

Agenda Report

September 13, 2010

TO: Honorable Mayor and City Council
THROUGH: Finance Committee (September 13, 2010)
FROM: Department of Finance
SUBJECT: BUSINESS LICENSE TAX AMNESTY PROGRAM

RECOMMENDATION:

It is recommended that the City Council authorize the Director of Finance to implement a Business License Tax Amnesty Program.

BACKGROUND:

Pasadena Municipal Code (PMC) Section 5.10.010 requires persons conducting business in the City of Pasadena to have a business license and pay applicable taxes. Businesses that are not physically located in Pasadena but conduct business within the City are also responsible for paying a business license tax. Relative to state laws, the City of Pasadena's business license tax is not a special tax and as such, monies collected from the tax are deposited into the General Fund to support various City services such as public safety which helps to maintain an environment conducive to helping businesses attract customers. When businesses do not pay their fair share of applicable business licensing taxes, general taxpayers carry an added burden.

Currently, the City of Pasadena has approximately 16,000 registered businesses. As of July 2010, approximately 1,300, or 8 percent of the businesses billed this year are delinquent more than 120 days. This delinquency amount results even after the implementation of a number of on-going standard collection efforts. These efforts include the use of Muniservices, Inc. to perform electronic business audits, staff's coordination with the State Board of Equalization (SBOE) to identify businesses operating in Pasadena without a license, utilization of Franchise Tax Board (FTB) audits that identify home-based businesses, and internal staff desk and field audits of Pasadena businesses.

Another effort proven to be useful in other jurisdictions is the implementation of a Business License Tax Amnesty Program. An amnesty program helps reduce business

license tax delinquencies by providing an incentive for businesses to bring their accounts current. An amnesty program also helps provide relief for businesses that have been impacted by the recent economic downturn.

Staff has a fiduciary responsibility to obtain business license tax compliance per the PMC. Consequently, additional and more aggressive efforts will need to be taken to ensure compliance and reduce delinquencies. Establishing a temporary amnesty program will provide time for businesses to come into compliance before more aggressive collection measures are implemented, which could save businesses interest and penalties associated with non-compliance.

The proposed Business License Amnesty Program would begin on October 11, 2010 and end on December 10, 2010. If approved, an extensive marketing campaign would be launched through various media to make businesses aware of the amnesty program. The program is designed to encourage all businesses, including but not limited to, commercial based businesses, home-based businesses, commercial and residential landlords, and independent contractors who have not yet obtained their required business license(s), to come forward and fully comply with the City's business license tax requirements.

It is believed that there are a number of existing businesses within the community that either knowingly or unknowingly avoided registering for and paying required business license taxes. This program will provide an incentive to register a business voluntarily and will provide new revenue to the City.

The objective of the Business License Tax Amnesty Program is to increase compliance with PMC through the reduction of delinquencies and by registration of new operating businesses that are currently unregistered.

The following incentives comprise the proposed program:

- Waiver of monetary penalties (current penalties are 25 to 100 percent);
- Waiver of interest (current interest accrues on any unpaid balance at the rate of 1.5 percent per month);
- Waiver of administrative citation issued by the Business License Department: (current misdemeanor penalties are up to \$1,000 or an administrative citation up to \$100 for the first offense, \$200 for the second offense, and \$500 for the third offense with the potential of court assessment costs);
- Opportunity to avoid additional penalties, interest, and potential court action that may result from post-program increase enforcement measures.

To participate in the Business License Tax Amnesty Program, the business owner must make a request to the Business License Section of the City's Finance Department. This

request can be made in person, by mail, by telephone, or by email during the amnesty period only.

- If the request is made by mail, the mailed request must be postmarked by the United States Postal Service no later than the last day of the amnesty program.
- If the request is made by telephone, the request must be completed by calling the number designated by the Finance Department during normal business hours while the amnesty program is in effect, but no later than the close of business on the last day of the amnesty program.
- If the request is made by email, the email must be received no later than the close of business on the last day of the amnesty program.

In addition to the marketing campaign mentioned previously, staff will run a delinquency list of all potential business owners who may be eligible to take advantage of this program. Staff will then make contact by phone and United States Postal Services to promote the opportunity to become compliant with the PMC.

Another important element of a successful amnesty program is post-amnesty program enforcement. It is staff's intent to aggressively enforce all aspects of the business licensing code after the amnesty program ends.

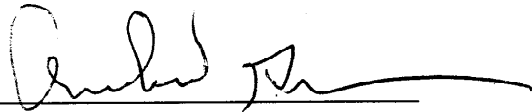
COUNCIL POLICY CONSIDERATION

This action supports the City Council's strategic goal to maintain fiscal responsibility and stability.

FISCAL IMPACT:

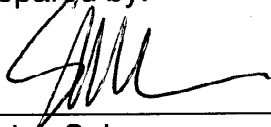
Approval of this Temporary Business License Amnesty Program will result in a more thorough compliance with the City's business license ordinance and will potentially generate additional revenues to the General Fund. It is uncertain which businesses will take advantage of the program; however, if 20 percent of currently delinquent accounts over 120 days take advantage of the program, the City will achieve a net revenue gain of approximately \$130,000.

