Note: Effective (state date), this training manual supersedes all Office of Finance’s previously published Auditor Training Manual.

OUTLINE OF LESSONS

GENERAL PROVISIONS

For Business Tax Ordinance please click on Business Tax Ordinance

Lesson 1 – Business Tax, Definition, Imposition, Disclaimer, and Exemption
Lesson 2 – Business Tax Registration Certificate
Lesson 3 – Overview of Business Tax Classification section
Lesson 4 – Newly Established Business
Lesson 5 – Renewal Due Dates, Delinquent Dates, Etc.,
Lesson 6 – Interest, Penalties, Refunds, and Statute of Limitations
Lesson 7 – Computation of Tax and filing of statement
Lesson 8 – Director of Finance: Duties and Powers
Lesson 9 – Assessment, Administrative Remedy
Lesson 10 – Miscellaneous General Provisions

FLAT TAXES

Lesson 11 – Flat Tax by Period
Lesson 12 – Flat Tax by Item
GROSS RECEIPTS DEFINITION

Lesson 13 – Section 21.00 (A); Gross Receipts

SALE/RENTAL OF TANGIBLE PROPERTY

Lesson 14 – Section 21.166/21.42/21.41(g) Wholesale Sales
Lesson 15 – Section 21.167/21.44(a)/21.43(e) Retail Sales
Lesson 16 – City Clerk’s Ruling Nos.13 and 14
Lesson 17 – Section 21.65/21.46(b) Vending Machine
Lesson 18 – Section 21.109 Motion Picture, Television, and Radio Producers
Lesson 19 – Section 21.192/21.46(e) Personal Property Rental
Lesson 20 – Section 21.98/21.43(d) Rental of office, Commercial Buildings, Etc.,
Lesson 21 – Art.1.13 Commercial Tenants Occupancy Tax
Lesson 22 – Section 21.99/21.43(c) Hotel, Apartment, Etc.,
Lesson 23 – Art.1.7 Transient Occupancy Tax
Lesson 24 – Section 98.1/21.43(b) Swap Meet Operator
Lesson 25 – Section 21.193 Sale of Real Property

SALE OF SERVICE

Lesson 26 – Section 21.190/21.49(c) Professions and Occupations
Lesson 27 – City Clerk’s Ruling No.15
Lesson 28 – Section 21.189.1/21.48 Miscellaneous Services
Lesson 29 – Section 21.189.2/21.45 (a)/21.43(h)Radio and Television Broadcaster
Lesson 30 – Section 21.56/21.49 (a) Auto Park
Lesson 31 – Art.15 Parking Occupancy Tax
Lesson 32 – Section 21.78/21.46 (c ) Collection Agency
Lesson 33 – Section 21.79/ 21.47( a) Commission Merchant Broker and CCR#3
Lesson 34 – Section 21.141/21.46(d) Storage, Freight Forwarding
Lesson 35 – Section 21.188 Contractor and CCR#2
Lesson 36 – Section 21.197/ 21.41(c) Telephone Services
Lesson 37 – Section 102/21.44(b)/21.43(f) Laundry, Cleaning, and Drying Agent, Etc.,
Lesson 38 – Section 21.59/21.46(a) Baseball, Football, Etc.,
Lesson 39 – Section 108 Money Lenders and CCR#19
Lesson 40 – Section 21.191/21.49(b) Health Maintenance Organizations
Lesson 41 – Section 80 /21.47. (b)Independent Telemarketing Services
Lesson 42 – Section 21.189.4/ 21.41 (b) Multimedia Business
Lesson 43 – Internet Based Businesses 21.41(c),21.41 (d) (ASP and DM)
Lesson 44 – Miscellaneous items
LESSON 1

BUSINESS TAX: DEFINITION, IMPOSITIONS, DISCLAIMER, AND EXEMPTIONS

OUTLINE

1. DEFINITION
   A. Sec. 21.00(b) - Business Tax
   B. Sec. 21.00(d) - Person
   C. Sec. 21.00(h) - Business
   D. Sec. 21.00(i) - Engaged in Business
   E. Business Tax v. Sales and Use Tax

2. IMPOSITION
   A. Sec. 21.03(a) - Imposition of Tax
   B. Sec. 21.03(b) - Purpose of Business Tax
   C. Sec. 21.03.1 - Automatic Tax Rate Reduction

3. DISCLAIMER

   Sec. 21.01 - Unlawful Business Not Authorized

4. EXEMPTIONS
   A. Sec. 21.02 - Constitutional Exemption/Trust Companies
   B. Sec. 21.22 - Religion, Charity, etc.
   C. Specific exemptions under each section
   D. Sec. 21.29(a) - Small Business Exemption
   E. Sec. 21.29(b) - Creative Artist Exemption
   F. Sec. 21.30 - New Business Exemption
   G. Guidelines for Persons Without Exempt Certificate
   H. City Attorney Opinion
   I. Person Dealing with Government Agencies / Persons Regulated by the State
   J. Non-Profit Entities
LESSON 1

BUSINESS TAX: DEFINITION, IMPOSITION, DISCLAIMER, AND EXEMPTIONS

I. DEFINITION

A. **SEC. 21.00(b): BUSINESS TAX**

Business Tax is not a permit or license.

Business Tax is a privilege tax. "It is levied not upon the person, but upon the business, or, more specifically, upon the privilege of engaging in the business."

Permit is a permission to do something.

B. **SEC. 21.00(d): PERSON**

Generally, persons engaged in business are categorized under one of the following business types in our LATAx system:

Person shall mean any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, partnership, joint venture, club, company, joint stock company, business trust, domestic or foreign corporation, association, syndicate, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise. *(Sec. 21.00 (d) as amended by Ordinance No. 174272, Eff. 11/26/01.)*

1. Corporation
2. Partnership (Joint Ventures are considered as partnerships)
3. Individual
4. Trust
5. Limited Liability Companies (Ref: Schedule E; Memo on Limited Liability Companies; Dedra True; 3-21-09)

C. **SEC. 21.00(h): BUSINESS**

Business is defined as that which occupies the time, attention, or labor of person for the purpose of profit or improvement.
Business shall mean any activity, enterprise, profession, trade or undertaking of any nature conducted or engaged in, or ordinarily conducted or engaged in, with the object of gain, benefit, or advantage, whether direct or indirect, to the taxpayer or to another or others. The term shall include operations of subsidiary or independent entities conducted for the benefit of others and at no profit to themselves, nonprofit businesses and trade associations. A person shall not be deemed to be engaged in business solely by reason of receipt of dividend or interest income from passive investments (Sec. 21.00(h) as amended by Ordinance No. 174272, 11/26/01).

D. **SEC. 21.00(i): ENGAGED IN BUSINESS**

Various federal cases hold that "business" implies an occupational undertaking to which one habitually devotes time, attention, or effort with substantial frequency or regularity.

"Engage, engaged, and engaging" connote frequency and continuity of action. A single or occasional disconnected act does not constitute engaging in business.

a. **ENGAGED IN BUSINESS OR INVESTOR?**

**General Guidelines to Determine if In Business**

The question of whether a business exists is determined by the facts of each case. It appears that case authorities require an activity to be engaged in with frequency and continuity to be in business. Occasional activities will normally not constitute a business.

As a general rule, a person is considered engaged in business when "any one" of the following conditions exists: [Ref: *Schedule A: Guidelines to Determine if in Business*]

1. **Physical presence**

   Having employees or maintaining a fixed place of business is evidence of engaging in business.

2. **Frequency of activities**

   General rule - at least 7 days within a calendar year. This is based on Sec. 21.00(i): Engaged in Business.

3. **Volume of transactions**

   General rule - must have at least 4 or more transactions.
**Single Transactions**

A single transaction or act does not constitute being engaged in business.

*Note:* Handling of a single probate matter in a local court by a lawyer who has no fixed place of business within the City does not constitute being engaged in business in the City. However, if such lawyer holds various consultations in the City or tries a number of cases here during the year (at least four), he is subject to tax under **Sec. 21.190./21.49(c)**

**Exceptions**

The guidelines on Schedule A are "general guidelines", not absolute rules. It is difficult to categorically say what constitutes being in business. A person may meet any one of these guidelines and still be deemed to be **NOT** engaged in business.

Examples:

1. A lack of continuing in-City activity may not subject certain gross receipts to taxation.

2. If a person has ceased actively conducting activities designed to develop or promote business, and is just receiving collections from prior transactions/billings, he is **NOT** subject to tax.

**b. ENGAGED IN BUSINESS IN THE CITY OF LOS ANGELES?**

Section 21.00(i) of the LAMC, as amended by **Ordinance No. 174272**, lists specific criteria as to what constitutes nexus in the City.
E. BUSINESS TAX v. SALES AND USE TAX

Business Tax is a tax imposed on persons for the privilege of engaging in business activities in the City of Los Angeles. Sales Tax is a tax on the retailer for the business of selling. However, California State Law allows retailers to pass on the Sales Tax to the consumers. Both the State of California and its various cities and counties impose Sales and Use Tax. The State of California enacted the Uniform Local Sales and Use Tax Law and designated the State Board of Equalization as the administrator and collector of the Sales and Use Tax for the local entities.

For Sales Tax purposes, a lease is considered a sale. Therefore, leases are subject to Sales Tax.

Use Tax is a tax imposed on all consumers (users), not on the retailers. However, consumers who are required to pay Sales Tax are exempt from the Use Tax.

Examples of persons subject to Use Tax:

1. Persons who purchase goods out of state and who used such goods in California.
2. Resellers who purchase goods for their own consumption.

II. IMPOSITION

A. SEC. 21.03(a): IMPOSITION OF TAX

Unless otherwise exempt, every person engaged in business in the City must:

1. Obtain a Business Tax Registration Certificate, and
2. Pay the tax

B. SEC. 21.03(b): PURPOSE OF BUSINESS TAX

Business Tax is imposed solely for the purpose of obtaining revenue and is not regulatory in nature.
C. **SEC. 21.03.1: AUTOMATIC TAX RATE REDUCTION**  
   *(Title and Section Amended by Ord No. 176324, Eff. 1/16/05, Oper. 1/1/06.)*

Commencing with the tax year 2006, the tax rates contained in this Article are based upon gross receipts shall be reduced by up to 4% per year. The maximum total rate reduction shall be 15% from the rates imposed as of December 31, 2005. The baseline revenue shall be the revenue forecast for business tax receipts prepared in conjunction with the 2009-2010 shall be calculated based upon a 4% per annum increase from the previous year.

There shall be no tax reduction in any year in which the net revenue increase is less than one percent (1%). Any percentage increase below one percent (1%) shall be carried over and added to the next year percentage increase for purposes of calculating the rate reduction for that year.

The Director of Finance shall issue a detailed annual report on the net business tax revenue received each fiscal year and the basis for all calculations and carryovers and shall publish or otherwise publicize the revised for each year.

III. **DISCLAIMER**

**SEC. 21.01: UNLAWFUL BUSINESS NOT AUTHORIZED**

The acquisition of a registration certificate or permit, or the payment of tax does not authorize any person:

1. To conduct or continue an illegal business, or
2. To conduct or continue a legal business in an illegal manner.

IV. **EXEMPTIONS**

A person may be exempt from Business Tax based upon any of the following authorities:

1. **Sec. 21.02:** Constitutional Exemption
2. **Sec. 21.22:** Religious, Charity, etc.
3. Specific Exemptions under certain Business Tax Classification sections. Examples, Sec. 21.190(c) and Section 21.189.3.

4. Sec. 21.29(a): Small Business Exemption

5. Sec. 21.29(b): Creative Artist Exemption

6. Sec. 21.30: New Business Exemption

A. SEC. 21.02: CONSTITUTIONAL EXEMPTION

A person is exempt if payment of the tax would:

1. Constitute an unlawful burden upon or an unlawful interference with interstate or foreign commerce.

   Example: Discriminatory treatment on those engaged in interstate commerce as opposed to local business.

2. Be in violation of the U. S. or California Constitution.

   Examples: Failure to apportion gross receipts is both unconstitutional and a burden on interstate commerce.

   Failure to apportion purely interstate business violates California law but not interstate commerce.

   Schedule B: Examples of Constitutional Exemptions

B. SEC. 21.22: RELIGION, CHARITY, ETC.

a. RELIGIOUS AND CHARITABLE ORGANIZATIONS:

For Periods Prior to January 1, 2004 - Criteria to be exempt under Sec. 21.22: (Ref: Sec. 21.22(a))

Any religious or charitable organization, association, or institution is exempt from Business Tax provided that such person is:

(i) Organized and conducted solely for religious or charitable purposes, or

(ii) Engaged in teaching, preaching, or disseminating any religious tenets or beliefs, or
(iii) Engaged in conducting or staging of any theatrical, art, sporting exhibition or similar event, dance, concert, or lecture where the net proceeds are not used for private gain to any individual but are used wholly for the benefit of such organization or for charitable or benevolent purposes.

The exemption is extended to fraternal, educational, civic, military, state, county, and municipal organizations and associations ONLY to the extent that they are engaged in the activities described under item (iii) above.

**Who can be exempt under Sec. 21.22?**

The exemption under Sec. 21.22 is applicable:

1. To religious and charitable organizations ONLY if they are engaged in activities described in items (i) to (iii) above (Sec. 21.22(a)).
2. To non-profit organizations ONLY if engaged in item (ii) above.
3. To Credit Union corporations

**Exempt Certificate Requirement**

Religious or charitable organizations must apply for an exemption certificate. If not, they have to pay the tax. If subsequent to paying the tax, an entity obtains an exemption certificate, a refund of the taxes previously paid may be filed pursuant to Sec. 21.22(e) and subject to the provisions of Sec. 21.07 (Refund of Overpayments).

The application for tax-exempt certificate is furnished by the Director of Finance who forwards it to the Board of Police Commissioners who approves or disapproves such application. The Director of Finance issues the exempt certificate for approved applications.

**Business activities unrelated to Religious or Charitable Purposes**

The gross receipts of religious or charitable organizations or associations from business activities unrelated to their religious or charitable purposes are subject to tax.

Examples:

- Rental of auditorium
- Operation of commercial parking lot
- Operation of a franchise of B. Dalton Bookstore. (If operating a
Bookstore that sells only religious books, not taxable)

Is a partnership exempt by virtue of having a partner who is exempt under Sec. 21.22?

If an exempt entity forms a partnership with another entity (who may or may not be exempt) the partnership is subject to tax unless it (the partnership) is organized for religious or charitable purposes and qualifies to the exemption under Sec. 21.22.

Authorities:

1. Western States Bankcard Assn. v. City and County of San Francisco, 19 C.3d 208 (March 1977)

   Schedule C: Examples of Exempt Religious or Charitable Organizations

For Periods Beginning January 1, 2004 - Criteria to be Exempt

(i) Qualification as a Charitable or Non-profit organization per IRS Sec. 501.

(ii) Qualification as a Charitable or Non-profit organization per State Tax Section 23701(d).

(iii) Tax Exempt Registration Certificate is required.

b. CREDIT UNIONS

Authorities that Exempt Credit Unions

Any credit union corporation is exempt from Business Tax under two authorities:

1. Sec. 21.22 and

2. Sec. 21.02 (federal law prohibits us from taxing credit unions).

Certificate of Exemption

The Director of Finance issues an exempt certificate to any credit union corporation upon being furnished evidence of incorporation and operation as such.
C. SPECIFIC EXEMPTIONS UNDER EACH BUSINESS TAX CLASSIFICATION

Under certain sections, exemptions are given due to the following reasons:

1. **To exempt certain persons from the tax**

   Some Business Tax classification sections specifically exempt certain persons from the tax, such as Sec. 21.189.3(c)/21.41(a, 2), 21.190(c)/21.49(c, 3), and 21.194. (b, 3 and 4)

   Specific exemption from a particular Business Tax classification section does not automatically exempt a person from all other code sections.

   The ordinance clearly states if an exemption provided in a section will also exempt a person from other sections.

   Example: Sec. 21.193(8)

2. **To exempt certain gross receipts**

   The person is subject to tax but may exclude the exempt gross receipts from the measure of tax.

   *Explain the difference between exempting a person and exempting only certain gross receipts.*

D. **Sec. 21.29(a): SMALL BUSINESS EXEMPTION**

**For periods prior to July 1, 2005:**

1. Effective date: January 1, 2001

2. Requirements to be Qualified for Exemption:

   a. Total gross receipts from all sources, taxable and non-taxable, should not exceed $5,000.


   c. Timely filing requirement as outlined in *Schedule F*.
3. No tax is required to be paid by taxpayers that meet the above requirements for the Small Business exemption. Taxpayers who do not meet these requirements will be subject to the tax that otherwise would be payable and to any interest and penalty applicable thereto pursuant to Section 21.05 of the L.A.M.C.

For periods beginning July 1, 2005:

1. Effective date: July 1, 2005

2. Requirements to be Qualified for Exemption:

   a. Total gross receipts from all sources, taxable and non-taxable, should not exceed $50,000 (per Ordinance No. 176342, amending Sec. 21.29).

      i. Effective July 1, 2006, the Small Business threshold for maximum gross receipts, taxable and non-taxable, increases from $50,000 to $100,000.

   b. Taxpayer must timely file for registration (obtain a Business Tax Registration Certificate) and subsequent renewals prior to the delinquency date.

3. No tax is required to be paid by taxpayers that meet the above requirements for the Small Business exemption. Failure to timely file or renew prior to the date the taxes would otherwise have been delinquent pursuant to Sec. 21.05, shall render inapplicable the Small Business exemption and subject the taxpayer to the tax that would otherwise be payable and to any applicable interest and penalty.

E. SEC. 21.29(b): CREATIVE ARTIST EXEMPTION

1. Effective Date: July 1, 2005 (per Ordinance No. 176342 amending Sec. 21.29)

2. Qualifications:

   a. Must be engaged in business as a “Creative Artist”.

      i. Creative Artist shall mean only a person who operates either as an Individual, through a corporation with one individual as the only shareholder and the only employee (loan-out company),
or through a limited liability company with one individual as the only member and the only employee.

b. Gross receipts must be attributable to “Creative Activities”.

i. Creative Activities shall mean work performed by Creative Artists primarily for entertainment and/or aesthetic purposes, including assistants or professional trainees performing those same Creative Activities, in designated professions listed in Sec. 21.29(b)(1) through Sec. 21.29(b)(7).

ii. Gross receipts from Creative Activities shall not include any gross receipts received by a Creative Artist from activities that are not Creative Activities. Such other receipts shall not be exempt under this subsection, and shall be taxable as otherwise provided.

c. Total taxable and non-taxable gross receipts must not exceed $300,000 annually.

3. Benefits:

a. No tax is required to be paid by taxpayers that meet the above requirements for the Creative Artist exemption. Failure to timely file or renew prior to the date the taxes would otherwise have been delinquent pursuant to Sec. 21.05, shall render inapplicable the Small Business exemption and subject the taxpayer to the tax that would otherwise be payable and to any applicable interest and penalty.

