



Legislation Details (With Text)

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Report to Mayor and City Council

Tuesday, August 01, 2017

Consent

SUBJECT:

CLARIFICATION OF CITY VENDORS REQUIRED TO PAY CITY BUSINESS LICENSE TAX (CITY COUNCIL)

I. SUMMARY

The purpose of this report is to clarify the imposition of business license tax on City vendors, including those that serve City events.

II. RECOMMENDATION

RECEIVE and FILE this report.

III. ALTERNATIVES

PULL this item from the consent portion of the agenda, DISCUSS the topic, and PROVIDE direction to staff.

IV. BACKGROUND

Business License Tax Imposed

Article VI, Chapter 3, the “Business License Ordinance”, of the Carson Municipal Code (CMC) requires all businesses operating in the City of Carson to pay a business license tax. The following CMC sections are found under Part 2 of Article VI, Chapter 3.

6310 License Required.

“(a) It shall be unlawful for any person to commence or conduct, or purport to commence or conduct, either directly or indirectly, any business, profession, trade or occupation as defined in this Chapter within the City of Carson, whether or not said person has a fixed place of business within the City or elsewhere, without first having procured a license and paid the license fees required by the provisions of this Chapter, and without otherwise complying with all the terms and provisions of this Chapter. The commencement or carrying on of any such business, profession, trade or occupation without having first procured and maintained in good standing a business license, as well as a permit where required under this Chapter, or without first complying with any and all provisions and regulations pertaining to said business as provided in this Chapter, shall constitute a separate violation of this Code for each and every day said business, profession, trade or occupation is so carried on.”

6352 Revenue Measure.

“Parts 2 and 3 of this Chapter are enacted solely to raise revenue for municipal purposes, and are not intended for regulation.”

Business License Tax vs. Fee

Although the CMC refers to the business license payment as a fee, it is a tax as defined by California Government Code section 37101; due to the revenue-raising purpose of the business license payment, as identified in CMC Section 6352. On March 4, 1997, the City’s voters approved the business license rates in effect as of January 1, 1995, adjusted annually by changes in the Consumer Price Index. In other words, the business license payment required by the CMC is a voter-approved tax.

The CMC also requires regulatory permits for some types of businesses. The City’s fee for these permits is limited by state law to the City’s cost of regulating the business. The regulatory fee is a required payment in addition to the business license tax.

Exemptions from the Tax

The Business License Ordinance lists various exemptions from payment of the tax.

- Government entities;
- Businesses exempt from federal or state tax;
- Religious, charitable, fraternal, educational, cultural or civic organizations;
- Persons certified as blind;
- Certified farmers; and

- Vendors serving City events that do no other business in the City.

6339 General Exemptions.

“Except as otherwise provided herein, no license or license fee shall be required of:

(a) The Federal Government or the State of California, or any of the political subdivisions, agencies or instrumentalities thereof;

(b) Any person engaging in any business exempt by virtue of the Constitution or laws of the State of California, or the Constitution or laws of the United States, from the payment of such taxes as are provided in said Parts 2 and 3 of this Chapter.

(c) Any religious, charitable, fraternal, educational, cultural or civic organization, and any other organization, whether incorporated or not, described in Article 1, Chapter 4, Part II of the Revenue and Taxation Code of the State of California; provided, however, that any such organization shall be required to obtain a license and pay the appropriate license fees if and to the extent it engages in any “unrelated trade or business” as that term is used in Section 23734 of the Revenue and Taxation Code of the State of California.

(d) Any person certified as blind by the Bureau of Vocational Rehabilitation of the State of California.

(e) Any person defined as a “certified farmer” within the meaning of “Certified Farmer” in CMC 6303 and who for purposes of this section is engaged in the sale of agricultural products, produced by them, at a City permitted and authorized farmers’ market; provided, however, that any such individual or person possesses a certified farmers’ certificate which shall be maintained by the operators of the farmers’ market and available for inspection upon the request of the City. Any person or entity approved by the City of Carson and properly permitted and licensed within the City of Carson to host certified farmers at a farmers’ market shall maintain a list of certified farmers selling at the farmers’ market and provide copies of the list at least monthly to the City and upon request by the City.

(f) Any approved participant in a City affiliated event shall not be required to obtain a business license or pay business license taxes solely due to participation in the City affiliated event. The City Manager or designee shall have the power to waive any or all business license requirements for any City affiliated event.”

Vendors Serving City Events

Pursuant to CMC Section 6339(f) noted above, vendors serving City events (e.g. entertainers) are not required to pay business license tax if they do no other business in the City. However, if they are found to be doing other business in the City, a tax payment is required. The same code section does allow the City Manager to waive payment of the tax for vendors serving City events.

Enforcement of this requirement has not been consistent in the past. However, staff currently enforces the requirements of the code.

It should be noted that vendors serving City events may be required to obtain regulatory permits, depending on the activity. The City charges a cost-based fee to recover its cost of regulation; and these vendors are not exempt from the regulatory fee.

Enforcement of the Code for Other Businesses

The following methods are used to enforce business license tax collection in the City.

- The City has two full-time Code Enforcement and Collections Officers who work in the Revenue Division of the Finance Department. These Officers canvas the City in search of businesses that have not paid the business license tax.
- The City's form contracts require contractors to obtain a City business license. Enforcement of the standard contract term is the responsibility of the contract officer.
- When building contractors doing business in the City apply for Building & Safety permits, the City Treasurer's Office verifies they have a business license before the permit payment is accepted and the permit is issued.
- Vendors serving the Community Services Department are advised they need to obtain a City business license.
- The Purchasing Division requires supply and equipment vendors to obtain a City business license before a purchase order is issued.

Recording the Tax Payment

Business license tax is general tax revenue, meaning the use of it is not restricted to specific purposes. The tax revenue may be used for any governmental purpose. Governmental accounting standards require all general taxes to be deposited into the General Fund of the City, and to be specifically reported in the financial statements as tax revenue (vs. fees or donation revenue, as examples).

Alternatives

If the City Council wishes to change the requirements of the Business License Ordinance, the City Council may direct staff to offer alternatives, and propose an ordinance that would amend the CMC at a future meeting.

V. FISCAL IMPACT

There is no fiscal impact associated with the recommendation.

VI. EXHIBITS

None.

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