Respectfully submitted,



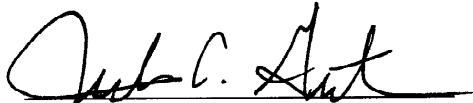
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Approved by:



MICHAEL J. BECK
City Manager

Attachments:

Attachment A – FAQ's

CITY OF PASADENA
BUSINESS LICENSE TAX AMNESTY PROGRAM

Businesses & Independent Contractors Frequently Asked Questions (FAQs)

Q: What is the City of Pasadena's Business License Tax Amnesty Program?

A: The Business License Tax Amnesty Program is a temporary (October 11 – December 10, 2010) program authorizing the waiver of penalties and interest assessed for noncompliance with the City's business license tax requirements. Full payment of the regular licensing fee due must be made under this program. This program is to encourage all businesses including, but not limited to; all commercially based businesses, home-based businesses, commercial and residential landlords, and independent contractors, who have not yet obtained their required business license(s) to come forward and fully comply with the City's business license tax.

Q: If I have arrangements, a promissory note, or a payment plan with the Collections Unit or Business License department does the program apply to me?

A: Yes, the amnesty program is for all businesses that are delinquent.

Q: My account has been referred to the Collection Unit, can I take advantage of the temporary amnesty program?

A: Yes. Any business license account that is in collection qualifies for the temporary amnesty program. All previous business licenses taxes will be due and must be paid in full to take advantage of this program.

Q: What does the City of Pasadena consider a "business"?

A: City of Pasadena Municipal Code Section 5.08.040 defines business, *as any business, commercial enterprise, trade, calling, vocation, profession or any means of livelihood, whether or not carried on for gain or profit.*

State law (Business & Professions Code Section 16300) requires cities to use the way a taxpayer reported income to the Internal Revenue Services (IRS) and Franchise Tax Board (FTB) to determine whether the taxpayer performed services as an employee or as a separate business entity.

Q: I previously paid my Business License Tax that included penalty and interest. Can I receive a refund?

A: No, any fees paid prior to the amnesty program dates are not eligible for a refund.

Q: I received a 1099 Form instead of a W-2 from my work. Am I required to have a business license?

A: Yes, individuals that work as independent contractors and report from an Internal Revenue Service 1099 Form instead of a W-2 need to have a City of Pasadena business license.

Q: Do I need a business license if I do part-time work from home?

A: Yes, businesses both large and small are required to obtain a City of Pasadena business license to be in compliance with the City of Pasadena Municipal Code. If part-time work is conducted from a location within city limits, such as your residence, you are required to obtain a City of Pasadena business license. *(Note: Enforcement of business tax does not apply to part-time businesses/hobbyist that make less than \$6,000 a year. However, an application is still require.)*

Q: I live in Pasadena, but my business is located outside of the city limits. Do I need to get a business license?

A: As long as your business location and **all business activity** are conducted outside the City of Pasadena, there is no need to obtain a City of Pasadena business license. All activity includes mail, phone calls, bookkeeping, and emails. However, if you are conducting business based from your residence, or your residence is your business location, you will need to obtain a City of Pasadena Business License.

Q: I live outside of Pasadena but enter into Pasadena to conduct business. Do I need to get a business license?

A: Yes. Even though you may not have a physical location here in Pasadena but work within the Pasadena City limits, you will be required to obtain a business license. Examples of such work are contractors, consultants, out-of-town doctors, gardeners, pool cleaners, maids, and any other type of business that takes place within the City of Pasadena.

Q: How do I take advantage of this temporary amnesty program?

A: To take advantage of this temporary amnesty program and for more information, visit the City of Pasadena's website at www.cityofpasadena.net/finance, contact the information center at (626) 744-7019 or (626) 744-7868, or visit the City's business license office in City Hall located at 100 N. Garfield, Room N106.

We can also be reached by email at www.Pasadenaamnesty@cityofpasadena.net.

Q: Where can I get the applications for a business license and make payment?

A: You will need to complete the proper business license applications which are available at www.cityofpasadena.net/finance or you may pick up applications at 100 N. Garfield, Room N106. Applications must be postmarked no later than December 10, 2010 to take advantage of the program.

For your convenience, you may pay by credit card, by mail, or over the phone. Methods of payment include cash, check, money order, Visa, MasterCard, Discover, American Express

and most ATM cards. (DO NOT MAIL CASH.) Regular business hours are Monday through Friday 7:30-5:15 p.m.

Q: What if I miss the temporary amnesty program?

A: If you miss the temporary amnesty program you will be required to pay all fees due including back taxes, penalties and interest according to Pasadena Municipal Code 5.10.230 which reads, *For failure to pay a license tax when due, the license collector shall add a penalty of 25% of the original license tax on the last day of each month after the due date; provided, that the total penalty to be added shall in no event exceed 100% of the amount of the original license tax. In addition, interest shall accrue on any unpaid balance at the rate of 1.5% per month.* Furthermore, operating without a valid Pasadena business license is a misdemeanor per Pasadena Municipal Code and the City will use all legal means to collect the debt.