F. SEC. 21.30: NEW BUSINESS EXEMPTION

1. Effective Date: January 1, 2001 – Ordinance No. 172820
   (Amended October 30, 2001 by Ordinance 174287; operative January 1, 2002, amended by Ordinance 175029, operative February 1, 2003 Amended by Ordinance 171839, operative January 1, 2007)

2. Qualifications:

a. The business being established must have a new fixed location in the City and is not owned, in whole or in part by a person that was engaged in business in the City in the immediately preceding year.

b. Must have less than $500,000 of taxable gross receipts in its first tax period of operation.
c. For second tax year exemption, must have less than $500,000 of gross receipts attributable to its second tax year of operation.

3. Benefits:

a. First Tax Year of Operation: Exempt from payment of applicable minimum annual tax. (Effective 1-1-01, Ordinance No. 172820)

b. First Tax Year of Operation: Exempt from any additional tax (back tax) for said tax period. (Effective 1-1-01, Ordinance No. 172820)

c. Second Tax Year of Operation: Exempt from payment of applicable minimum annual tax. (Effective 1-1-02, Ordinance No. 174287)

d. Second Tax Year of Operation: Exempt from any additional tax (above the minimum tax) for said tax period. (Effective 1-1-02, Ordinance No. 174287)

4. **Sec. 21.30 Amended Effective February 4, 2007:** Per City Council Ordinance No. 178139, for its first two tax years of operation, a new business that has less than $500,000 of total taxable gross receipts shall be exempt from any additional tax imposed. A taxpayer business qualifying for exemption under this subdivision for its first tax year of operation shall also be exempt from the applicable minimum tax for its second tax year of operation.

5. Section 21.30 Amended Effective Nov. 20, 2012. Per City Council Ordinance 182275, for its first two years of operations, a new business that has less than $500,000 of total taxable yearly gross receipts shall be exempt from any additional tax imposed. However, if a new business first commences operation between January 1, 2010 and December 31, 2015 a new business shall be exempt from any minimum or additional tax for its first three years of operation regardless of how much tax would be imposed absent this exemption.

a. The exemption for tax in the second year of business operation is Extended to December 31, 2017, provided that the second year and third year exemption are subject to review and may result in suspension as determined by the Council, subject to the approval of the Mayor, under any following circumstances:

   i. The City experiences a major natural or man-made disaster, including but not limited to earthquakes, fires, or terrorist incident, for which the response and recovery require expenditure of more than the 1% of General Fund revenues; or

   ii. An economic downturn resulting in a greater than 1% overall actual decline in all General
Fund revenue for the fiscal year ended June 30th of that year; or

iii. The City is legislatively, legally or otherwise precluded from levying and collecting General Fund revenue in a greater than 1% total decline in budgeted General Fund revenue for the fiscal year; or

iv. The City receives a legal judgment for which either an option for legal appeal does not exist, or the City Council and Mayor decline that legal appeal and the judgment exceeds 10% of the Reserve Fund; or

v. There is a non-discretionary occurrence requiring expenditure of funds from the Emergency Reserve Account of the Reserve Fund.

b. To implement a suspension of the exemption in a given calendar year, action by the Council, subject to the approval of the Mayor, must be made by September 30th of the preceding year.

c. The exemption period shall be in effect for ten (10) years unless the Council takes one of the following actions: (a) before September 30th of the fifth year not to extend the exemption period for a second consecutive five year period; or (b) prior to September 30th of the tenth year of the exemption period, the Council extends the exemption period beyond ten years.

d. Reinstatement of the tax exemption shall require approval of the Council, subject to the approval of the Mayor.

6. Exclusions: Sec. 21.30 (a,1)

a. Construction business (Section 21.188)

b. Film producer as defined by Section 21.109 or the applicable Industry Code.

c. A business owned by a person that was engaged in business in the City in the preceding tax period (existing business).

d. For periods prior to February 1, 2003: A business that was engaged in outside the City during the preceding tax period and is engaged in business in the City during the current period, regardless whether the business is located in or out of the City.

e. Sec. 21.30 Amended Effective February 1, 2003: Per City Council Ordinance No. 175029, the New Business Exemption
was expanded to businesses located outside of the City that subsequently establish a fixed place of business in the City (on or after February 1, 2003).

7. Requirement to be Qualified for Exemption

A business should obtain a Business Tax Registration Certificate and an Exemption letter from the City Clerk. Taxpayer must file timely to receive the New Business Exemption Memo on L.A.M.C. Sections 21.29 and 21.30; J. Hickey; 09-30-02. This revised policy is effective October 1, 2002. The period from January 1, 2001 to September 30, 2002 has a different application for determining “being qualified” in regards to timeliness of filing.

Effective February 1, 2003, Sec. 21.30(b) requires that taxpayers obtain a BTRC and an exemption letter from the Director of Finance prior to the taxes becoming delinquent in order to qualify for the New Business exemption (per Ordinance No. 175029, amending Sec. 21.30).

8. Failure of the business to meet the requirement would subject the business to the tax that would otherwise be payable and to any interest and penalty applicable thereto pursuant to Section 21.05 of this Code.

G. **SCHEDULE D: GUIDELINES FOR PERSONS WITHOUT EXEMPT CERTIFICATE**

H. **PERSONS DEALING WITH GOVERNMENT AGENCIES / PERSONS REGULATED BY THE STATE**

The fact that a taxpayer is regulated by the State or is performing services for the State or Federal Government does not preclude City taxation.

The following court cases upheld this position:

1. **Marsh & McLennan v. City of Los Angeles**, 62 Cal.App.3d 108 (1976), held that the City may impose its Business Tax on commissions received by an insurance production firm in its capacity of insurance broker.

2. **City of Los Angeles v. A.E.C.**, 33 Cal.App.3d 933 (1973), upheld the application of the City Business Tax to an electrical contractor measured by gross receipts from projects performed for agencies of the State on state property. This case also held that under California Code of Civil Procedure Section 338 the City had 3 years from the date of assessed deficiency to commence a legal action.
3. ITT Gilfillan, Inc. v. City of Los Angeles, 72 Cal.App.3d 421 (1977), held that the City could impose its Business Tax on manufacturers for the Federal Government.

J. NON-PROFIT ENTITIES

For periods prior to January 1, 2004:

A non-profit entity is not automatically exempt from Business Tax. To be exempt, such entity should meet the requirements of Sec. 21.22 or Sec. 21.190/21.49 (c, 3).

Only certain specifically described non-profit organizations and, in some cases, only certain activities of these organizations are exempted from the tax. See Sec. 21.190(c) 2, 3, 4/21.49 (c), 3, ii,iii,iv, and Sec. 21.22 (a).

For periods beginning January 1, 2004:

The City of Los Angeles is amending Sec. 21.22, as a result of State Legislation, to provide authority for the Director of Finance to issue a Tax Exempt Registration Certificate to Charitable, Non-profit, or Religious institutions where these organizations are entitled to an exemption as a matter of State or Federal law.

If an organization is recognized as Non-profit or Charitable under IRS Section 501 or State Tax Section 23701d, an exemption under LAMC Sec. 21.22 may apply.
Lesson 1 – Schedule A
GUIDELINES TO DETERMINE IF IN BUSINESS

I. In Business or and Investor

1. Physical Presence
   - Has employees
   - Maintain a fixed place of business
   - Owns or leases real properties

2. Frequency of Activities: 7 day rule

   Must perform work or render services for at least 7 days within calendar year

3. Volume of Transactions: 4 or more transactions

   A person must at least have 4 or more transactions to be engaged in
   business except for activities taxable under Sec. 21.98/21.43(d) and 21.193. These two sections (Sec. 21.98/21.43(d) and 21.193) have
   specifically defined what constitute being in business.
   
   Transaction is defined as number of sales or deals. Each monthly payment
   collected from 1 loan or 1 single family residence being rented is not
   considered a transaction.
   
   The general rule is that a single transaction does not constitute being
   engaged in business (except for Sec. 21.98/21.43(d) and 21.193 business
   activities).

Authorities:
   - Roscoe Terrace v. City of Los Angeles Court Case
II. **In Business in the City (Nexus with Taxpayer)**
(Reference: Sec. 21.11.4: Nexus with Taxpayer)

A person must hire, employ, or contract with one or more individuals as employee to perform work or render services in whole or in part within the City and must meet anyone of the following:

a. such person maintains a fixed place of business within the City

b. an employee maintains a fixed place of business within the City for the benefit or partial benefit of such person

c. such person or his employee owns or leases real property within the City for business purposes

d. such person or his employee regularly maintains a stock of tangible personal property in the City for sale in the ordinary course of business

e. such person or his employee conducts continuous solicitation of business within the City

f. such person or his employee performs work or renders services in the City on a regular and continuous basis involving not less than 7 (seven) working days per year for all such employees

g. such person or his employee utilizes the streets within the City in connection with the operation of motor vehicles for business purposes

Different situations require different tests. Any one of the above criteria may qualify a Person to be engaged in business depending upon the type of business one is engaged in.

**Examples:**

a. A person who has no office or employees in the City of Los Angeles but has “one” commercial rental property within the City is subject to tax under Sec. 21.98/21.43(d)

b. A person engaged in commercial rental who has an office and employees within the City but has no commercial rental properties in the City is not subject to tax because Section 21.98/21.43(d) requires that for a person to be subject to tax, there must be “a” commercial rental property for rent inside the City. Thus, no BTRC is required of the office in the City.
c. A person whose sole gross receipts are from interest income earned from “one” loan to an affiliate is not subject to Sec. 21.108(a) tax, regardless of the amount of interest income. To be taxable, the person must have at least 4 loans. However, if such affiliate has substantially common ownership with the person, then that person MAY BE subject to tax under Sec. 21.108(c).

d. A real estate broker with a fixed place of business in the City who sold only one commercial building for the entire year is liable to pay under Sec. 21.190 based on the commission from such sales. (Note: Although the real estate broker has only one transaction, he is considered engaged in business by virtue of having a fixed place of business in the City and conducting business activities.)

e. A lawyer with a fixed place of business in the City and who works full time on only one big case is engaged in business and taxable under Sec. 21.190.
EXAMPLES OF SEC. 21.02 CONSTITUTIONAL EXEMPTIONS

1. **United States Government:**
   
   All departments, bureaus, and agencies.

2. **California, State of:**
   
   - All departments, bureaus and agencies
   - University of California
   - California State Colleges

3. **Districts and political subdivisions organized under or pursuant to the laws of the State of California (such as):**
   
   - Los Angeles Unified School Districts
   - Los Angeles Junior College District
   - Los Angeles County Flood Control District
   - Metropolitan Water District
   - Southern California Rapid Transit District
   - Mosquito Abatement Districts
   - Wilmington Cemetery Districts
   - Sanitation Districts

4. **Los Angeles, County of:**
   
   All departments, bureaus and agencies

5. **Los Angeles Convention and Exhibition Center:**
   
   This is a joint City and County agency

6. **Los Angeles Memorial Coliseum Commission:**
   
   Joint powers agency – State, County and City

7. **Housing Authority of the City of Los Angeles:**

8. **Community Redevelopment Agency of the City of Los Angeles**
9. **Credit Unions**

Credit Unions have statutory exemption. They are not subject to any of the taxes imposed by the City of Los Angeles because of federal law.

The Office of Finance shall, upon application, issue a tax-exempt registration certificate to any credit union corporation upon being furnished with satisfactory evidence of its incorporation and operation as such (21.22© L.A.M.C.).

10. **Foreign Governments:**

Agencies, which are exempt from domestic taxation by treaty, international law or custom.

11. **Banks.**

Art. XIII, Sec. 27 of the California Constitution and Revenue and Taxation Code Sec. 23181 and Sec. 23182 grant banks an “in lieu” exemption from local personal property and privilege taxes.

Banks are **exempt** from the following taxes:

- Business Tax
- Payroll Expense Tax
- Transient Occupancy Tax
- Commercial Occupancy Tax
- Payroll Expense Tax

Banks are **subject** to the following taxes only:

- Sales Tax
- Utility Users Tax (Telephone, Electric and Gas Users Tax)
- Property Tax

12. **Insurers:**

Art. XIII, Sec. 28 of the California Constitution exempts insurers from all local taxes (except real property tax and motor vehicle license tax) because insurers are subject to the State In-Lieu Tax (Gross Premium Tax).

Hence, insurers are **EXEMPT** from ALL the taxes administered by the City of Los Angeles, such as Business Tax, PET, TOT, COT, POT, Utility Users Tax, and Sales Tax.
Insurers are subject to pay the following taxes:

1. Motor Vehicle License – DMV
2. Real Property Tax – County of Los Angeles

13. **Airlines**

Section 1513 of 49 United States Code prohibits state and local taxation of:

- Persons traveling in air commerce
- Carriage of persons traveling in air commerce
- Sale of air transportation or the gross receipts derived therefrom

Airlines are **exempt** from the following taxes:

1. **Business Tax**

   The Airlines= gross receipts from the transportation of persons are exempt from tax pursuant to Section 1513 of 49 USC. **NOT** all of the Airlines= activities are exempt from Business Tax. The gross receipts from business activities other than transportation of persons are subject to tax. Examples of taxable activities:

   - ground services to other airlines are subject to Business Tax

2. **Telephone Users Tax**

   Airlines are exempt from Telephone Users Tax because they are exempt from the tax imposed under Sec. 4251, Title 26 of the USC.

Airlines are **subject** to the following taxes:

1. Electricity Users Tax
2. Gas Users Tax
3. Transient Occupancy Tax
Lesson 1 – Schedule C

SEC. 21.22 – RELIGION, CHARITY, ETC.

1. Religious organizations such as American Missionary, Society, Church Federation of So. California, etc.

2. Charitable Organizations such as United Way, UNICEF, American Red Cross, etc.

3. Credit Unions such as the LA City Employees Federal Credit Union, LA Police Credit Union, etc.

4.* Fraternal and Educational organizations such as Knights of Columbus, Elk’s Lodge, USC Phi Kappa Psi Fraternity, etc.

5.* other civic, military, state, county and municipal organizations, and associations.

* Items 4 and 5 are exempt ONLY if they are engaged in conducting a theatrical, art, or sporting exhibitions or similar event, or any dance, concert, or lecture, when the net proceeds derived from any of the same are not used for the purpose of private gain to any individual but are used wholly for the benefit of such organization or for charitable or benevolent purposes.
Lesson 1 – Schedule D

Guidelines for Non-profit Entities Without Exempt Certificate

If the taxpayer claims to be non-profit, but has no tax exempt certificates, take the follow steps:

1. Provide the taxpayer the attached form (three copies). These forms may be obtained from the Processing Unit in Room 101.

2. Identify the tax classifications under which the taxpayer requests exemption. Have the taxpayer enter these Classifications under number six on the form.

3. Request the taxpayer to submit the completed form, in triplicate, to the Special Investigations Unit along with the following:
   a. Articles of Incorporation
   b. By-laws
   c. Federal exemption letter from the Internal Revenue Service
   d. State exemption letter from the California Franchise Tax Board

4. Follow-up every 30 days to determine if the exemption(s) was granted or denied. Exemptions under Section 21.190/21.49(c) are granted by Special Investigations on LATAX.

5. Secure waiver of the Statute of Limitations are needed until unit the exemption is granted or the audit is completed.

6. If the exemption code does not appear on LATAX within six months, check with Special Investigations to determine the status of the exemption request.
TAX AND PERMIT DIVISION

DATE: March 21, 2009

TO: All Tax and Permit Division Employees

FROM: Dedra True Communications Officer

SUBJECT: LIMITED LIABILITY COMPANIES (LLC)

In the past several years, we have all become aware that the legal ownership of many new businesses is an LLC. The following provides some background and other pertinent information about Limited Liability Companies.

BACKGROUND

In 1994 California authorized the formation of LLCs through the Beverly-Killea Limited Liability Company Act. LLCs are now recognized as legal entities and may consist of one or more members, including individuals, partnerships, limited partnerships, trusts, estates, associations, corporations, other limited liability companies or other business entities. The member(s) must file Articles of Organization and an Operating Agreement with Secretary of State and pay an annual limited liability tax of $800 to the Franchise Tax Board.

Currently all 50 states and Washington, D.C. have provisions for LLCs and the popularity of this business organization is expected to grow. LLCs are considered a “hybrid” organization, combining the best aspects of a corporation and a partnership. There are two key advantages in this arrangement, making this an attractive choice for new businesses. First, members have the protection of personal assets from business debt, similar to shareholders of a corporation. And second, when properly structured, members have the tax advantages of a partnership where profits/losses are reported only once on the personal income tax returns of the owners. Another advantage is the ability to have non-U.S. Citizens as members, which is not permitted under most corporate structures.

Professional partnerships, including accountants, attorneys and architects are prohibited from forming LLCs. They can however, form a Limited Liability Partnership (LLP), with the Secretary of State.

PROCESSING AND ENFORCEMENT ISSUES

Since LLCs are recognized by all 50 Secretaries of State as legal entities, it is appropriate to set them up as the legal ownership in LATAX master files. However, an LLP requires the name of a general partner as the legal owner.
In some cases a business owned by an LLC will be required to apply for a Police Commission Permit. In this case at least one, but preferably up to three managing members of the LLC must personally apply for the permit, including completing the Application for Police Permit and being fingerprinted. Even if the members of the LLC include a corporation and/or another LLC, up to three individuals must apply for the permit. Without an individual’s application and fingerprints, the Police Commission will not grant the permit.

For additional information, please refer to the attached table, which provides a comparison between LLCs, partnerships, and various types of corporations.

