



County of Los Angeles CHIEF EXECUTIVE OFFICE

Kenneth Hahn Hall of Administration
500 West Temple Street, Room 713, Los Angeles, California 90012
(213) 974-1101
<http://ceo.lacounty.gov>

WILLIAM T FUJIOKA
Chief Executive Officer

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November 6, 2009

To: Supervisor Don Knabe, Chairman
Supervisor Gloria Molina
Supervisor Mark Ridley-Thomas
Supervisor Zev Yaroslavsky
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

STATUS REPORT ON LOS ANGELES CITY BUSINESS TAX REGISTRATION CERTIFICATE

On September 29, 2009, on a motion by Supervisors Antonovich and Molina, your Board directed the Chief Executive Office (CEO) to prepare a five-signature letter to the Mayor, City Council and the City Controller of the City of Los Angeles (City), requesting that:

- The City cease pursuing the licensure and taxation of businesses located in unincorporated communities, or related enforcement action, until controls are put in place to ensure that such licensure is appropriate and lawful, and that businesses are being appropriately screened for proper jurisdiction;
- The Office of the City Controller conduct an audit of the City's Finance Business License Office, with specific emphasis on the adequacy of existing procedures and controls for verifying that licensees are appropriately screened for improper issuance of licenses or related enforcement actions against businesses located outside City boundaries, and to review the mechanism by which third-party vendors are contracted;
- The City's Office of Finance cooperate with the County Treasurer and Tax Collector (TTC) and Auditor-Controller on the following two items:

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- Convene a joint City/County Workgroup to examine and document the process by which City License Office staff identifies the government agency with controlling jurisdiction for licensing and taxing business and establish a formal mechanism for referring business owners to the appropriate jurisdiction;
- Quantify the total number of County businesses impacted by extra-jurisdictional licensure and taxation by obtaining and reviewing City records of business tax licenses and police alarm permits issued to entities outside the physical boundaries of the City.

The motion also instructed the CEO to report back to your Board within 30 days on actions taken to ensure that County-located businesses are not subject to further City licensure, taxation or enforcement action.

On October 5, 2009, staff from the CEO, Auditor-Controller and Treasurer-Tax Collector met with staff from the Office of Finance and the City Controller to discuss the issuance of Business Tax Registration Certificates (BTRC). At this meeting, staff from the City's Office of Finance explained:

- The City collects business tax as a revenue source, not as a license or regulatory function.
- Businesses located outside of City limits (which include individuals, partnerships, corporations, self-employed independent contractors, rental property owners and home-based businesses) are subject to the City's business tax if they conduct business with or within the City.
- The business tax is self-reported and based on the percentage of gross receipts earned within City limits.
- Some types of businesses are exempt from paying business taxes over a specified period, but the business owner still must register with the City's Office of Finance. Exemptions include certain new businesses, small businesses, and creative artists.
- The maximum gross receipts amount to qualify for Small Business Exemption is \$100,000 per year.

- The database system the City uses to issue BTRCs to businesses is organized by zip code.
- Prior to 2004, addresses were checked manually. After 2004, addresses are checked through an electronic mapping system.
- The City is aware that there are businesses located in commercial corridors on or very near the City/unincorporated area borders (i.e. Universal Studios City Walk). Such areas require further detailed examination as the specific jurisdiction is not always apparent to City staff and/or the affected businesses.
- The City offers refunds, but the claims must be made within one year from the date of payment.

The City's BTRC is based on a tax intended to generate revenue and dates back to the 1930s. By contrast, County Business Licenses are required for businesses that are subject to County health or safety regulations. It is possible for a business to have both a County business license and a City BTRC. For example, a catering business located in an unincorporated area that prepares food for companies or events located in the City would be regulated by the County, but would also pay the City's BTRC based on that portion of the catering business done within City limits.

The joint workgroup met a second time on October 21, 2009 to discuss technological feasibility and compatibility of City and County databases in an attempt to quantify the number of County businesses that have been impacted by the City's BTRC requirements:

- The County's Urban Research Unit agreed to supply the most updated list of zip codes of all unincorporated areas. Subsequently, this list was sent to the City's Office of Finance on October 22, 2009;
- On November 2, 2009, the City's Office of Finance released a list containing 132,067 business records which lie within the zip codes. Their list contains the business name, DBA, address, and BTRC number. However, the list does not contain a complete history of fees as this is considered confidential;
- TTC will compare the City's information with TTC's records and investigate any discrepancies, such as locations of businesses along the City/unincorporated area border.

Obtaining police permit records was also discussed at this meeting, but this issue will be dealt with separately. It involves other City offices that are not part of this joint workgroup. The Los Angeles Police Department Commission Investigation Division (CID) is the agency responsible for approving and issuing police permits. As of October 27, 2009, the Office of Finance has engaged in preliminary discussions with the City Attorney's Office to review the list of police alarm permits. Our office is awaiting the City Attorney's response regarding whether this information is confidential or can be released. The City staff is conducting an internal review of the police permits.

This office will continue its joint effort approach with staff from Auditor-Controller, Treasurer and Tax Collector, the Office of Finance and the City Controller to disperse public outreach information to the impacted business owners in order to resolve any BTRC-related issues. Additional meetings will be held with City staff in November to develop a public outreach plan. This information will be shared with the Board offices as it is developed.

RECOMMENDATION

Given that we are getting good cooperation from the City, and are progressing steadily on this important issue, we recommend that the County staff continue this established working relationship to resolve the issues raised in the motion.

In order to provide a comprehensive report to your Board regarding the unincorporated area businesses impacted by the City's BTRC requirements, we respectfully request a 45-day extension from the original due date specified on your motion to December 14, 2009 to continue:

- Collecting and exchanging all relevant information from the departments within the County/City Workgroup and accurately quantifying the number of County impacted businesses;
- Working with the City to clean up the Office of Finance's database;
- Developing a cost-effective, public outreach campaign to create awareness of BTRC exemptions and help County business owners to obtain refunds as appropriate; and
- Reviewing and resolving the police permit issue.

Each Supervisor
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Should you have any questions regarding this memorandum, please contact me or your staff may contact Gevork Simdjian at (213) 893-9736 or via email at gsimdjian@ceo.lacounty.gov.

WTF:ES
GS:LG:cg

c: Auditor-Controller
Acting County Counsel
Executive Officer, Board of Supervisors
Treasurer-Tax Collector