords with Personal Income of 100 Average Median Income or Less Who Rent Out (1) Two or Fewer Rooms From Their Single Family Home of Personal Residence or (2) A Unit From Their Owner-Occupied Two-Unit Parcel

For questions regarding this report, please contact Oliver Luby, Chief of Staff, Office of Councilmember Dan Kalb, at 510-238-7013.

Respectfully submitted,



Dan Kalb
Council President Pro Tempore, District 1



Noel Gallo
Councilmember, District 5

Prepared by: Oliver Luby, Chief of Staff,
Office of Council President Pro Tempore Dan Kalb

FILED
OFFICE OF THE CITY CLERK
OAKLAND

19 MAY 16 PM 3:36

APPROVED AS TO FORM AND LEGALITY



CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

INTRODUCED BY PRESIDENT PRO TEMPORE DAN KALB AND COUNCILMEMBER NOEL GALLO

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 PERSONAL INCOME OF 100 PERCENT OF AREA MEDIAN INCOME OR LESS WHO RENT OUT (1) TWO OR FEWER ROOMS FROM THEIR SINGLE FAMILY HOME OF PERSONAL RESIDENCE OR (2) A UNIT FROM THEIR OWNER-OCCUPIED TWO-UNIT PARCEL

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

WHEREAS, in other tax areas of the City of Oakland such as certain parcel taxes, various tax provisions provide tax exemptions for persons of low or 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 only a room or two in their own home and/or only one other unit on their property in which 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. 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/her principal place of residence; and**
 - b. the Owner has owned and lived in the house, townhouse or condominium as his/her principal place of residence for at least five (5) consecutive years immediately preceding application of this exemption; and**
 - c. the Owner's total household income from all sources is less than or equal to 100% of the Area Median Income; and**
 - d. the Owner has no ownership interest in any other residential rental property in the City of Oakland.**
- 2. An owner of a duplex or a single-family house with an accessory dwelling unit (ADU) shall receive a 50% reduction in 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**
 - 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 five (5) consecutive years immediately preceding application of this tax reduction; and**
 - c. 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 100% of the Area Median Income; and
 - e. the Owner has no ownership interest in any other residential rental property in the City of Oakland.
3. 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.
 4. 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.
 5. For the purpose of subsection D, "Owner" means a natural person, who is an owner of record holding an interest equal to or greater than thirty-three percent (33%) in the property.
 6. The City Administrator or designee may create regulations to implement this subsection including, but not limited to, documentation requirements to verify owner occupancy requirements set forth in this subsection D.

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.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

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

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

LATONDA SIMMONS
CITY CLERK AND CLERK OF THE COUNCIL
OF THE CITY OF OAKLAND, CALIFORNIA

Date of Attestation: _____

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 PERSONAL INCOME OF 100 PERCENT OF AREA MEDIAN INCOME OR LESS WHO RENT OUT (1) TWO OR FEWER ROOMS FROM THEIR SINGLE FAMILY HOME OF PERSONAL RESIDENCE OR (2) A UNIT FROM THEIR OWNER-OCCUPIED TWO-UNIT PARCEL

This ordinance 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; 2) has owned and lived in the house, townhouse or condominium as his/her principal place of residence for at least five (5) consecutive years immediately preceding application of the exemption; 3) has a total household income from all sources of no more than 100% 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 duplex or a single-family house with an accessory dwelling unit (ADU) will receive a 50% reduction residential rental business tax if: 1) the owner currently lives in one of the dwelling units as his/her principal place of residence; 2) the owner has owned the property and lived in one of the dwelling units as his/her principal place of residence for at least five (5) consecutive years immediately preceding application of this tax reduction; 3) the rental unit 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 100% of the Area Median Income; and 5) the owner has no ownership interest in any other residential rental property in the City of Oakland.