Attachment

C: Sylvia Nesbit, Chief II
### COMPARISON: LIMITED LIABILITY COMPANIES, CORPORATION and PARTNERHIPS

<table>
<thead>
<tr>
<th>Characteristics</th>
<th>Limited Liability Company</th>
<th>General Corporation</th>
<th>Close Corporation</th>
<th>Professional Corporation</th>
<th>S-Corporation</th>
<th>Partnership</th>
<th>Limited Liability Partnerships</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Longevity</strong></td>
<td>Subject to dissolution upon the death, retirement, resignation, bankruptcy or dissolution of an LLC member. Date of termination must be designated in articles of organization and cannot exceed 30 years in many states.</td>
<td>Continuous. Corporations have unlimited life extending beyond the illness or death of the owners.</td>
<td>Continuous.</td>
<td>Continuous.</td>
<td>Continuous.</td>
<td>Can be continuous if stipulated in the binding agreement.</td>
<td>Can be continuous if stipulated in the binding agreement.</td>
</tr>
<tr>
<td><strong>Federal Taxation</strong></td>
<td>Avoids double taxation meaning that profits/losses can be passed through to the personal income tax returns of the owners.</td>
<td>Difficult to take assets out of the business without creating a taxable event. Subject to double taxation because the corporation is subject to tax as well as the shareholders.</td>
<td>Subject to double taxation.</td>
<td>Subject to double taxation. More state and federal rules and regulations relating to the specific professional service provided by the corporation</td>
<td>S-Corporations have the same basic advantages of a general or close corporation with the added ability to avoid “double taxation” by filing with an “S” status.</td>
<td>Tax benefits are passed directly to the partners. Any losses suffered by the partnership are passed directly to the partners as potential tax write offs.</td>
<td>Tax advantages are limited to the extent that the partnership experiences a loss, which is then spread out to the limited partners.</td>
</tr>
<tr>
<td><strong>Ownership/Formation</strong></td>
<td>Does not have the ownership restrictions of an “S” Corporation making them ideal for foreign investors. Some states like California allow one member to form an LLC just like any corporation. Not available for licensed professionals such as attorneys and accountants.</td>
<td>Transfer of ownership is facilitated by sale of stock, change of ownership need not of affect management. More expensive to form and more legal formality required.</td>
<td>Owners can be involved actively, indirectly, or on a limited basis. Directors of a Close Corporation must first offer the shares to existing stockholders before selling to new shareholders. Limited to 30-50 stockholders.</td>
<td>Owners are usually licensed professionals and, with certain exceptions, must obtain a certificate of registration from the governing agency regulating that profession. Unlimited amount of stockholders.</td>
<td>Shareholders must be citizens or residents of the United States. Nonresident aliens cannot be shareholders. Maximum number of shareholders is 75.</td>
<td>Two or more co-owners engage in conducting and operating a business.</td>
<td>One or more “general” partners who manage the business plus one or more “limited” partners who contribute capital.</td>
</tr>
<tr>
<td><strong>Other</strong></td>
<td>Owners have the protection of personal assets from business debt without being subject to the same formalities as a corporation.</td>
<td>Owner’s personal assets are protected from business debt and liability.</td>
<td>If the debts of the partnership exceed partnership assets, creditors of the partnership may pursue the individual partners to satisfy debts.</td>
<td>In exchange for limited liability, the limited partner relinquishes control over the operations and policy-making decisions to the general partners.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
ILLUSTRATIONS: (Revised Procedure, See footnote for old policy)

The following chart illustrates the new policy and the applicable payment codes for new and small business exemptions.

<table>
<thead>
<tr>
<th>New Business*</th>
<th>1st Year Exemption</th>
<th>2nd Year Tax Exemption</th>
<th>Backtax Exemption</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Time Filing 1st year</td>
<td>Yes</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>• Time Filing 2nd year</td>
<td>---</td>
<td>Yes, if under $500,000</td>
<td>Yes, if under $500,000</td>
</tr>
<tr>
<td>• Time Filing 1st year</td>
<td>Yes</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>• Untimely Filing 2nd year</td>
<td>---</td>
<td>No (1)</td>
<td>No (2)</td>
</tr>
<tr>
<td>• Untimely Filing 1st year</td>
<td>No</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>• Time Filing 2nd year</td>
<td>---</td>
<td>Yes, if under $500,000</td>
<td>Yes, if under $500,000</td>
</tr>
<tr>
<td>• Untimely Filing 1st year</td>
<td>No</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>• Untimely Filing 2nd year</td>
<td>---</td>
<td>No (3)</td>
<td>No (4)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Small Business</th>
<th>Exemption</th>
<th>Backtax Exemption</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Timely Filing</td>
<td>Yes</td>
<td>---</td>
</tr>
<tr>
<td>• Late Filing</td>
<td>No (5)</td>
<td>---</td>
</tr>
</tbody>
</table>

(1), (2), (3), (4): Under the old policy, businesses were exempt if under $500,000
(5): Under the old policy, small businesses were exempt if filing late
Lesson 2

BUSINESS TAX REGISTRATION CERTIFICATE

OUTLINE

1. FORM
   Sec. 21.08

2. POSTING AND KEEPING
   Sec. 21.09

3. CHARGE FOR DUPLICATION
   Sec. 21.10

4. SEPARATE BTRC
   A. Section 21.06(a)
   B. Section 21.06(b)
   C. Secondary Business Activity

5. BTRC TRANSFER
   A. Sec. 21.11
   B. Statutory Merger

6. BTRC SUSPENSION
   Sec. 21.12
Lesson 2

BUSINESS TAX REGISTRATION CERTIFICATE (BTRC)

1. FORM (Section 21.08)

   **Schedule A:** Sample of BTRC

   a. Each business tax registration certificate shall be prepared and issued by the Director of Finance and shall state upon the face thereof the following:
      (i) Name
      (ii) Business Classification and Code Section
      (iii) Address
      (iv) Period Started

   b. Each business tax registration certificate shall state on the back thereof the following:
      This business tax registration certificate signifies that the person named on the face hereof has fulfilled the requirements of Article 1 of Chapter II of the Los Angeles Municipal Code by registering with the Director of Finance for the purpose of paying business tax for the classification of business for which this certificate is issued.

     Emphasize that a certificate does not constitute a permit and once issued it is good until suspended or cancelled. A BTRC is evidence that a business is registered with the City and is given the privilege to engage in a specific business activity.

2. POSTING AND KEEPING

   Briefly discuss **Sec. 21.09:** Posting and Keeping

   a. **With a fixed place of business:** post in a conspicuous place

   b. **Without a fixed place of business:** carry BTRC with the person at all times while engaging in business

   c. **Stickers or symbols:** affix upon each vehicle, machine, etc.

   d. It shall be a misdemeanor for any person to fail to affix as required herein any identifying sticker or symbol to the vehicle, device, machine, piece of equipment, or coin-operated machine for which it has been issued, or to give
away, sell or transfer such identifying sticker or symbol to another person, or to permit its use by another person. (Amended by Ord. No. 160389, Eff. 10/21/85.)

3. **CHARGE FOR DUPLICATION**

Briefly discuss Section 21.10: Charge for Duplication
(Amended by Ord. No. 179984, Eff. 8/3/08.)

Must pay $5.00 to replace lost or destroyed BTRC.

If only making a name change or address change, then it is free.

4. **SEPARATE BTRC**

Discuss Section 21.06: Separate BTRC for each Location and each Business Tax Classification

Explain that in the Old TAPS system, we used to have separate accounts, but in LATAX, there is one master account and if there are multiple locations, each location is assigned a number using the same master account

Example for 2 locations:
- Master: 0000123456 (always 10 digits)
- First location: 0000123456-0001-X
- Second Location: 0000123456-0002-X

Note: The x is a single digit no. (1-9) randomly assigned by the computer

A. **Section 21.06(a)**

a. **Multiple locations within the City:**

- deemed to be engaged in a separate business at each branch or location.
- must obtain a separate BTRC and pay a separate tax for each classification of business engaged in for each location.

b. **One or more locations outside the City:**

- must have one BTRC for all out-of-City locations
- if you move one out to in, get a new BTRC, and will be treated as new: prior but must reconstruct the gross receipts for that out of City location.
c. **Warehouse:**

   With other locations in the City:
   - in-City warehouse **not** required to have BTRC unless it is also a sales location.

   **Without any other locations in the City:**
   - in-City warehouse must have a BTRC.

B. **Sec. 21.06(b)**

   One BTRC is needed for all machines, vehicles, etc. but one identifying sticker or symbol for each machine, vehicle, etc.

C. **Secondary Business Activity**

   Discuss **Schedule B:** Memo on Persons Engaged in Secondary Business Activities; P. Inafuku; 12-11-89.

   When a person engaged in Los Angeles carries a secondary business in the City and has gross receipts from such activity of $3,000 or more, a separate BTRC will be required.

   If the annual gross receipts from the secondary business activity are less than $3,000, the gross receipts may be included in the measure of the person’s primary business activity, in lieu of obtaining a separate BTRC.

   Will be discussed in-depth in Lesson 13: Gross Receipts.

5. **BTRC TRANSFER**

   Two authorities that allow the transfer of BTRC: (a) Sec. 21.11 transfer of BTRC and (b) statutory merger.

   A. **Sec. 21.11: BTRC Transfer**

   Both of the following conditions must be met to be able to transfer a BTRC under Sec. 21.11:

   a. **The business must be sold or transferred.**

      Sale or transfer of business means there is a change in legal entity operating the business (immediate owners).
A taxpayer must be in a situation where the business is transferred from one legal entity to another.

Sec. 21.11 contemplates that:

(i) the total business activity for which a certificate is issued shall be transferred, not merely a portion of the activity.
(ii) the transfer of business is from one person to another (from one legal entity to another).

Transfer or sale of stock is not a transfer or sale of business. It results in a change in the ultimate owners of the business (stockholders or investors), not in the immediate owners. Since in a transfer or sale of stock the legal entity that is operating the business remains the same, the taxpayer has no option but to continue using the same BTRC.

Example:

ABC Corporation is engaged in the business of manufacturing clothes. It is wholly owned by "A." Subsequently, "X" purchases 100% of ABC Corporation's stock from "A." This change in the ultimate ownership of ABC Corporation will not affect its registration certificate because it (ABC Corporation) still owns the business. There has been no change in the legal entity owning the business (immediate owner). The business is not transferred or sold. It is still owned and operated by ABC Corporation. Only the ultimate owner (investor) of ABC Corporation is changed from "A" to "X."

Sale of assets of a business - is a transfer or sale of business. Here, there is a change in the legal entity operating or running the business. Hence, the transfer requirement of Section 21.11 applies.

Example:

"X" purchases all of the assets (entire business) of ABC Corporation.

b. **The ultimate ownership of the business is substantially similar before and after the transfer.**

Ultimate owner refers to the person who has the equity interest in a business, such as stockholders, partners, or other persons holding an interest in a corporation or other entity.

Substantially similar means more than 50% of the ultimate ownership remains the same before and after the business was sold or transferred. If the ownership is split 50-50 between two entities, a new BTRC should be acquired unless they jointly agreed to let the other retain the old certificate.
Example:

"A" wholly owns ABC Corporation, which is engaged in the business of manufacturing clothes. "A" decides to run that business as a sole proprietor, instead of through a corporation. Therefore, "A," as sole proprietor, can acquire a new registration certificate because the legal entity owning the business has been changed - from ABC Corporation to "A." However, "A" may also elect to continue using ABC Corporation's registration certificate since there has been a change in the legal entity who owns the business and since the ultimate owner of the business, "A," is substantially similar before and after the business is transferred from ABC Corporation to "A."

B. Statutory Merger

Pursuant to California Corporation Code Section 1106, a surviving corporation in a statutory merger under appropriate circumstances has the option of using the BTRC of the disappearing corporation. This transfer of BTRC is possible because of the legal effect of a merger. The BTRC can be transferred whether or not the ultimate owners are substantially similar before and after the merger.

6. SUSPENSION

Briefly discuss Sec. 21.12: BTRC Suspension

(Title and Section Amended by Ord. No. 160389, Eff. 10/21/85.)

a. Whenever a person fails to comply with any provision of this article pertaining to business tax or Article 1.11 of this chapter pertaining to payroll expense tax, or any rule or regulation, the Director of Finance, upon hearing, after giving such person 10 days notice in writing of time and place of hearing and requiring to show cause why his registration certificate should not be suspended, may suspend any one or more of the registration certificates held by such person.

b. Any person who engages in any business after the registration certificate issued therefore has been suspended, and before such suspended certificate has been reinstated, shall be guilty of a misdemeanor.
Date: December 11, 1989
To: Tax and Permit Personnel
From: Paul Inafuku, Communications Officer
Subject: PERSONS ENGAGED IN SECONDARY BUSINESS ACTIVITIES

Where a person engaged in business in Los Angeles carries on a secondary business activity in this city, he shall be deemed to be also engaged in business under the secondary business activity if his annual gross receipts from such activity are $3,000.00 or more, and a separate Business Tax Registration Certificate will be required.

If the annual gross receipts from the secondary activity are less than $3,000.00, such gross receipts may be included in the measure of tax reported for the person’s primary business activity, in lieu of obtaining a separate Business Tax Registration Certificate.

In determining whether the secondary business activity requires a Business Tax Registration Certificate, the annual gross receipts before apportionment shall be used. For example, an out-of-city wholesaler engaged in business in Los Angeles makes retail sales of $4,000.00 through solicitation activities in Los Angeles. Such person shall be deemed to be also engaged in the business or selling at retail, irrespective of the fact that the measure of tax would be less than $3,000.00 under the apportionment provisions of City Clerk’s Ruling No. 13.

This bulletin does not pertain to persons engaged in only one business activity in Los Angeles, with total gross receipts less than $3,000.00. Any questions regarding such matters should be referred to your supervisor.

PI: meg
LESSON 3

OVERVIEW OF BUSINESS TAX CLASSIFICATION SECTIONS

OUTLINE

I. BUSINESS TAX CLASSIFICATIONS

II. CONSOLIDATION OF FUND CLASSES

Tax Rate Prior to Consolidation
Tax Rates After Consolidation

III. COMMON CHARACTERISTICS

A. Tax Period
   1. Annual
   2. Quarterly
   3. Monthly
   4. Daily

B. Tax Measure
   1. Flat Tax Rate By Period
   2. Flat Tax Rate By Item
   3. Gross Receipts

C. 1. Tax Rate table 2008
    2. Tax Rate Table 2009&2010

IV. FOCUS OF THE TRAINING

1. Sec. 21.166/21.42/21.41 (g) : Wholesale Sales
2. Sec. 21.167/21.44 (a)/21.43 (e): Retail Sales
3. Sec. 21.190:/21.49 (c): Professions and Occupations
4. City Clerk Ruling Nos. 13, 14, and 15
Lesson 3

OVERVIEW OF BUSINESS TAX CLASSIFICATION SECTIONS

1. BUSINESS TAX CLASSIFICATIONS
   - There are 2 general types of business:
     - (i) service type
     - (ii) sale or rental of tangible property

2. CONSOLIDATION OF FUND CLASSSES
   Prior to 2008, there were around 50 business tax classification sections, with assigned tax rates for each classification.
   - Effective 2008, most of these business tax classification were consolidated into 9-fund classification with 6 tax rates. It eliminates the gross receipts threshold and allows the taxpayer to pay a tax calculated at a rate per thousand dollars of gross receipts based on the business classification. It also eliminates the minimum tax at the time of registration and the taxpayer simply pays the tax due on a per thousand bases for the first and second year during the renewal period. For new business in 2007, this change took effect immediately.
   - Effective 3/20/15, Ordinance #183419 amends Subsection (f) of Section 21.33 to lower the business tax rate on Professions and Occupations - Section 21.49 (c) over time and amend Sections 21.41 and 21.43 while repealing Sections 21.42, 21.44, and 21.45 so as to consolidate several business classifications into two sections.
     See Schedule C for Fund Consolidations
   - The non-gross receipts, contractor and sale of real property were not included in the fund consolidation (show table)

3. COMMON CHARACTERISTICS
   The 50-business tax classification sections may be grouped based on their common characteristics, such as:

A. TAX PERIOD:
   - Tax period is defined as a cycle of business after which Business Tax Registration Certificate must be renewed by paying the tax due.
   - The Business Tax Periods are as follows:
     - (i) Annual
     - (ii) Quarterly
     - (iii) Monthly
     - (iv) Daily
   - Briefly discuss Schedule A: Business Tax Sections by Period
B. **TAX MEASURE:**

- Tax measure is defined as the basis of tax.

- The Business Tax By Tax Measure is as follows:

  (i) Flat Tax Rate Per Period - 10 sections

  (ii) Flat Tax Rate Per Item - 12 sections

  (iii) Based upon Gross Receipts - 28 sections including based on cost(21.109)

- Briefly discuss **Schedule B:** Business Tax Sections by Tax Measure

4. **FOCUS OF THE TRAINING**

   For the most part, this training will focus on the study of the various sections whose tax measures are based upon gross receipts. Emphasis will be on the following:

   a. Section 21.166/21.42/21.41(g) (Wholesale Sales)
   b. Section 21.167/21.44/21.43(e) (Retail Sales)
   c. Section 21.190/21.49(c) (Professions and Occupations)
   d. Section 21.192/21.46(e) (Personal Property Rental)
   e. Section 21.188 (Contractors)
   f. **City Clerk Ruling Nos. 2, 13, 14, 15 and 17 which are means to apportion**

       gross receipts.
# Lesson 3 – Schedule A

## BUSINESS TAX SECTIONS BY PERIOD

### ANNUAL:

1. (F) 21.55 • Auctioneer
2. (G) 21.56/21.49(a) • Auto Park
3. (G) 21.59/21.46(a) • Sporting Events
4. (f) 21.62 • Billiards, Etc.
5. (f) 21.63 • Amusement Machines
6. (f) 21.64 • Music Machine
7. (G) 21.65/21.46(b) • Vending Machines
8. (f) 21.65.1 • Coin-Operated Service Machines
9. (f) 21.70 • Bowling Alleys, Tables, Etc;
10. (G) 21.78/21.46(c) • Collection Agency
11. (G) 21.79/21.47(a) • Commission Broker
12. (G) 21.80/21.47(b) • Independent Telemarketing Agency
13. (G) 21.94 • Rides
14. (G) 21.98/21.43(d) • Commercial Rentals
15. (G) 21.98.1/21.43(b) • Swap Meet Operator
16. (G) 21.98.2/21.43(a) • Antique/Collector Show Promoter
17. (G) 21.99/21.43(c) • Hotel, Apartment, Etc.
18. (G) 21.102/21.44(b)/21.43(f) • Laundry, Cleaning and Dyeing Agent, Collector, Linen Supply, Shoe Repair
19. (F) 21.108 • Lending Money, Etc.
20. (G) 21.109 • Motion Picture Producer
21. (f) 21.141/21.46(d) • Storage, Freight Forwarding
22. (G) 21.142 • Stevedores
23. (G) 21.143/21.41(f) • Tugboat and Barge Operators
24. (G) 21.147/21.45(b)/21.43(h) • Theaters
25. (G) 21.166/21.42/21.41(g) • Wholesale Sales
26. (G) 21.167/21.44(a)/21.43(e) • Retail Sales
27. (G) 21.187 • Common Carrier Bus
28. (G) 21.188 • Contractor
29. (G) 21.189.1/21.48 • Miscellaneous Services
30. (G) 21.189.2/21.45(a)/21.43(g) • Radio and Television Broadcaster
31. (G) 21.189.4/21.41(b) • Multimedia Businesses
32. (G) 21.189.3/21.41(a) • Child Care Provider
33. (G) 21.190/21.49(c) • Professions and Occupations
34. (G) 21.191/21.49(b) • Health Maintenance Organization
35. (G) 21.192/21.46(e) • Personal Property Rental
36. (G) 21.193 • Sale of Real Property
37. (f) 21.194 • Transporting Persons for Hire
38. (f) 21.195 • Trucking/Hauling
39. (f) 21.196 • Miscellaneous Trucking
40. (G) 21.197/21.41(e) • Telephone Services
QUARTERLY:

1. (F) 21.53  ▪ Amusement Park
2. (f) 21.83  ▪ Dance Hall
3. (G) 21.169 ▪ Christmas Tree

MONTHLY:

1. (f) 21.98.1 ▪ Swap Meet Operator (Space Rental Tax)

DAILY:

1. (f) 21.74 B  ▪ Circus – Temp.
2. (F) 21.74 C ▪ Circus – Perm. Building
3. (F) 21.75 A ▪ Sideshow
4. (F) 21.75 B ▪ Carnival
5. (F) 21.75 C ▪ Circus Parade
6. (F) 21.85  ▪ Public Dance

Notes:  (F) – Flat Tax Rate By Period; (f) – Flat Tax Rate By Item; (G) – Gross Receipts
Lesson 3 – Schedule B

BUSINESS TAX SECTIONS BY TAX MEASURE

FLAT TAX BY PERIOD:

41. (Q) 21.53  ▪ Amusement Park
42. (A) 21.55  ▪ Auctioneer
43. (D) 21.74 C ▪ Circus
44. (D) 21.75 A ▪ Sideshow
45. (D) 21.75 B ▪ Carnival
46. (D) 21.75 C ▪ Circus Parade
47. (D) 21.85  ▪ Public Dance
48. (A) 21.94  ▪ Rides
49. (A) 21.108 ▪ Lending Money, Etc.
50. (Q) 21.169 ▪ Christmas Tree

FLAT TAX BY ITEM:

1. (A) 21.62  ▪ Billiards, Etc.
2. (A) 21.63  ▪ Amusement Machine
3. (A) 21.64  ▪ Music Machine
4. (A) 21.65.1 ▪ Coin-Operated Service Machine
5. (A) 21.70  ▪ Bowling Alleys, Tables, Etc.
6. (D) 21.74 B ▪ Circus – Temp.
7. (Q) 21.83  ▪ Dance Hall
8. (M) 21.98.1/21.43(b) ▪ Swap Meet Operator (Space Rental Tax) *Operator may pass this tax on the swap meet vendor
9. (A) 21.142 ▪ Stevedores
10. (A) 21.194 ▪ Transporting Person for Hire
11. (A) 21.195 ▪ Trucking/Hauling
12. (G) 21.196 ▪ Miscellaneous Trucking
GROSS RECEIPTS:

1. (A) 21.56/21.49(a) • Auto Park
2. (A) 21.59/21.46(a) • Sporting Events
3. (A) 21.65/21.46(b) • Vending Machines
4. (A) 21.78/21.46(c) • Collection Agency
5. (A) 21.79/21.47(a) • Commission Broker
6. (A) 21.80/21.47(b) • Independent Telemarketing Agency
7. (A) 21.98/21.43(d) • Commercial Rentals
8. (A) 21.98.1/21.43(b) • Swap Meet Operator
9. (A) 21.98.2/21.43(a) • Antique / Collector Show Promoter
10. (A) 21.99/21.43(c) • Hotel, Apartment, Etc.
11. (A) 21.102/21.44(b)/21.43(f) • Laundry, Cleaning and Dyeing Agent, Collector, Linen Supply, Shoe Repair
12. (A) 21.109 • Motion Picture Producer
13. (A) 21.141/21.46(d) • Storage, Freight Forwarding
14. (A) 21.143/21.41(f) • Tugboat and Barge Operators
15. (A) 21.147/21.45(b)/21.43(h) • Theater
16. (A) 21.166/21.42/21.41(g) • Wholesale Sales
17. (A) 21.167/21.44(a)/21.43(e) • Retail Sales
18. (A) 21.187 • Common Carrier Bus
19. (A) 21.188 • Contractor
20. (A) 21.189.1/21.48 • Miscellaneous Services
21. (A) 21.189.2/21.45(a)/21.43(g) • Radio and Television Broadcaster
22. (A) 21.189.3/21.41(a) • Child Care Provider
23. (A) 21.189.4/21.41(b) • Multimedia Businesses
24. (A) 21.190/21.49(c) • Professional and Occupations
25. (A) 21.191/21.49(b) • Health Maintenance Organization
26. (A) 21.192 • Personal Property Rental
27. (A) 21.193 • Sale of Real Property
28. (A) 21.197/21.41(e) • Telephone Services

Notes: (A) – Annual Tax Period; (Q) – Quarterly Tax Period; (M) – Monthly Tax Period;
(D) – Daily Tax Period
# Business Tax Rate Table for 2007 (includes a 4.0% Rate Reduction)

<table>
<thead>
<tr>
<th>Fund / Class</th>
<th>Description</th>
<th>Type of Tax Base</th>
<th>Minimum Tax</th>
<th>Minimum Gross Receipts</th>
<th>Tax Rate per add'l $1000</th>
<th>Payment Frequency</th>
<th>LAMC Code Section</th>
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<td>L056</td>
<td>Auto Park</td>
<td>Gross Receipts</td>
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<td>Gross Receipts</td>
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<td>21.59</td>
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<td>Gross Receipts</td>
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<td>$25,000</td>
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<td>Annual</td>
<td>21.65</td>
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<tr>
<td>L078</td>
<td>Collection Agency</td>
<td>Gross Receipts</td>
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<td>$300,000</td>
<td>$2.76</td>
<td>Annual</td>
<td>21.78</td>
</tr>
<tr>
<td>L079</td>
<td>Commission Broker</td>
<td>Gross Receipts</td>
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<td>Annual</td>
<td>21.79</td>
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<tr>
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<td>Commission Broker Multimedia</td>
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</tr>
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<td>Commission Broker Adult Books</td>
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<td>$1.37</td>
<td>Annual</td>
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<tr>
<td>L298</td>
<td>Swap Meet Operator</td>
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<td>L799</td>
<td>Adult Motel</td>
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<td>$1.37</td>
<td>Annual</td>
<td>21.99</td>
</tr>
<tr>
<td>L102</td>
<td>Laundry / Cleaner / Shoe Repair</td>
<td>Gross Receipts</td>
<td>$102.75</td>
<td>$75,000</td>
<td>$1.37</td>
<td>Annual</td>
<td>21.99</td>
</tr>
<tr>
<td>L141</td>
<td>Storage, Freight Forward</td>
<td>Gross Receipts</td>
<td>$165.60</td>
<td>$60,000</td>
<td>$2.76</td>
<td>Annual</td>
<td>21.141</td>
</tr>
<tr>
<td>L143</td>
<td>Tugboat</td>
<td>Gross Receipts</td>
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<td>$18,000</td>
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<td>Annual</td>
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</tr>
<tr>
<td>L147</td>
<td>Theater</td>
<td>Gross Receipts</td>
<td>$61.65</td>
<td>$45,000</td>
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</tr>
<tr>
<td>L747</td>
<td>Adult Theater</td>
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<tr>
<td>L146</td>
<td>Wholesale Sales</td>
<td>Gross Receipts</td>
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<td>$100,000</td>
<td>$1.09</td>
<td>Annual</td>
<td>21.166</td>
</tr>
<tr>
<td>L266</td>
<td>Wholesale - Blind</td>
<td>Gross Receipts</td>
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<td>$100,000</td>
<td>$1.09</td>
<td>Annual</td>
<td>21.166</td>
</tr>
<tr>
<td>L366</td>
<td>Wholesale Multimedia</td>
<td>Gross Receipts</td>
<td>$109.00</td>
<td>$100,000</td>
<td>$1.09</td>
<td>Annual</td>
<td>21.166</td>
</tr>
<tr>
<td>L766</td>
<td>Wholesale Adult Bookstore</td>
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<td>Annual</td>
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</tr>
<tr>
<td>L167</td>
<td>Retail Sales</td>
<td>Gross Receipts</td>
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<td>Annual</td>
<td>21.167</td>
</tr>
<tr>
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<td>Retail - Blind</td>
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<td>Annual</td>
<td>21.167</td>
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<tr>
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<td>Retail Multimedia</td>
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<td>Annual</td>
<td>21.167</td>
</tr>
<tr>
<td>L767</td>
<td>Retail Adult Books</td>
<td>Gross Receipts</td>
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<td>$75,000</td>
<td>$1.37</td>
<td>Annual</td>
<td>21.167</td>
</tr>
<tr>
<td>L188</td>
<td>Contractor</td>
<td>Gross Receipts</td>
<td>$165.60</td>
<td>$60,000</td>
<td>$1.09</td>
<td>Annual</td>
<td>21.188</td>
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<tr>
<td>L288</td>
<td>Contractor-S Gross</td>
<td>Gross Receipts</td>
<td>$99.00</td>
<td>$18,000</td>
<td>$5.50</td>
<td>Annual</td>
<td>21.190</td>
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<tr>
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<td>Miscellaneous Services</td>
<td>Gross Receipts</td>
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<td>$12,000</td>
<td>$3.85</td>
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<td>L389</td>
<td>Radio / TV / Broadcaster</td>
<td>Gross Receipts</td>
<td>$102.75</td>
<td>$75,000</td>
<td>$1.37</td>
<td>Annual</td>
<td>21.189.2</td>
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<td>L589</td>
<td>Radio / TV Multimedia</td>
<td>Gross Receipts</td>
<td>$102.75</td>
<td>$75,000</td>
<td>$1.37</td>
<td>Annual</td>
<td>21.189.2</td>
</tr>
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<td>L489</td>
<td>Child Care Provider</td>
<td>Gross Receipts</td>
<td>$21.80</td>
<td>$20,000</td>
<td>$1.09</td>
<td>Annual</td>
<td>21.189.3</td>
</tr>
<tr>
<td>L689</td>
<td>Hwd / North Hwd Multimedia</td>
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<td>$100,000</td>
<td>$1.09</td>
<td>Annual</td>
<td>21.189.4</td>
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<td>$1.09</td>
<td>Annual</td>
<td>21.189.4</td>
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<td>Gross Receipts</td>
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<td>$5.50</td>
<td>Annual</td>
<td>21.190</td>
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<tr>
<td>L390</td>
<td>Professions - Multimedia</td>
<td>Gross Receipts</td>
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<td>$18,000</td>
<td>$5.50</td>
<td>Annual</td>
<td>21.190</td>
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<tr>
<td>L790</td>
<td>Professions - Massage</td>
<td>Gross Receipts</td>
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<td>$18,000</td>
<td>$5.50</td>
<td>Annual</td>
<td>21.190</td>
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<tr>
<td>L191</td>
<td>Health Maintenance</td>
<td>Gross Receipts</td>
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<td>$18,000</td>
<td>$5.50</td>
<td>Annual</td>
<td>21.191</td>
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<tr>
<td>L192</td>
<td>Personal Property Rental</td>
<td>Gross Receipts</td>
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<td>$60,000</td>
<td>$2.76</td>
<td>Annual</td>
<td>21.192</td>
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<tr>
<td>L392</td>
<td>Property Rental Multimedia</td>
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<td>Annual</td>
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<tr>
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<td>Sale of Real Property</td>
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<td>$60,000</td>
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<td>Annual</td>
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<td>Telephone Service</td>
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<td>$60,000</td>
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<td>Annual</td>
<td>21.197</td>
</tr>
</tbody>
</table>
Consolidation of Fund Classes

Rate consolidation simplifies and reduces taxes as follows:

1. It eliminates the gross receipts threshold and allows the taxpayer to pay a tax calculated at a rate per thousand dollars of gross receipts based on the business classification.
2. It eliminates the minimum tax at the time of registration and the taxpayer simply pays the tax due on a per thousand dollar basis for the first and second year during the renewal period.
3. It consolidates business activities into six rates with nine fund classes instead of forty-two. (Reflected in the Tax Rate Table below)

Since implementation of the Small Business Exemption threshold of $100,000 in 2007 all gross receipts taxpayers, who file timely, will be paying no tax if their total taxable and non-taxable worldwide gross receipts fall below $100,000. Taxpayers with taxable and non-taxable gross receipts at or above the $100,000 threshold will pay one of six rates. Specific details can be found in the ordinance.

The 2008 RENEWALS will take into account the above changes. For NEW BUSINESSES starting in 2007, these new changes took effect immediately.

Please note: Fund Class Consolidation applies to Gross Receipt categories only. Non-Gross Receipt rates can be found here.

Business Tax Rate Table for 2008 (includes a 4.0% Rate Reduction)

<table>
<thead>
<tr>
<th>Class</th>
<th>Fund Category</th>
<th>Tax Year 2007 Fund Class #</th>
<th>Tax Year 2008 Fund Class #</th>
<th>Tax Year 2008 Tax Rate per $1,000</th>
</tr>
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<tbody>
<tr>
<td>1</td>
<td>Child Care Provider</td>
<td>L489</td>
<td>L041</td>
<td>1.05</td>
</tr>
<tr>
<td></td>
<td>Multimedia Businesses</td>
<td>L689 / L789</td>
<td>L041</td>
<td>1.05</td>
</tr>
<tr>
<td></td>
<td>Telephone Companies</td>
<td>L197</td>
<td>L041</td>
<td>1.05</td>
</tr>
<tr>
<td></td>
<td>Tugboat and Barge Operators</td>
<td>L143</td>
<td>L041</td>
<td>1.05</td>
</tr>
<tr>
<td>2</td>
<td>Wholesale Sales</td>
<td>L166 / L266 / L366 &amp; L766</td>
<td>L042</td>
<td>1.05</td>
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<td>3</td>
<td>Antique Show Promoter</td>
<td>L498</td>
<td>L043</td>
<td>1.32</td>
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<td>L043</td>
<td>1.32</td>
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<td>Hotel, Apartment</td>
<td>L099 / L799</td>
<td>L043</td>
<td>1.32</td>
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<td>Swap Meet Operator</td>
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<td>L043</td>
<td>1.32</td>
</tr>
<tr>
<td>4</td>
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<td>L044</td>
<td>1.32</td>
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<td>Retail Sales</td>
<td>L167 / L267 / L367 / L767</td>
<td>L044</td>
<td>1.32</td>
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<tr>
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<td>L389 / L589</td>
<td>L045</td>
<td>1.32</td>
</tr>
<tr>
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<td>Theater</td>
<td>L147 / L747</td>
<td>L045</td>
<td>1.32</td>
</tr>
<tr>
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<td>L046</td>
<td>2.65</td>
</tr>
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<td></td>
<td>Personal Property Rental</td>
<td>L192 / L392</td>
<td>L046</td>
<td>2.65</td>
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<td>Sporting Events</td>
<td>L059</td>
<td>L046</td>
<td>2.65</td>
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<td>Storage, Freight Forwarder</td>
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<td>L046</td>
<td>2.65</td>
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<td>Vending Machines</td>
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<td>L046</td>
<td>2.65</td>
</tr>
<tr>
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<td>L047</td>
<td>3.28</td>
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<tr>
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<td>Miscellaneous Services</td>
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<td>L048</td>
<td>3.70</td>
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<td>9</td>
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<td>L049</td>
<td>5.28</td>
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<tr>
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<td>Professions &amp; Occupations</td>
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<td>L049</td>
<td>5.28</td>
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<tr>
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<td>Health Maintenance Org.</td>
<td>L191</td>
<td>L049</td>
<td>5.28</td>
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</tbody>
</table>

Contractors (L188) and those classified under Sale of Real Property (L193) are not included in rate consolidation.
## Business Tax Rate Table for 2009-2010 (includes a 3.9% Rate Reduction)

<table>
<thead>
<tr>
<th>Class</th>
<th>Fund Category</th>
<th>Tax Year 2007 (and prior)</th>
<th>Tax Year 2008 (and beyond)</th>
<th>Tax Year 2009-2010</th>
<th>Tax rate per $1,000</th>
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<tbody>
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<td></td>
<td></td>
<td>Fund Class #</td>
<td>Fund Class #</td>
<td></td>
<td></td>
</tr>
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<td>1</td>
<td>Child Care Provider</td>
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<td>L041</td>
<td>1.01</td>
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</tr>
<tr>
<td></td>
<td>Multimedia Businesses</td>
<td>L689 / L789</td>
<td>L041</td>
<td>1.01</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Telephone Companies</td>
<td>L197</td>
<td>L041</td>
<td>1.01</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Tugboat and Barge Operators</td>
<td>L143</td>
<td>L041</td>
<td>1.01</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Wholesale Sales</td>
<td>L166 / L266 / L366 &amp; L766</td>
<td>L042</td>
<td>1.01</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Antique Show Promoter</td>
<td>L498</td>
<td>L043</td>
<td>1.27</td>
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<tr>
<td></td>
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<td>L043</td>
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<td>Hotel, Apartment</td>
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<td>Swap Meet Operator</td>
<td>L298</td>
<td>L043</td>
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<td>4</td>
<td>Laundry / Cleaner / Shoe Repair Retail Sales</td>
<td>L102</td>
<td>L044</td>
<td>1.27</td>
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<td>5</td>
<td>Radio and TV Broadcaster</td>
<td>L389 / L589</td>
<td>L045</td>
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<td>Storage, Freight Forwarder</td>
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<td>L046</td>
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<td>7</td>
<td>Commission Broker</td>
<td>L079 / L379 / L779</td>
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<td>Telemarketing</td>
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<td>5.07</td>
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<td></td>
<td>Professions &amp; Occupations</td>
<td>L190 / L390 / L790</td>
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<td>Health Maintenance Org.</td>
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</table>

### Class 1 Fee Table 2008-2010

<table>
<thead>
<tr>
<th>Class</th>
<th>Fund Category</th>
<th>2008 Fee</th>
<th>2009-2010 Fee</th>
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<tr>
<td>C009</td>
<td>Vehicle Release Fee</td>
<td>48.00</td>
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<td>N005</td>
<td>Tobacco Permit Fee</td>
<td>205.00</td>
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**Reminder:** Effective 11/01/08, Police Permit Fees increased for 2009-2010.
# City of Los Angeles
## Business Tax Rate Table
### 2009 to Present

<table>
<thead>
<tr>
<th>Fund Category</th>
<th>Fund Class TY 2007 and prior</th>
<th>Fund Class TY 2008 to 2015</th>
<th>Fund Class TY 2016 onwards (ORDINANCE)</th>
<th>Fund Class TY 2016 onwards (LATAX)</th>
<th>Tax Rate TY2009 to TY2015</th>
<th>Tax Rate TY2016 to Present</th>
</tr>
</thead>
<tbody>
<tr>
<td>Child Care Provider</td>
<td>21.189.3</td>
<td>21.41(a)</td>
<td>21.41(a)</td>
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<td>Multi Media Business</td>
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<td>21.41(c)</td>
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<td>Internet Based Data Manipulation</td>
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<td>21.41(d)</td>
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<td>Telephone Companies</td>
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<td>Apartment, Hotels</td>
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<td>21.43(b)</td>
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<td>L048</td>
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<td>Auto Park</td>
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<td>21.49(a)</td>
<td>21.49(a)</td>
<td>L049</td>
<td>$ 5.07</td>
<td><strong>4.75</strong></td>
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<td>Mutual Funds TY2012 (repealed TY2014 onwards)</td>
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<td>L171</td>
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<td>Contractor (with min Tax of $153.00) A Tax</td>
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<td>L288</td>
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<td>21.193</td>
<td>21.193</td>
<td>L193</td>
<td>$ 2.55</td>
<td>$ 2.55</td>
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Lesson 4

NEWLY ESTABLISHED BUSINESS

OUTLINE

1. DEFINITION
   Sec. 21.00(c): Newly Established Business

2. DUE DATES AND DELINQUENT DATES
   A. Sec. 21.13(b): Due Dates
   B. Sec. 21.05: Delinquent Dates

3. APPLICATION PROCESS FOR A NEW BTRC

/L4-O
Lesson 4

NEWLY ESTABLISHED BUSINESS

1. DEFINITION

Discuss Sec. 21.00(c): Newly Established Business

Newly Established Business shall mean a business which was not engaged in during the immediate preceding business tax period for that kind of business.

The following are not new business:

a. Transfer of BTRC pursuant to Sec. 21.11.

b. Change of location - where the business at the old location was discontinued at the same time or prior to the start of business at the new location.

c. The taxpayer went out of business during the immediately preceding tax period and is engaging in the same activity during the current period.

d. The new activity, although different from the one engaged in the prior period, is taxed under the same section as the business engaged in during the immediately preceding tax period, though not necessarily throughout that tax period.

2. DUE DATES AND DELINQUENT DATES
   (Amended by Ord. No. 177246, Eff. 2/18/06, Oper. 1/1/06).

   A. Discuss Sec. 21.13(b): Due Dates

   B. Discuss Sec. 21.05: Delinquent Dates

      * Briefly discuss Schedule A: Due Dates and Delinquent Dates of a newly established business.

3. APPLICATION PROCESS FOR A NEW BTRC

   * Briefly discuss the process of applying for a BTRC. (Schedule B) See updated form on website.
### Lesson 4 – Schedule A

**DUE DATES AND DELINQUENT DATES OF A NEWLY ESTABLISHED BUSINESS**

<table>
<thead>
<tr>
<th>TAX PERIOD</th>
<th>LAST DAY TO FILE</th>
<th>DELINQUENT DATES</th>
</tr>
</thead>
<tbody>
<tr>
<td>DAILY</td>
<td>Day Started</td>
<td>The next business day</td>
</tr>
<tr>
<td>MONTHLY OR</td>
<td>On the 30th day from the date the business started</td>
<td>After 30 days from the date started [21.05 (f)]</td>
</tr>
<tr>
<td>QUARTERLY</td>
<td>[based on effect of 21.05 (f)]</td>
<td></td>
</tr>
<tr>
<td>ANNUAL</td>
<td>On or before the last day of the month following the</td>
<td>After the last day of the month when the business</td>
</tr>
<tr>
<td></td>
<td>month when business started</td>
<td>started</td>
</tr>
</tbody>
</table>

**Notes:**

(a) A payment is deemed timely if postmarked on or before the date prior to delinquent date.

(b) If the due date falls on a Saturday, Sunday, or a holiday, payment on the following business day is considered timely.
# BUSINESS TAX APPLICATION

PLEASE NOTE that if you are involved with any type of SALES ACTIVITIES, either RETAIL or WHOLESALE, you are REQUIRED to also fill out the Tobacco Retailer’s Questionnaire/Application.

## The following information is subject to disclosure.

<table>
<thead>
<tr>
<th>Business Type (check one):</th>
<th>Individual</th>
<th>Partnership</th>
<th>Corporation</th>
<th>LLC</th>
<th>Trust</th>
</tr>
</thead>
</table>

**Please print or type:**

**Legal Name:**

Do not use DBA (fictitious name) here

**Business Address:**

Street Address

City State Zip Code

Please check appropriate box

- [ ] Commercial Location
- [ ] Residence

**Business Name (DBA):**

**Care Of (C/O):**

**Mailing Address:**

If different from Business Address

Street Address or P.O. Box

City State Zip Code

Please check appropriate box

- [ ] Commercial Location
- [ ] Residence

**Starting Date of Business:**

Month Day Year

---

**Social Security No. (SSN) or Federal Employer Identification No. (FEIN):**

**Sales Tax Number (Seller’s Permit):**

**Description of Business:**

(Provide in Detail)

**Web Address (optional):**

**Business Phone Number:**

**Primary Business/Professional Activity Code:**

**Secondary Business/Professional Activity Code:**

**Gross Receipts:** (if your business began prior to the current year, please complete the gross receipts information below)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
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<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Please Note:** A minimum business tax may be due based on your business activity(ies) for the first year of operation.

**Contact Person:**

**Title:**

**Contact Phone Number:**

I declare, under penalty of perjury under the laws of the State of California, that to the best of my knowledge the foregoing is true, correct and complete. 

**Signature of Owner or Agent:**

**Date:**

**Print name of Owner or Agent:**

**Daytime Telephone Number:**

**Email Address:**

---

1 This is the 6-digit Primary / Principal Business or Profession Activity Code reported on your Federal Tax Return. A Secondary business activity is one that comprises at least $1,000,000 and 40% of your gross receipts. Go to [http://finance.lacity.org/form/NAICSCODES.pdf](http://finance.lacity.org/form/NAICSCODES.pdf) for a NAICS code listing.

2 If your business is located within the City of Los Angeles and a portion of your gross revenue is derived from outside the City, or your business is located outside the City and a portion of your gross revenue is derived from inside the City, then applicable assessment formulas may reduce your tax liability.

3 Due to the large number of various business activities described under LAMC Section 21.53 to 21.197, it is not practical to list each separately. For specific activities and rates, contact the Office of Finance or visit our website @ www.lacity.org/finance.

4 By completing this form and submitting it to the Office of Finance in an electronic format, such as email, you agree that the submitted form has the same legal effect, validity and enforceability of a form submitted to us via US mail or in person. You also agree that the aforementioned form legally represents a document sent by you or your legal representative.

---

As a covered entity under Title II of the Americans with Disabilities Act, the City of Los Angeles does not discriminate on the basis of disability and, upon request, will provide reasonable accommodations to ensure equal access to its programs, services, and activities.
Lesson 5

RENEWAL DUE DATES, DELINQUENT DATES, ETC

OUTLINE

1. RENEWAL DUE DATES, AND DELINQUENT DATES
   A. Sec. 21.04: Due Dates
   B. Sec. 21.05: Delinquent Dates

2. PAYMENTS
   A. Sec. 21.15(i): Deficiency Determination
   B. Sec. 21.15(j): Payments, etc. Made by Mail
   C. Sec. 21.15(g): Minor Errors in Payments
   D. Sec. 21.15(f): Compromise of Claims

3. DELINQUENT TAXES
   A. Sec. 21.18: Installment Payment
   B. Sec. 21.19: Suit for Recovery
   C. Sec. 21.20: Debt Not Discharged by Penal Conviction
   D. Sec. 21.21: Uncollectible

/L5-O
Lesson 5

RENEWAL DUE DATES, DELINQUENT DATES, ETC.

1. RENEWAL DUE DATES AND DELINQUENT DATES

   A. Discuss **Sec. 21.04**: Due Dates

   B. Discuss **Sec. 21.05**: Delinquent Dates
      (Amended By Ord. No. 179984, Eff. 8/3/08.)
      *Use **Schedule A**: Chart of Due Dates and Delinquent Dates to explain what is timely and delinquent reporting and payment. Give examples.

2. PAYMENTS

   A. Discuss **Sec. 21.15(i)**: Deficiency Determination
      Clearly define deficiency determination. This will be discussed in detail in Lesson 6.

   B. Discuss **Sec. 21.15(j)**: Payments, etc. Made by Mail
      A payment is considered timely if postmarked on or before the day prior to delinquent date.
      If a taxpayer can provide proof that a payment is mailed on or before the due date, the payment is considered timely. Proof may be in the form of an affidavit signed by the taxpayer testifying that the payment was mailed timely. The form may be obtained from the Accounts Receivable Unit.
      If the last timely due date falls on a Saturday, Sunday, or a holiday, payment on the following business day is considered timely.

   C. Discuss **Sec. 21.15(g)**: Minor Errors in Payments
      (Amended by Ord. No. 181,860, Eff. 9/29/11.)
      If there is a discrepancy between the amount of tax paid and amount of tax due resulting in underpayment or overpayment of $30.00 or less, the Director of Finance will accept it without further notification to the taxpayer.

   D. Discuss **Sec. 21.15(f)**: Compromise of Claims
      (Amended by Ord. No. 179984, Eff. 8/3/08.)
      This allows us to accept a lower payment than the amount due.

   E. Discuss **Sec. 21.15(l)**: Electronic Funds Transfer
Effective September 25, 2004, all tax payments in the amount of $50,000 or more shall be paid via a financial institution’s electronic funds transfer (per Ordinance #176160 Eff. 9/25/04).

3. DELINQUENT TAXES

A. Discuss Sec. 21.18: Installment Payment

A delinquent tax can be paid in monthly installments, or more often, for a period of not more than one year.

*Emphasize that the taxpayer must request the installment payment plan in writing.

B. Discuss Sec. 21.19: Suit for Recovery

(Amended by Ord. No. 180368, Eff. 12/20/08.)

a. This allows us to take civil action for taxes owed.

The City may sue any person who engages in business without obtaining the required BTRC and paying the required tax. The liability shall commence from the date the taxpayer became subject to the tax for a period of up to eight (8) years.

b. An action to collect the taxes with any interest and penalty must commence within three years of the date the business tax becomes delinquent. The statute of limitations is tolled on the following instances:

1. While the City is unaware of the existence or ongoing activities of a business due to the taxpayer’s failure to obtain a registration certificate and pay a business tax.

2. While an administrative appeal is pending.

C. Discuss Sec. 21.20: Debt Not Discharged by Penal Conviction

Conviction does not relieve a taxpayer from paying the tax.

Conversely, paying the tax will not prohibit legal action from proceeding.

One or more legal remedies may be used concurrently.

D. Discuss Sec. 21.21: Delinquent Taxes - Uncollectible

(Amended by Ord. No. 141263, Eff. 12/21/07.)
This allows us to write-off taxes due which are determined to be uncollectible. For example, we are unable to locate the taxpayer or the tax due is barred by the statute of limitations.

If at a later date an amount that has been written off proves collectible, the Director of Finance can collect or attempt to collect the said amount.
### RENEWAL DUE DATES AND DELINQUENT DATES

<table>
<thead>
<tr>
<th>Due Date</th>
<th>Delinquent Date</th>
<th>Code Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>(21.04)</td>
<td>(21.05)</td>
<td>(See L-3, Schedule A)</td>
</tr>
<tr>
<td>Annual</td>
<td>January 1</td>
<td>March 1</td>
</tr>
<tr>
<td></td>
<td></td>
<td>40 various sections</td>
</tr>
<tr>
<td>Quarterly</td>
<td>First days of January, April, July, and October</td>
<td>First days of February, May, August, and November</td>
</tr>
<tr>
<td>Monthly</td>
<td>First day of each month</td>
<td>First day of the month following the month tax became due</td>
</tr>
<tr>
<td></td>
<td></td>
<td>21.98.1, 21.98.2</td>
</tr>
<tr>
<td>Daily</td>
<td>On each day</td>
<td>On the day after the day the tax became due</td>
</tr>
<tr>
<td></td>
<td></td>
<td>21.74, 21.75, and 21.85</td>
</tr>
<tr>
<td>Discontinued, Dissolved, or Terminated Delinquent Business</td>
<td>*Due on date of discontinuance, dissolution or termination</td>
<td>On the 46th day from termination of the delinquent business</td>
</tr>
<tr>
<td></td>
<td></td>
<td>All sections</td>
</tr>
<tr>
<td>Taxable due to an ordinance amendment</td>
<td>Operative date of the amending if different from the effective date. If not, use the effective date.</td>
<td></td>
</tr>
<tr>
<td>Deficiency Determination</td>
<td>Within 60 days from date of notification</td>
<td>After the 60th day from date of notification</td>
</tr>
<tr>
<td></td>
<td></td>
<td>21.05</td>
</tr>
</tbody>
</table>

**Notes:**

- A payment is deemed timely if postmarked on or before the due date.
- If the due date falls on a Saturday, Sunday, or a holiday, payment on the following business day is considered timely.

*If business is discontinued on December 31st, payment is due on or before the last day of February of the following year. This is an informal internal policy. For class training purposes, use the 46th day as delinquency date.*
Lesson 6

INTEREST, PENALTIES, REFUNDS AND STATUTE OF LIMITATIONS

OUTLINE

- INTEREST
  A. Sec. 21.05(a): Delinquent Dates
  B. Sec. 21.05(e): Interest

2. PENALTIES
   A. Sec. 21.05(b) 1: Original Delinquency
   B. Sec. 21.05(b) 2: Continued Delinquency
   C. Sec. 21.05(b) 3: Deficiency Determinations
      1. Sec. 21.15(i): Definition
      2. Sec. 21.05(b): Deficiency Determination
   D. Sec. 21.15(c): Negligence
   E. Sec. 21.15(d): Fraud
   F. Sec. 21.15(e): Extension of Time to File Renewal
   G. Sec. 21.15(f): Penalties Merge with Tax

3. REFUNDS
   A. Sec. 21.07: Refunds of Overpayment
      1. Sec. 22.12 and 22.13
      2. Sec. 21.07(a)
      3. Sec. 21.07(b)
   B. Sec. 21.05(b) 4: Overpayment

4. STATUTE OF LIMITATIONS
   A. Explanation of the Statute of Limitations
   B. Waivers of Statute of Limitations
      Departmental Policy on Securing Waivers of Statute of Limitations
      Ordinance # 180358: Look back period for unregistered business
   C. Period to file lawsuit
      1. On Delinquency
      2. On Deficiency
LESSON 6

INTEREST, PENALTIES, REFUNDS AND STATUTE OF LIMITATIONS

1. INTEREST

A. Review Sec. 21.05(a) 1 through 5.
   Use Schedule A of Lesson 5 as counter reference

   *Advise the students when a payment is considered timely and when it is considered delinquent. Explain how to determine the number of month’s delinquent.

   Example: The tax is due by 2/28/99. Tax is paid on 5/1/99. The payment is considered to be 3 months delinquent.

B. Discuss Sec. 21.05(e): Interest

1. Be sure students have a clear understanding of what interest is and how it is calculated.

   Emphasize that interest on principal *starts from date of delinquency*. Interest is imposed monthly until paid and is not pro-ratable.

   • For tax years **prior to January 1, 2002**, the interest rate on deficiency of principal tax is also 1.25% per month, or fraction thereof.

   • For tax years **beginning January 1, 2002**, the interest rate per month, or fraction thereof, on delinquent principal tax is determined by dividing by 12 the sum of the average Federal short-term rate during the months of July, August and September of the prior calendar year plus 3 percentage points. *Discuss Schedule B*: Ordinance No. 174085 amending Sec. 21.05.

   • For tax years **beginning January 1, 2003**, *(amended by Ord. No. 179984, Eff. 8/3/08)*, the interest rate per month, or fraction thereof, on deficiency of principal tax is also determined by dividing by 12 the sum of the average Federal short-term rate during the months of July, August and September of the prior calendar year plus 3 percentage points. Unless the monthly rate is evenly divisible by one-tenth of a percentage point, it shall be rounded up to the next highest one-tenth of a percentage point. Reference *Schedule C*. 

• Interest also runs during any period of extension granted by the Director of Finance.

• Interest shall not be subject to waiver or compromise other than in accordance with Sec. 21.15. This will be expounded in Lesson 8.

2. **PENALTIES**

A. Discuss **Sec. 21.05(b)1: Original Delinquency**

1. Definition of Original Delinquency: Failure to report and pay within the time required, except deficiency determinations made by the Director of Finance within the time required shall pay a penalty of 5% of the amount of the tax in additional to the amount of tax.

   Counter Reference: Lesson 5: Schedule A

2. Clearly explain and give examples of when penalty is imposed and how to compute the penalty.

   **Tax Years Prior to January 1, 2002**
   • Rate: 20% of the principal tax due.
   • One time only.
   • Period: from first day of delinquency to June 30

   **Tax Years Beginning January 1, 2002**
   • Rate: 5% of the principal tax due. See **Schedule B**.
   • Period: from first day of delinquency to March 31
B. Discuss **Sec. 21.05(b)2: Continued Delinquency**

1. Definition of Continued Delinquency: Failure to report and pay within the original delinquency period, except deficiency determinations made by the Director of Finance.

2. Clearly explain and give examples of when penalty is imposed and how to compute the penalty.

**Tax Years Prior to January 1, 2002**

- Rate: Additional 20% of principal tax due
- One time also
- Due: July 1
- Deficiency determination is not subject to continued delinquency

**Tax Years Beginning January 1, 2002**

- Rate: Additional 5% (totaling 15%) of principal tax due for second, third, and fourth month of delinquency. See **Schedule B**.
- Rate: Additional 20% of principal tax due for fifth month of delinquency.
- Due: 5% - April 1, 5% - May 1, 5% - June 1, 20% - July 1
- Deficiency determination is not subject to continued delinquency

C. **Sec. 21.05(b)3: Deficiency Determinations**

1. Review **Sec. 21.15(i): Definition**

   Deficiency determinations mean the Office of Finance has determined that a taxpayer has additional principal tax due as a result of incorrect reporting and/or computation of self-assessed tax.

2. Discuss **Sec. 21.05(b) 3: Deficiency Determinations**
   - Rate is 20% of principal tax deficiency
   - Due: After 30 days’ notice of deficiency determination
   - One time only. Not subject to continued delinquency.
D. Discuss **Sec. 21.05(c):** Negligence
   - **Original and Continued Delinquencies:**
     10% penalty on the principal tax due is added to penalties on the original and continued delinquencies if nonpayment of any tax due is due to negligence or willful disregard of the provisions.
   - **Deficiency Determinations:**
     10% penalty on the principal tax due is added to penalties on the original and continued delinquencies if nonpayment of any tax due is due to negligence or willful disregard of the provisions.

E. Discuss **Sec. 21.05(d):** Fraud
   - **Original and Continued Delinquencies:**
     25% penalty on the principal tax is added to the penalties on the original and continued delinquencies if nonpayment of any tax due is due to fraud.
   - **Deficiency Determination:**
     25% penalty on the principal tax is added to the penalty on delinquency of a deficiency determination if deficiency is determined to be due to negligence or willful disregard of the provisions.

F. Discuss **Sec. 21.15(e):** Extension of Time to File Renewal
   - **Payment of 90% or More of Total Tax Due:**
     Effective September 25, 2004, a taxpayer that requests an extension of time not to exceed 45 days to file a renewal and pays at least 90% of the total tax due prior to the tax becoming delinquent will not incur a penalty for delinquent payment by reason of such extension **(amended by Ord. No. 176160, Eff. 9/25/04).**
   - **Payment of Less Than 90% of Total Tax Due:**
     Effective September 25, 2004, a taxpayer that requests an extension of time not to exceed 45 days to file a renewal and pays less than 90% of the total tax due prior to the tax becoming delinquent will incur a 20% penalty on any unpaid principal tax balance **(amended by Ord. No. 176160, Eff. 9/25/04).**

G. Discuss **Sec. 21.05(f):** Penalties Merge With Tax
3. REFUNDS

A. Discuss Sec. 21.07: Refunds of Overpayment

1. Discuss Sec. 22.12 and 22.13: SCHEDULE A

These are general provisions of the Municipal Code that gives power to Department Heads to pay out refunds without Council approval if the amount is not over $29,457.00 (Sec. 22.13).

Refunds of over $29,457.00 need Council approval. (Sec. 22.12)

Presently, the amount that needs to go through City Council is $50,000 and over. CAO updates the amount every new Fiscal Year through an Executive Directive signed by the Director of Finance.

2. Discuss Sec. 21.07(a):

(i). Refund claim must be filed within 1 year from the date of claimed overpayment. Give examples.

(ii). Claimants must use the form furnished by Office of Finance. Show sample of a refund claim. Forms must be filled out and filed in the manner prescribed by Office of Finance

Note: Inform students that refund claims and procedures will be discussed in detail later.

3. Discuss Sec. 21.07(b):

- Refund claims on years that are out of statute are not valid.

A refund claim, which is filed more than 1 year after the overpayment was made, cannot be granted even when the City has requested and received a Waiver of Statute of Limitation for the period. However, any overpayment in a period covered by a Waiver of Statute of Limitation requested by the City may be credited against any subsequent underpayment as stated under Section 21.05(b) 4.

- Refund claims that have been filed and denied cannot be revived, restored or continued.

Example:

A taxpayer who allows an assessment to become final by failing to request a hearing and subsequently pays the tax assessment, does not thereafter have a valid claim for refund of the tax paid.
B. Discuss Sec. 21.05(b)4: Overpayment

1. The City Clerk can allow an overpayment as credit against an underpayment under the following:

   (i). the overpayment is in a year for which a waiver of Statute of Limitation was executed by the taxpayer and is applied against an underpayment in a year in statute. (Section 21.05), or

   (ii) if within the current 3 years both the overpayment and the underpayment have a cause of action that is in existent and valid at one point in time. (State Offset Rule).

2. Give examples of items (i) and (ii) above.

4. STATUTE OF LIMITATIONS

A. Discussion:

1. Briefly explain the statute of limitations

2. Briefly explain waivers of statute of limitations

   Emphasize that a waiver also protects the interests of the taxpayer, because the overpayment in the year a waiver was executed by the taxpayer can be used as an offset to an underpayment pursuant to Section 21.05(b)4. The taxpayer must file a refund claim on any expiring tax year to keep it in statute for refund purposes.

B. Period to File Lawsuit

1. On delinquency:

   • The 3-year statute runs from the time the tax becomes delinquent i.e. original delinquency (Refer to delinquency dates on Lesson 5 Schedule A).

   • The City must sue within 3 years from date of delinquency, and not from date of assessment.

   • If the City secures a waiver of the statute of limitations, the City must file suit on or before the date to which the statute was extended.

2. On deficiency:

   • The statutes run 3 years from the time the deficiency becomes delinquent i.e. 60 days after notice.
• The City must sue within 3 years and 60 days after the billing, if there is no assessment issued. However, to be safe, the City must always issue an assessment under L.A.M.C. Section 21.16 on deficiency. Once an assessment on a deficiency is issued and served, the City has 3 years within which to sue.

• The City cannot extend the statute by issuing another assessment

3. Tolling of the statute of limitations:

In certain instances, the statute of limitations may be tolled or extended. Tolling or extending the statute of limitations allows additional time for the City of Los Angeles to pursue audit or legal action against the taxpayer for recovery of a tax liability. There are three methods of tolling/extending the statute of limitation:

• Obtain a signed waiver from the taxpayer

• The statutory limitations period may be tolled until the taxpayer had exhausted its administrative remedy. The City is not authorized to begin a legal action until the administrative remedy had been exhausted. (City of LA vs. Centex Telemangement)

• Filing of a bankruptcy petition.

4. Tolling of the statute of Limitations for unregistered businesses:

Ordinance 180358 (Schedule D) was passed amending Section 21.19 of the Los Angeles Municipal Code extending the statute of limitation(SOL) to 8 years for any business that failed to obtain a registration certificate and pay a business tax. This ordinance is effective December 20, 2008

The SOL is tolled for unregistered businesses. When an unregistered business is discovered, the City can assess for an 8-year period. However, once the unregistered business is discovered the City only has 3 years to take legal action to collect.

5. Tolling of statute of limitations for taxpayers with substantial understatement:

Ordinance 181857 (Schedule E) amended Sections 21.05 and Subsections (a) and (b) of Section 21.16 of the Los Angeles Municipal Code extending the statute of limitations to 6 years for any business that files an application for a business tax registration certificate or business tax renewal form whether timely or untimely, if there is a substantial understatement of the amount of tax due. A "substantial understatement" occurs when a taxpayer fails to report some of the tax due, and the omitted amount is 25% or more of the amount of tax reported in the business tax registration certificate application or business tax renewal form.

(Updated 07-16)
SEC. 22.12. REFUNDS –

TAX, LICENSE AND PERMIT FEES IN EXCESS OF $5,000.

(Amended by Ord. No. 173, 587, Eff. 12/7/00.)

(a)   (Amended by Ord. No. 170,745, Eff. 12/3/95.) Whenever any money is excess of $29,457.00, including any tax administered by the City, license or permit fee, or fee for the renewal or transfer thereof, is collected or received by this City, it may be refunded as herein provided, and not otherwise, if a verified claim in writing therefore is filed with the Office of Finance within 12 months after the date of payment. The claim shall be audited in the manner provided for in the Charter and shall be made on forms prescribed by the Controller. Such refund may be made only under the following conditions:

1. In any of the conditions specified under Subsection (a) of Section 22.13 of this Code;

2. Where the money paid was not required by law, or, was erroneously or illegally collected or received by this City through mistake, inadvertence or error of law or of fact, and whether paid or charged under color of any provision of this Code, or otherwise.

(b) This section is remedial in purpose; its terms and requirements shall not be deemed to limit or qualify the lawful right of any person to bring or maintain any action or proceeding based upon the general law of this state for any remedy provided by that law. (Added by Ord. No. 79,588, Eff. 5/21/38.)

(c) The monetary limitations in Subsection (a) above shall be subject to an adjustment at the beginning of each fiscal year after 1995-96 based upon the Consumer Price Index for all urban consumers for the Los Angeles area published by the United States Department of Labor, Bureau of Labor Statistics. The Controller shall calculate the adjustment in accordance with the methodology used to calculate monetary limits for intra departmental fund transfers pursuant to Los Angeles City Charter Section 343(c) and shall notify department heads in writing of the adjusted monetary limit. (Amended by Ord. No. 173,304, Eff. 6/30/00, Oper. 7/1/00.)

SEC. 22.13. REFUNDS OF TAX, LICENSE, PERMIT OR APPLICATION FEES BY HEADS OF DEPARTMENTS.

(Amended by Ord. No. 173, 587, Eff. 12/7/00.)

(a) The head of any department or office in which there is collected or received for and on behalf of the City any tax administered by the City, license fee, permit fee or application fee
may, upon written application of the person who paid such tax or fee, filed with such department or office, refund all or part of such payment as herein provided, and not otherwise, without the necessity of first receiving the approval of the City Council therefore, if such refund does not exceed the sum of $29,457.00, and if the head of such department or office is satisfied, upon such proof as may be presented to or required by him or her, that any of the following conditions exist: (First Sentence Amended by Ord. No. 174, 174, Eff. 9/21/01.)

1. Where a refund is specifically authorized by the provision of law requiring payment of the tax, license, permit or application fee.

2. Where the money is paid to secure a business tax registration certificate, license or permit not required by law.

3. Where the amount paid was in excess of the amount required by law.

4. Where the money paid was not required by law.

5. Where the applicant for any business tax registration certificate, license or permit has not, at any time after the commencement of the period or term during which the requested certificate, license or permit would have been effective, commenced or engaged in the business or occupation, or performed any act, for which the certificate, license or permit was required; or where a person has filed an application or appeal and subsequently has withdrawn said application or appeal; provided, however, that the City has not made any physical inspection or examination of real property, held or conducted any hearing, performed any tests, or done any similar work, whether required or contemplated by law or not, as a result of the filing or issuance of any of the foregoing; and, provided further, that the certificate, license, or permit, if the same has in fact been issued, must be surrendered for cancellation and a written request for such cancellation must be filed with the department of the City issuing the same on or before the date of refund. In case of refunds made under this condition, 20 percent of the amount paid shall be deducted and retained by the City to cover clerical and other overhead costs and expenses entailed in the transaction.

(b) The provisions of this section shall not relieve any person from compliance with the provisions of Section 350 of the Charter relating to the presentation of claims prior to the bringing of a suit or action thereon, or be deemed to limit or qualify the lawful right of any person to bring or maintain any action or proceeding based upon the general law of this state for any remedy provided by that law. (Amended by Ord. No. 173, 304, Eff. 6/30/00, Oper. 7/1/00.)

(c) The head of any department or office making any refund of taxes or fees hereunder is hereby authorized to cause a demand to be drawn on the general fund or such other fund in which such tax, license, permit or application fee may have been deposited. (Amended by Ord. No. 174, 174, Eff. 9/21/01.)
(d) The head of any department or office, authorizing any refund of taxes or fees hereunder, shall cause a detailed report thereof to be made, showing the names and addresses of the persons receiving such refunds, the amounts thereof, the kinds of taxes or fees refunded, and the reasons why said refunds were made. Such report shall be transmitted to the Council and the Controller at such times as the Council may require, but not less frequently than annually. *(Amended by Ord. No. 174, 174, Eff. 9/21/01.)*

(e) The monetary limitations in Subsection (a) above shall be subject to an adjustment at the beginning of each fiscal year after 1995-96 based upon the Consumer Price Index for all urban consumers for the Los Angeles area published by the United States Department of Labor, Bureau of Labor Statistics. The Controller shall calculate the adjustment in accordance with the methodology used to calculate monetary limits for intra departmental fund transfers pursuant to Los Angeles City Charter Section 343(c) and shall notify department heads in writing of the adjusted monetary limit. *(Amended by Ord. No. 173, 304, Eff. 6/30/00, Oper. 7/1/00.)*
ORDINANCE NO. 174085

An Ordinance amending Sections 21.05, 21.07 and various other sections of the Los Angeles Municipal Code, to provide for penalties and interest payable on delinquent business and other taxes and interest payable on business tax refunds.

THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:

Section 1. Subdivisions 1 and 2 of Subsection (b) of Section 21.05 of the Los Angeles Municipal Code are hereby amended to read:

1. Original Delinquency. Any person who fails to pay any tax required to be paid by this article, excepting deficiency determinations made by the Director of Finance under Subsection (i) of Section 21.15 of this article, within the time required shall pay a penalty of 5% of the amount of the tax in addition to the amount of the tax.

2. Continued Delinquency. Any person who fails to pay any delinquent tax, excepting deficiency determinations made by the Director of Finance under Subsection (i) of Section 21.15 of this article, on or before the last day of:

(i) the month in which the tax first became delinquent, shall pay a second penalty of 5% of the amount of the tax in addition to the amount of the tax and the 5% penalty first imposed;

(ii) the first month following the month in which the tax first became delinquent, shall pay a third penalty of 5% of the amount of the tax in addition to the amount of the tax and the 10% in accumulated penalties previously imposed;

(iii) the second month following the month in which the tax first became delinquent, shall pay a fourth penalty of 5% of the amount of the tax in addition to the amount of the tax and the 15% in accumulated penalties previously imposed;

(iv) the third month following the month in which the tax first became delinquent, shall pay a fifth penalty of 20% of the amount of the tax in addition to the amount of the tax and the 20% in accumulated penalties previously imposed.

Sec. 2. The first and second sentences of Subsection (e) of Section 21.05 of the Los Angeles Municipal Code are hereby amended to read:

(e) Interest. In addition to the penalties imposed, any person who fails to pay any tax required to be paid by this article or Articles 1.1, 1.3, 1.7, 1.11 or 1.15 of this Chapter shall pay interest on the amount of the tax,
exclusive of any penalty, from the date on which the tax first became delinquent until the date it is paid, during each calendar year at the rate per month, or fraction thereof, determined by dividing by 12 the sum of the average Federal short-term rate during the months of July, August and September of the prior calendar year plus 3 percentage points. Unless said monthly rate is evenly divisible by one-tenth of a percentage point, it shall be rounded up to the next highest one-tenth of a percentage point.

Sec. 3. Subsection (h) of Section 21.05 of the Los Angeles Municipal Code is hereby amended to read:

(h) Penalties and Interest Merge With Tax For Collection Purposes. For collection purposes only, every penalty imposed and such interest that is accrued under the provisions of this section shall become a part of the tax herein required to be paid.

Sec. 4. Subsection (a) of Section 21.07 of the Los Angeles Municipal Code is hereby amended to read:

(a) No claim for refund shall be allowed in whole or in part unless filed by the person claiming the overpayment, or his authorized agent on his behalf, with the City Clerk within a period of one year from the date of the claimed overpayment, and all such claims for refund of overpayment must be filed with the City Clerk on forms furnished by the City and in the manner prescribed by the City.

Sec. 5. Subsection (d) is hereby added to Section 21.07 of the Los Angeles Municipal Code to read:

(d) The City shall pay interest on the amount of each allowed claim for refund of overpayment of tax, from the date of filing the claim for refund or, in the case of a payment under protest or pursuant to a billing from the Office of Finance, from the date of overpayment, until the date the refund is paid, during each calendar year at the annual rate determined by multiplying by 12 the monthly interest rate applicable to delinquent taxes under Subsection (e) of Section 21.05 of this article.

Sec. 6. Subsection (d) of Section 21.1.6 of the Los Angeles Municipal Code is hereby amended to read:

(d) For collection purposes only, every penalty imposed and such interest as accrues under the provisions of this section shall become a part of the tax herein required to be remitted.
Sec. 7. Subsection (d) of Section 21.3.6 of the Los Angeles Municipal Code is hereby amended to read:

(d) For collection purposes only, every penalty imposed and such interest as accrues under the provisions of this section shall become a part of the tax herein required to be remitted.

Sec. 8. Subsection (d) of Section 21.7.8 of the Los Angeles Municipal Code is hereby amended to read:

(d) For collection purposes only, every penalty imposed and such interest as accrues under the provisions of this section shall become a part of the tax herein required to be remitted.

Sec. 9. Section 21.11.7 of the Los Angeles Municipal Code is hereby amended to read:.

SEC. 21.11.7. PENALTIES AND INTEREST:

(a) Penalties and interest for delinquency in paying any tax or any deficiency determination shall attach and be paid at the rates and in the same manner as is provided in Section 21.05 of this Chapter for delinquency in the payment of Business Tax.

(b) The Director of Finance shall have the power to impose additional penalties for negligence and fraud in the nonpayment of tax in the same manner and at the same rates as are provided in Section 21.05 of this Chapter for such penalties upon persons required to pay Business Tax.

(c) For collection purposes only, every penalty imposed and such interest that is accrued under the provisions of this section shall become a part of the tax required to be paid under this article.

Sec. 10. Subsection (d) of Section 21.15.8 of the Los Angeles Municipal Code is hereby amended to read:

(d) For collection purposes only, every penalty imposed and such interest as accrues under the provisions of this section shall become a part of the tax herein required to be remitted.

Sec. 11. The provisions of Sections 1, 2 and 5 of this Ordinance shall become operative on January 1, 2002.
Sec. 12. The City Clerk shall certify to the passage of this ordinance and cause the same to be published in some daily newspaper printed and published in the City of Los Angeles.

I hereby certify that the foregoing ordinance was introduced at the meeting of the Council of the City of Los Angeles JUN 20 2001, and was passed at its meeting of JUN 27 2001.

J. MICHAEL CAREY, City Clerk

By Marie Kastaniu
Deputy

JUL 12 2001
Approved

James K. Hahn
Mayor

Approved as to Form and Legality
June 14, 2001

JAMES K. HAHN, City Attorney

By Ronald Tuller
Ronald Tuller
Assistant City Attorney

File No. 98-2358-513

33513

L-6 Sched B, 4 of 4
ORDINANCE NO. 179984

An ordinance amending Article 1, Chapter II of the Los Angeles Municipal Code to revise the business tax provisions.

THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:

Section 1. Section 21.05 of the Los Angeles Municipal Code is amended to read:

SEC. 21.05. DELINQUENT DATES – INTEREST – PENALTIES.

(a) Delinquent Dates: Unless otherwise specifically provided for in other provisions of this article, all business taxes required to be paid shall be deemed delinquent if not paid on or before or within the time prescribed in this article:

1. Annual Business Taxes – on or before the close of business on the last day of the month following the month in which the tax is due.

2. Quarterly Business Taxes – on or before the close of business on the last day of the month in which the tax is due.

3. Monthly Business Taxes – on or before the close of business on the last day of the month for which the tax is due.

4. Daily Business Taxes – on or before the close of business on each day for which the tax is due.

5. Business Taxes Unpaid When a Business Has Been Discontinued, Dissolved or Otherwise Terminated – within 45 days of the termination of the business.

6. Deficiency Determinations – within 30 days from the date of notification.

(b) Penalties:

1. Original Delinquency. Any person who fails to pay any tax required to be paid by this article, except deficiency determinations made by the Director of Finance under Subsection (i) of Section 21.15 of this article, within the time required shall pay a penalty of 5% of the amount of the tax in addition to the amount of the tax.

2. Continued Delinquency. Any person who fails to pay any delinquent tax, except deficiency determinations made by the Director of Finance under Subsection (i) of Section 21.15 of this article, on or before the last day of;
(i) The first month in which the tax first became delinquent, shall pay a second penalty of 5% of the amount of the tax in addition to the amount of the tax and the 5% penalty first imposed;

(ii) The second month in which the tax first became delinquent, shall pay a third penalty of 5% of the amount of the tax in addition to the amount of the tax and the 10% in accumulated penalties previously imposed;

(iii) The third month in which the tax first became delinquent, shall pay a fourth penalty of 5% of the amount of the tax in addition to the amount of the tax and the 15% in accumulated penalties previously imposed.

(iv) The fourth month in which the tax first became delinquent, shall pay a fifth penalty of 20% of the amount of the tax in addition to the amount of the tax and the 20% in accumulated penalties previously imposed.

3. Deficiency Determinations. Any person who fails to pay a deficiency determination within 30 days after the Director of Finance has notified him or her of the amount of the deficiency, shall pay a penalty of 20% of the amount of the deficiency determination in addition to the amount of the deficiency determination. Notice of a deficiency determination shall be given in writing in the manner provided for the service of notices of assessment in Subsection (b) of Section 21.16.

4. Overpayment. For the purpose of allowing overpayments as credit against underpayments of the above-mentioned taxes, whenever the overpayment has been received by the City within the three years prior to an underpayment, or during any year for which the taxpayer, at the request of the Director of Finance, has executed a waiver of the defense of the statute of limitations with regard to any claim the City may have for business tax, the Director of Finance, when making determinations of the amount of taxes due the City, shall make an allowance of credit for any overpayment. Overpayments shall be applied to underpayments in the oldest period(s) before applying to a later period(s). Whenever an overpayment has been made prior to an underpayment, no penalty or interest shall apply upon the amount of the underpayment satisfied by the prior overpayment.

(c) Negligence. If the Director of Finance determines that the nonpayment of any tax due under this article or Article 1.6 is due to negligence or willful disregard of the provisions of this article or Article 1.6, a penalty of 10% of the amount of the tax shall be added to the tax due in addition to the penalties stated in Subdivisions 1 and 2 of Subsection (b) of this section. If the Director of Finance determines that any part of the deficiency of a deficiency determination is due to negligence or willful disregard of the
provisions of this article or Article 1.6, a penalty of 10% of the amount of the deficiency determination shall be added in addition to the penalties stated in Subdivision 3 of Subsection (b) of this section.

(d) Fraud. If the Director of Finance determines that the nonpayment of any tax due under this article or Article 1.6 is due to fraud, a penalty of 25% of the amount of the tax shall be added, in addition to the penalties stated in Subdivisions 1 and 2 of Subsection (b) of this section. If the Director of Finance determines that any part of the deficiency determination is due to fraud, a penalty of 25% of the amount of the deficiency determination shall be added, in addition to the penalties stated in Subdivision 3 of Subsection (b) of this section.

(e) Interest. In addition to the penalties imposed, any person who fails to pay any tax required to be paid by this article or Articles 1.1, 1.3, 1.7, or 1.15 of this chapter shall pay interest on the amount of the tax, exclusive of any penalty, from the date on which the tax first became delinquent until the date it is paid, during each calendar year at the rate per month, or fraction of the month, determined by dividing by 12 the sum of the average Federal short-term rate during the months of July, August and September of the prior calendar year plus three percentage points. Unless the monthly rate is evenly divisible by one-tenth of a percentage point, it shall be rounded up to the next highest one-tenth of a percentage point. Interest shall run during any period of time for which the Director of Finance has granted an extension of time. Interest required by any of the provisions of this section shall not be subject to waiver or compromise other than in accordance with the provisions of Subsections (f) and (g) of Section 21.15 of this article, or as the Council may direct.

(f) Penalties and Interest Merge With Tax For Collection Purposes. For collection purposes only, every penalty imposed and the interest that is accrued under the provisions of this section shall become a part of the tax required to be paid.

Sec. 2. Section 21.10 of the Los Angeles Municipal Code is amended to read:

SEC. 21.10. BUSINESS TAX REGISTRATION CERTIFICATES – CHARGE FOR DUPLICATION.

Duplicate registration certificates may be issued by the Director of Finance to replace any previously issued certificate, which has been lost or destroyed, upon the filing of an affidavit by the registrant or an authorized representative attesting to that fact and upon paying to the Director of Finance a fee of $5.00.

Sec. 3. Subsection (f) of Section 21.15 of the Los Angeles Municipal Code is amended to read:

(f) Compromise of Claims. The Director of Finance, subject to the provisions of the Charter, may compromise a claim for business tax where the portion of the claim proposed to be released is equal to or less than the monetary limitations set forth in
Section 22.13, as adjusted by the Controller in accordance with Subsection (e) of that section. Compromise of claims in excess of $15,000.00, requires the written approval of the City Attorney. The Director of Finance is further authorized to enter into releases of the approved compromises subject to the approval of the City Attorney.

Sec. 4. Subsection (g) of Section 21.15 of the Los Angeles Municipal Code is amended to read:

(g) **Minor Error in Payment.** In the event a discrepancy exists between the amount of tax paid and the amount of tax due under this article or Article 1.6, resulting in the underpayment or overpayment of the tax in an amount of $15.00 or less, the Director of Finance may accept and record the underpayment or overpayment without other notification to the taxpayer.
Sec. 5. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of JUN 17 2008.

KAREN E. KALFAYAN, City Clerk

By ____________________________

Deputy

Approved JUN 23 2008

Mayor

Approved as to Form and Legality

ROCKARD J. DELGADILLO, City Attorney

By ____________________________

BEVERLY A. COOK

Deputy City Attorney

Date 5/30/08

File No. 07-23161

M:\Econ Dev_Pub Finance\Public Finance\Beverly Cook\ORDINANCE 21.05.doc
ORDINANCE NO. 180358


THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:

Section 1. Subsection (m) is added to Section 21.15 of the Los Angeles Municipal Code:

(m) CREDIT CARD TRANSACTION FEE FOR ON-LINE PAYMENT. Every person who files their renewal online and pays their business tax with a credit card shall pay a transaction fee in the amount of $3.00. The purpose of this fee is to offset a portion of the administrative costs incurred by the City for those transactions.

Sec. 2. Section 2.19 of the Los Angeles Municipal Code is hereby amended to read as follows:


(a) Any tax required to be paid under the provisions of this article, shall be deemed a debt owed to the City. Any person engaging in a business required to obtain a registration certificate and pay a business tax who fails to obtain such certificate shall be liable from the date they became subject to the tax, but in no event shall such person be liable for a period greater than eight (8) years. Any person owing any tax under the provision of this article shall be liable in an action brought in the name of the City of Los Angeles in any court of competent jurisdiction for recovery of any such amount.

(b) An action to collect the business tax and any related penalty and interest must be commenced within three years of the date the business tax becomes delinquent. The statute of limitations on an action by the City to collect unpaid taxes is tolled while the City is unaware of the existence or ongoing activities of a business due to the taxpayer's failure to obtain a registration certificate and pay a business tax. The statute of limitations is also tolled while an administrative appeal is pending.
Sec. 3. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of \( \text{Nov 6, 2008} \).

KAREN E. KALFAYAN, City Clerk

By \( \text{Nov 14, 2008} \)

Mayor

Approved as to Form and Legality

ROCKARD J. DELGADILLO, City Attorney

By \( \text{Beverly A. Cook} \)

Deputy City Attorney

Date \( \text{September 26, 2008} \)

File No. CF 08-0201

M:\Econ Dev\Pub Finance\Public Finance\Beverly Cook\Ordinances\LAMC 21.15 and 21.19 tolled for unregistered bus.
ORDINANCE NO. 181857

An ordinance amending Subsection (a) of Section 21.05 and Subsections (a) and (b) of Section 21.16 of the Los Angeles Municipal Code to clarify the periods for which businesses are liable for business taxes, without affecting other tax collection periods.

THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:

Section 1. Subsection (a) of Section 21.05 of the Los Angeles Municipal Code is amended to read:

(a) Delinquent Dates: Unless otherwise specifically provided for in other provisions of this Article, all business taxes required to be paid shall be deemed delinquent if not paid on or before the time prescribed in this Article:

1. Annual Business Taxes – on or before the close of business on the last day of the month following the month in which the tax is due.

2. Quarterly Business Taxes – on or before the close of business on the last day of the month in which the tax is due.

3. Monthly Business Taxes – on or before the close of business on the last day of the month for which the tax is due.

4. Daily Business Taxes – on or before the close of business on each day for which the tax is due.

5. Business Taxes Unpaid When a Business Has Been Discontinued, Dissolved or Otherwise Terminated – within 45 days of the termination of the business.

6. Deficiency Determinations – within 60 days of the date on which the Office of Finance provides notice of determination on an assessment or notice of the decision of an Assessment Review Officer, if applicable, or within 30 days of the date on which the Office of Finance provides notice of the decision of a Board of Review, whichever is later.

Sec. 2. Subsections (a) and (b) of Section 21.16 of the Los Angeles Municipal Code are hereby amended to read:

(a) Assessment of taxes.

(1) Whenever the Director of Finance determines that any tax is due or may be due to the City of Los Angeles under the provisions of this chapter, he or
she may at any time make and give notice of an assessment of such tax; however, the period during which the Director of Finance may make and give notice of an assessment of tax is limited as follows:

(A) When a person timely files an application for a business tax registration certificate or business tax renewal form for a business subject to tax under Article I of Chapter 2 of this Code, the Director of Finance may make and give notice of an assessment of tax at any time within three years of the date on which such taxes were due under this Code;

(B) When a person timely files an application for a business tax registration certificate or business tax renewal form for a business subject to tax under Article I of Chapter 2 of this Code, the Director of Finance may make and give notice of an assessment of tax at any time within six years of the date on which such taxes were due under this Code if there is a substantial understatement of the amount of tax due on the business tax registration certificate application or business tax renewal form. For purposes of this subsection:

(i) The “tax due” on the business tax registration certificate application or business tax renewal form is the amount of tax properly due from the taxpayer for the period(s) encompassed by the business tax registration certificate application or business tax renewal form;

(ii) A “substantial understatement” occurs when a taxpayer fails to report some of the tax due, and the omitted amount is 25% or more of the amount of tax reported in the business tax registration certificate application or business tax renewal form;

(iii) The filing of an amended business tax registration certificate application or an amended business tax renewal form does not reduce the time period in which the Director of Finance may make an assessment under this subsection;

(iv) The taxpayer’s subjective or objective state of mind is irrelevant in determining whether a substantial understatement exists;

(C) When a person files an untimely business tax registration certificate application or an untimely business tax renewal form for a business subject to tax under Article I of Chapter 2 of this Code, the Director of Finance may make and give notice of an assessment of tax at any time within three years of the date on which the untimely business tax registration certificate application or untimely business tax renewal form was filed;
(D) When a person makes a willful attempt in any manner to defeat or evade a tax imposed under Article I of Chapter 2 of this Code, including the filing of a false business tax registration certificate application or business tax renewal form or the filing of such a form with the willful intent to evade a tax, the Director of Finance may make and give notice of an assessment of tax at any time;

(E) In all other circumstances, including the collection of any tax other than those set forth under Article I of Chapter 2 of this Code, the Director of Finance may make and give notice of an assessment at any time otherwise allowed by law;

(F) If more than one of these circumstances applies, the Director of Finance shall have the longest applicable period in which to make and give notice of an assessment.

(2) The notice of assessment shall separately set forth the amount of any tax known by the Director of Finance to be due or estimated by the Director of Finance, after full consideration of all information within his or her knowledge concerning the business and activities of the person assessed, to be due under each applicable section of this chapter and shall include the amount of any penalties or interest accrued on each amount to the date of the notice of assessment.

(b) Service of assessment; right to hearing.

The notice of assessment shall be served upon the person either by handing it to him personally, or by a deposit of the notice in the United States mail, postage prepaid thereon, addressed to the person at the address of the location of the business appearing on the face of the registration certificate issued to him or to such other address as he shall register with the Director of Finance for the purpose of receiving notices provided under this chapter; should the person have no registration certificate issued to him and should he have no address registered with the Director of Finance for such purpose, then to such person's last known address. For the purpose of this section, a service by mail is complete at the time of deposit in the United States mail. Within 45 days after the date of service, the person assessed may either apply in writing to the Director of Finance for a hearing on the assessment or may file a written request that such hearing be waived. If the person neither requests a hearing upon the assessment nor requests a waiver of hearing within the prescribed time, the amount of the assessment shall be final and the amount thereof shall immediately be due and owing to the City of Los Angeles, but penalties and interest as provided by this chapter shall continue to accrue until paid.
Sec. 3. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of AUG 19 2011.

JUNE LAGMAY, City Clerk

By

Deputy

Approved AUG 24 2011

Approved as to Form and Legality

CARMEN A. TRUTANICH, City Attorney

By

DANIEL M. WHITLEY
Deputy City Attorney

Date 3/21/1)

File No. 10-2397
DECLARATION OF POSTING ORDINANCE

I, MARIA VIZCARRA, state as follows: I am, and was at all times hereinafter mentioned, a resident of the State of California, over the age of eighteen years, and a Deputy City Clerk of the City of Los Angeles, California.

Ordinance No. 181857 – Amending Subsection (a) of Section 21.05 and Subsections (a) and (b) of Section 21.16 of the Los Angeles Municipal Code to clarify the periods for which businesses are liable for business taxes, without affecting other tax collection periods - a copy of which is hereto attached, was finally adopted by the Los Angeles City Council on August 19, 2011, and under the direction of said City Council and the City Clerk, pursuant to Section 251 of the Charter of the City of Los Angeles and Ordinance No. 172959, on August 25, 2011 I posted a true copy of said ordinance at each of the three public places located in the City of Los Angeles, California, as follows: 1) one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; 2) one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; 3) one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

Copies of said ordinance were posted conspicuously beginning on August 25, 2011 and will be continuously posted for ten or more days.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 25th day of August 2011 at Los Angeles, California.

Maria Vizcarra, Deputy City Clerk

Ordinance Effective Date: October 4, 2011 Council File No. 10-2397
Lesson 7

COMPUTATION OF TAX AND FILING OF STATEMENT

OUTLINE

1. COMPUTATION OF BUSINESS TAX
   A. Annual Gross Receipts
      a. Sec. 21.13(a): New Business
      b. Sec. 21.14(a) 1: Subsequent Year's Renewal
      c. Sec. 21.28: Fiscal Year Reporting
   B. Quarterly, Number of Oil Wells/Barrels
      a. Sec. 21.13(a) 2: New Business
      b. Sec. 21.14(a) 2: Subsequent Year's Renewal
   C. Daily and Flat Rate Per Item
      a. Sec. 21.13(a) 3: New Business
      b. Sec. 21.14(a) 3: Subsequent Year's Renewal
   D. Flat Rate Per Period
      Sec. 21.13(a) 4 (i) and (ii)

2. FILING OF STATEMENT
   A. Sec. 21.14(b)
   B. Sec. 21.14(c)
   C. Sec. 21.15(e)
LESSON 7
COMPUTATION OF TAX AND FILING OF STATEMENT

I. COMPUTATION OF BUSINESS TAX

A. ANNUAL GROSS RECEIPTS

a. Discuss Sec. 21.13(a): New Business
(Amended by Ord. No. 177246, Eff. 2/18/06, Oper. 1/1/06.)

* Clearly explain the payment due when business is newly established and what is back tax. (Starting tax year 2008, there is no minimum tax except 21.188 and 21.193. The first business tax is paid on the second year of operations)

b. Discuss Sec. 21.14(a) 1: Subsequent Year's Renewal

* Explain the basis of the tax measure for subsequent years:

The tax measure is based upon the PRECEDING CALENDAR YEAR'S gross receipts. [Give examples]

* Inform students that we are required to convert fiscal year to calendar year.

* Ask a student to differentiate a fiscal year from a calendar year.

* Ask another student how to convert a fiscal year to a calendar year.

1. Standard Method:

Example: Reporting in tax year 2000:

Balance, FYE 3/31/99 xxx
Less: Bal. YTD 12/31/98 (xxx)
Add: Bal. YTD 12/31/99 xxx
Total, CY 1999 xxxx

2. Long Method:

Schedule the gross receipts from January to December 1994.

Note: Use the long method only if the data for the standard method is not available or if it is more expeditious than the standard method.
c. Discuss Sec. 21.00(a)**: Fiscal Year Reporting

Effective January 1, 2000, the taxpayer may elect to use the business’ fiscal year. The measure of tax for a business electing to use its fiscal year shall be attributable to the 12-month period ending on the last day of its fiscal year, and shall be for the fiscal year ending in the calendar year that would otherwise be the measuring year.

After an election is made, a business may not change its tax measure year from that fiscal year, unless:

1. it changes its fiscal year, or
2. it receives a waiver from the Office of Finance

**Prior to January 1, 2005, the option to report on a fiscal year basis was provided pursuant to LAMC Sec. 21.28. Effective January 1, 2005, Ordinance No. 176326 repealed Sec. 21.28 and codified the fiscal year election in LAMC Sec. 21.00(a).

In order to report on a fiscal year basis, a taxpayer must have 12 months of business activity.

To convert from calendar year to a fiscal year ending 3-31:

1. **Standard Method:**

   Example: Reporting in tax year 2000
   
   Balance, CYE 12/31/98 xxx
   Add: Bal. YTD 3/31/99 xxx
   Less: Bal. YTD 3/31/98 (xxx)
   Total, FY 1999 xxxx

2. **Long Method:**

   Add the gross receipts of the 12 months of the fiscal year ending on the year used as the measuring year of the tax year.

   Reference: **Schedule A:** Memo on Fiscal Year Reporting; S. Nesbit; 12-17-99.

   * Emphasize that the tax is an advance tax( charged prior to tax year 2008), which means that:

   - the tax is paid at the start of the tax period
- if the first year is not a full year, the tax is not prorated

- if the taxpayer goes out of business before the end of the tax year, the unexpired months are not refundable.

Effective tax year 2008, the minimum tax at the time of registration was eliminated and the taxpayer simply pays the tax due on a per thousand dollar basis for the first and second year during the renewal period.

* Explain the basis of the tax measure for the second year and the back tax for the first year that is due in the second year.

* Give examples of computations of the back tax, the second years and the third year's tax measures and taxes due including surtax.

B. QUARTERLY, NUMBER OF OIL WELLS / BARRELS
(Explain that tax on Oil Wells has been repealed)

1. Briefly discuss Sec. 21.13(a) 2: New Business

2. Briefly discuss Sec. 21.14(a) 2: Subsequent Year's Renewal

C. DAILY AND FLAT RATE BY ITEM

1. Briefly discuss Sec. 21.13(a) 3: New Business

2. Briefly discuss Sec. 21.14(a) 3: Subsequent Year's Renewal

D. FLAT RATE BY PERIOD

Briefly discuss Sec. 21.13(a) 4 (i) and (ii)

II. FILING OF STATEMENT

A. BRIEFLY DISCUSS SEC. 21.14(b):

1. Show a sample of a Renewal Form
2. Briefly discuss various parts of the form

3. Briefly discuss the filing process:
   a. by mail
   b. in person
   c. on-line through City’s website

B. BRIEFLY DISCUSS SEC. 21.14(c):

C. BRIEFLY DISCUSS SEC. 21.15(e): EXTENSION OF FILING

1. A taxpayer may, with good cause, request to extend the time for filing any statement required under the provisions of Section 21.13, 21.14, or 21.199, or Article 1.5 for a period not to exceed 45 days, provided that the time for filing the required statement has not already passed when the request is received.

2. For periods prior to September 25, 2004, no penalty for delinquent payment shall accrue by reason of such extension.

3. For periods beginning on September 25, 2004, no penalty for delinquent payment shall accrue by reason of such extension if 90% or more of the total tax due is paid prior to the tax becoming delinquent (per Ordinance #176160).

4. For periods beginning on September 25, 2004, if less than 90% of the total tax due is paid prior to the tax becoming delinquent, a 20% penalty on any unpaid principal tax balance shall accrue (per Ordinance #176160).

5. Interest shall accrue during said extension.
DATE: December 17, 1999

TO: All Supervisors, Tax & Permit Division

FROM: Sylvia Nesbit, Chief II
Tax & Permit Division

SUBJECT: FISCAL YEAR REPORTING

The Year 2000 Business Tax renewal forms will provide an area at the top of the reporting from allowing the taxpayers an option of reporting on a fiscal year basis. The due date is still January 1 of each calendar year and the delinquent date is till March 1, of each calendar year. If the taxpayer elects to report on a fiscal year basis, the taxpayer must report 12 months of gross receipts. Taxpayers with less than 12 months of gross receipts do not have the option of reporting on a fiscal year basis. Attached is a sample of the reporting form with the fiscal year option for your review. Also attached is a sample fiscal year calendar indicating various fiscal years that the taxpayer may use. Only the taxpayers can determine their fiscal year. They can use any twelve-month period starting on any day of the month and ending on any day of the month. For year 2000 reporting, all fiscal years must cover a 12-month period starting in 1998 and ending in 1999.

The attached special batch header and fiscal year entry form must be submitted to the TAPS Unit for those taxpayers that choose to report on a fiscal year basis.

In addition to the fiscal year reporting option, a new form has been created for Empowerment Zone “A”. This new form is to be used for only those taxpayers with base amounts (Al thru A4). Please note that the base amount is indicated on line #18. The taxpayer can pay less than their base amounts (25.00 minimum) but no taxpayer will be required to pay more than their base amount.

Should you have any questions, please call Curtis Hill at (213)368-7171 or Gina Gautier at 368-7943.
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Lesson 8

Office of Finance: DUTIES AND POWERS

OUTLINE

1. DUTIES
   
   A. Sec. 21.15(a): Duty to Enforce
   
   B. Sec. 21.15(e): Extension of Time for Filing
   
   C. Sec. 21.15(i): Deficiency Determination
   
   D. Sec. 21.15(j): Payments Made by Mail
   
   E. Sec. 44.10: Duty to Collect Taxes

2. POWERS
   
   A. Sec. 21.15(b): Inspection and Examination of Places of Business
   
   B. Sec. 21.15(c): Audit and Examination of Records and Equipment
   
   C. Sec. 21.15(d): Inspection of Registration Certificates, etc.
   
   D. Sec. 21.15(f): Compromise of Claims
   
   E. Sec. 21.15(g): Minor Errors of Payment
   
   F. Sec. 21.15(h): Rules and Regulations - Apportionment
   
   G. Sec. 22.12/22.13: Power to Grant Refund under $50,000
   
   H. Sec. 22.12/22.13: Power to Recommend Refund of $ 50,000 or more
Lesson 8

DIRECTOR OF FINANCE: DUTIES AND POWERS

1. DUTIES

The Director of Finance has 5 duties:

(i) to enforce the Business Tax Ordinance
(ii) to extend the time for filing the renewal statement and paying the tax
(iii) to bill the taxpayer for any tax underpayments
(iv) to approve delinquent payments as timely under certain circumstances
(v) to collect all City administrative taxes

A. Discuss Sec. 21.15(a): Duty to Enforce

B. Review Sec. 21.15(e): Extension of Time for Filing

• 45 days extension, no further extension given
• interest accrues during extension
• For periods prior to September 25, 2004, no original delinquency penalty will apply
• Effective September 25, 2004, no original delinquency penalty will apply provided that at least 90% of the total tax due is paid by the taxpayer prior to the tax becoming delinquent
• Effective September 25, 2004, a 20% penalty will apply if a taxpayer requests an extension and fails to pay at least 90% of the total tax due prior to the tax becoming delinquent

C. Review Sec. 21.15(i): Deficiency Determination
   (Lesson 6)

D. Review Sec. 21.15(i): Payments Made by Mail

E. Briefly discuss Sec. 44.10 of the City Charter

• Director of Finance shall be the tax collector, ex-officio.
2. POWERS

The Director of Finance has 8 powers:

- to inspect and examine places of business
- to audit and examine records and equipment
- to inspect registration certificates
- to compromise claims
- to write-off minor errors in payments
- to make rules for the apportionment of the tax
- to grant refunds under $50,000 and
- to recommend refunds of $50,000 or more

A. Discuss Sec. 21.15(b): Inspection and Examination of Places of Business

B. Discuss Sec. 21.15(c): Audit and Examination of Records and Equipment

- Mention that traditionally this function is done by the Director of Finance although the code states the Controller's Office also has the power to audit.

C. Discuss Sec. 21.15(d): Inspection of Registration Certificates, etc.

- Assigned to Field Enforcement Section

D. Review Sec. 21.15(f): Compromise of Claims

By ordinance, the Director of Finance can compromise a tax claim (principal tax due, interest, and penalty)

However, BY POLICY, the Director of Finance compromises only penalty - not the principal tax and interest.

If the tax claim proposed to be released is less than $15,000, it needs the approval of the City Attorney.

If $15,000 or more, it needs the approval of both City Attorney and Council.
E. Review **Sec. 21.15(g): Minor Errors of Payment**

In the event that a discrepancy arises between the amount paid and the amount due of $30 or less, the Director of Finance may accept and record such underpayment or overpayment without other notification to the taxpayer (Amended by Ordinance No. 181860, Eff 9/29/11)

F. Discuss **Sec. 21.15(h): Rules and Regulations - Apportionment**

G. Review **Sec. 22.12/22.13** (see Lesson 6): **Power to Grant Refund under**
   $29,547.00

Presently, the Director of Finance has the power to grant refunds under $50,000.00.
Lesson 9

ASSESSMENT: ADMINISTRATIVE REMEDY

OUTLINE

1. ASSESSMENT OF TAXES
   A. Sec. 21.16(a): Notice of Assessment
   B. Sec. 21.16(b): Service of Assessment

2. HEARING PROCESS FOR ASSESSMENTS MADE AFTER DECEMBER 31, 2001
   A. Assessment Review Officer
   B. Board of Review
   C. Flow Chart of Tax Appeals Process

3. SETTLEMENT BUREAU
   A. Sec. 21.31 (Ordinance 174083)
Lesson 9

ASSESSMENT: ADMINISTRATIVE REMEDY

1. ASSESSMENT OF TAXES

   A. Discuss **Sec. 21.16(a): Notice of Assessment**
   
   B. Discuss **Sec. 21.16(b): Service of Assessment**

2. HEARING


   **Note:** For **business taxes** taxpayers may either file a written application for a hearing or request a waiver of a hearing within 45 days of the date of Assessment or Notice of Tax Due (See Lesson 6 Sch E – Ord#181857 for reference). For all other tax assessments hearing request is within 15 days.

   i. Assessment Review Officer (ARO)  
      Discuss **Schedule A:** Ordinance No. 174084 amending Sec. 21.16. Emphasize the fact that if a taxpayer does not appeal the decision of the ARO, he shall nevertheless be deemed to have exhausted its administrative proceedings

   ii. Board of Review (BOR)  
      a. Discuss **Schedule A:** Ordinance No. 174084 amending Sec. 21.16
      
      b. Discuss **Schedule B:** Ordinance No. 181858 amending Section 21.16 Subsection (i) providing relief to taxpayers reclassified from Business Tax classifications determined by a previous City of Los Angeles Board of Review.

   iii. Discuss **Schedule C:** Flow Chart of Assessment and Hearing Process

3. Settlement Bureau

   A. The Settlement Bureau is not part of the taxpayer’s Administrative remedy. Discuss **Schedule D**

   Ordinance 174083 adding Sec. 21.31  
   Any administrative proceeding (ARO and BOR) will cease upon execution of a written settlement agreement between the Settlement Bureau and
the taxpayer
ORDINANCE NO. 174084


THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:

Section 1. Subsections (d), (e), (f), (g), (h) and (i) of Section 21.16 of the Los Angeles Municipal Code are hereby amended to read:

(d) Time of hearing; notice.
If the person requests a hearing upon the assessment or if the Director of Finance denies the person’s request for waiver of hearing, the Director of Finance shall cause the matter to be set for hearing before an Assessment Review Officer not later than 90 days after the date of the application, or, as the case may be, the date of the Director of Finance’s denial of the waiver of hearing. A request for hearing shall be accompanied by a written statement of the basis or bases for the request. Notice of the time and place of the hearing shall be mailed by the Director of Finance to the person assessed not later than 15 days before the date set for hearing and, if the Director of Finance desires said person to produce specific records at such hearing, such notice may designate the records requested to be produced.

(e) Administrative hearing.
The hearing prescribed by this section shall be before an Assessment Review Officer. The Assessment Review Officer shall be appointed by the Director of Finance and shall be an employee of the Office of Finance. At the hearing, the person assessed and the representative of the Director of Finance, who shall be a person other than the Assessment Review Officer, may submit such evidence as they believe to be relevant to their respective positions. The Assessment Review Officer may require the presentation of additional evidence from either the person assessed or the representative of the Director of Finance, or from both, and may continue the hearing from time to time for the purpose of allowing the presentation of additional evidence.

(f) Decision of Assessment Review Officer.
Upon completion of the hearing, the Assessment Review Officer may (i) affirm the assessment, (ii) increase the assessment, or (iii) decrease the assessment, as the evidence may require; but the amount of the assessment shall not be increased unless the claim for the increase is asserted on behalf
of the City either before or during the hearing. Written notice of the decision of the Assessment Review Officer shall be given to the person assessed in the same form and in the same manner as the notice of assessment.

(g) Appeal to Board of Review.
Within 15 days from the date of service of the notice of decision of the Assessment Review Officer, the person assessed may file an appeal of the decision to the Board of Review, but shall not be required to do so. An appeal shall be accompanied by a written statement of the basis or bases for the appeal. If the person does not appeal, he shall nevertheless be deemed to have exhausted the administrative proceedings provided by this section. The Board of Review shall be composed of the Director of Finance, the City Attorney, or the duly appointed representative of each, and a public member, selected from a panel of tax professionals, such as attorneys and certified public accountants, appointed by the Mayor and confirmed by the Council. If the person files an appeal of the decision, the Director of Finance shall cause the matter to be set for hearing before the Board of Review not later than 90 days after the date of the filing of the appeal. Notice of the time and place of the hearing shall be mailed by the Director of Finance to the appellant not later than 15 days before the date set for hearing.

(h) Hearing Before Board of Review.
At the hearing before the Board of Review, the appellant and the representative of the Director of Finance, who shall be a person other than a member of the Board of Review, may submit such evidence and argument as they believe to be relevant to their respective positions. The Board of Review may require the presentation of additional evidence or argument, or both, from either the appellant or the representative of the Director of Finance, or from both, and may continue the hearing from time to time for the purpose of allowing the presentation of additional evidence or argument, or both.

(i) Decision of Board of Review.
Upon completion of the hearing, the Board of Review may, by majority vote of its members, affirm or decrease the assessment, as the evidence may require. Written notice of the decision of the Board of Review shall be given to the appellant in the same form and in the same manner as the notice of assessment.

Sec. 2. Subsections (j) and (k) are hereby added to Section 21.16 of the Los Angeles Municipal Code to read:

(j) Effect of Delay in Administrative Proceedings.
Failure of the Director of Finance to set any hearing within the time prescribed in this section shall not affect the validity of any proceedings taken hereunder.

(k) Effect of Payment of an Assessment. Acceptance of any payment upon an assessment, the validity of which has not previously been passed upon by the Assessment Review Officer, shall not preclude the Director of Finance from subsequently levying another assessment in any case where the original assessment does not truly reflect the correct tax liability.

Sec. 3. Paragraph 1 of Section 21.17 of the Los Angeles Municipal Code is hereby amended to read:

1. The disclosure of information to, or the examination of records and equipment by, another City official or employee or a member of the Board of Review for the sole purpose of administering or enforcing any provision of this article or Article 1.5;

Sec. 4. The provisions of this Ordinance shall become operative with respect to assessments of tax levied by the Director of Finance under Los Angeles Municipal Code Section 21.16 on and after January 1, 2002.
Sec. 5. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of JUN 17 2008.

KAREN E. KALFAYAN, City Clerk
By
Deputy

Approved JUN 23 2008

Mayor

Approved as to Form and Legality

ROCKARD J. DELGADILLO, City Attorney
By
BEVERLY A. COOK
Deputy City Attorney

Date 5/30/08

File No. O1-2361
ORDINANCE NO. 181858

An ordinance amending Subsection (i) of Section 21.16 of the Los Angeles Municipal Code to provide relief to taxpayers reclassified from Business Tax classifications determined by a previous City of Los Angeles Board of Review.

THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:

Section 1. Subsection (i) of Section 21.16 of the Los Angeles Municipal Code is hereby amended to read as follows:

(i) Determination by Board of Review.

1. Upon completion of the hearing, the Board of Review may, by majority vote of its members, affirm or decrease the assessment, as the evidence may require. The assessment shall be final and the administrative review process shall be complete when the Board of Review issues its determination. Written notice of the determination of the Board of Review shall be given to the appellant in the same form and in the same manner as the notice of assessment.

2. The Board of Review shall not affirm an assessment under the following circumstances:

A. The taxpayer has a previous Board of Review determination. A "previous Board of Review determination" means an earlier determination by a Board of Review created under Sec. 21.16 of this Code or a predecessor or successor ordinance, and refers to the previous Board of Review determination that most recently addressed the item that is currently in dispute;

B. The previous Board of Review determination resulted in a written determination specifically stating that the taxpayer earned revenues under one or more Gross Receipts Fund Class or Classes (as defined Municipal Code Secs. 21.41 through 21.49, inclusive, or their predecessors or successors), after reviewing the results of an audit by the Office of Finance in which the taxpayer provided full and complete cooperation;

C. The assessment that is proposed to be affirmed would result in higher business tax liabilities than those self-reported by the taxpayer solely because of one or more changes from the Gross Receipts Fund Class specifically stated in the previous Board of Review determination or determinations, and the taxpayer provided full and complete cooperation
to the Office of Finance in the audit resulting in the assessment proposed to be affirmed;

D. The business model and method of operations of the taxpayer were exactly the same with respect to the previous Board of Review determination or determinations as before the Board of Review proceeding that resulted in the assessment that is proposed to be affirmed, and in both circumstances the taxpayer fully reported its gross receipts; and

E. Nothing precluded the Office of Finance from conducting a full and complete audit of the taxpayer both prior to the previous Board of Review determination or determinations and with respect to the audit resulting in the assessment that is proposed to be affirmed.

3. When a determination (or determinations) made by a previous Board of Review with respect to a taxpayer’s Gross Receipts Fund Class is overturned by a subsequent Board of Review determination, the change(s) to the taxpayer’s Gross Receipts Fund Class or Classes shall apply to the first full tax year beginning after the year in which an assessment is not affirmed by the Board of Review pursuant to Subsection 21.16(i)(2).

4. Should a taxpayer wish to challenge a Board of Review determination regarding business classification that would otherwise be negated by operation of Subsection 21.16(i)(2), the taxpayer shall notify the Board of Review via certified mail that must be postmarked within 15 days from the date of service of the notice of decision of the Board of Review. If the taxpayer provides notice under Subsection 21.16(i)(4), no assessment shall be negated by operation of Subsection 21.16(i)(2). The taxpayer may then proceed under the normal procedures for challenging assessments set forth in this Code and California Law. If the taxpayer does not provide notice under Subsection 21.16(i)(4) that it wishes to challenge a Board of Review determination that would otherwise not be affirmed by operation of Subsection 21.16(i)(2), the taxpayer is deemed to have acquiesced to the determination of the Board of Review and may not further challenge the determination.

5. Nothing in Subsection 21.16(i)(2) shall preclude the Office of Finance from auditing any taxpayer, regardless of the results of any Board of Review determination.
Sec. 2. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of AUG 19 2011.

JUNE LAGMAY, City Clerk

By [Signature]
Deputy

AUG 24 2011

Approved

Mayor

Approved as to Form and Legality

CARMEN A. TRUTANICH, City Attorney

By [Signature]

DANIEL M. WHITLEY
Deputy City Attorney

Date 3/21/11

File No. 09-24714
DECLARATION OF POSTING ORDINANCE

I, MARIA VIZCARRA, state as follows: I am, and was at all times hereinafter mentioned, a resident of the State of California, over the age of eighteen years, and a Deputy City Clerk of the City of Los Angeles, California.

Ordinance No. 181858 – Amending Subsection (i) of Section 21.16 of the Los Angeles Municipal Code to provide relief to taxpayers reclassified from Business Tax classifications determined by a previous City of Los Angeles Board of Review - a copy of which is hereeto attached, was finally adopted by the Los Angeles City Council on August 19, 2011, and under the direction of said City Council and the City Clerk, pursuant to Section 251 of the Charter of the City of Los Angeles and Ordinance No. 172959, on August 25, 2011 I posted a true copy of said ordinance at each of the three public places located in the City of Los Angeles, California, as follows: 1) one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; 2) one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; 3) one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

Copies of said ordinance were posted conspicuously beginning on August 25, 2011 and will be continuously posted for ten or more days.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 25th day of August 2011 at Los Angeles, California.

[Signature]
Maria Vizcarra, Deputy City Clerk

Ordinance Effective Date: October 4, 2011
Council File No. 09-2476
TAX APPEALS PROCESS

ASSESSMENT
Section 21.16

WAIVER OF HEARING

Taxpayer

OR

AND

SETTLEMENT BUREAU

HEARING BEFORE ARO
DECISION:
1. Affirm or
2. Decrease or
3. Increase

Taxpayer

AND

OR

AND

BOARD OF REVIEW
DECISION:
1. Affirm or
2. Decrease

CITY ATTORNEY COLLECTION

PAYMENT

Taxpayer

Litigation Court

OR

REFUND

PAYMENT

END

L09 Sch C
ORDINANCE NO. 174083

An Ordinance amending Article 1 of Chapter II of the Los Angeles Municipal Code by adding Section 21.31 thereto, to provide (qt a settlement bureau.

THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:

Section 1. Section 21.31 is hereby added to Article 1 of Chapter II of the Los Angeles Municipal Code to read:

SEC. 21.31. SETTLEMENT BUREAU.
(a) There shall be a Settlement Bureau in the City Attorney's office, which shall be staffed by one or more representatives of the City Attorney. The purpose of the Settlement Bureau shall be to receive and respond to offers of settlement from persons who have been assessed or otherwise billed for delinquent taxes, or who have filed claims for refund of overpaid taxes which have been denied in whole or in part, under this Article or Articles 1.1, 1.3, 1.7, 1.11 or 1.15 of this Chapter. The tender of an offer of settlement shall not constitute any part of the offeror's administrative remedy process. The amount of any unaccepted offer or counteroffer of settlement shall not be disclosed by the Settlement Bureau staff to any person outside of the Settlement Bureau, whether within or without the City Attorney's office, except as may be necessary to obtain approval of a provisionally accepted settlement, as provided in subsection (c) hereof.

(b) Any person may tender to the Settlement Bureau an offer of settlement of a claim by or against the City, described in subsection (a) hereof, prior to the commencement of litigation on the merits of said claim. Each such offer shall be in writing and contain the amount the offeror proposes to pay to or receive from the City and the factual and legal grounds in support of the offer. In response to any offer or counteroffer of settlement, the Settlement Bureau, on behalf of the City, shall accept it, reject it or make a counteroffer. The terms of any settlement between the offeror and the City shall be set forth in a written agreement executed on behalf of both parties. The tender or pendency of an offer of settlement in the Settlement Bureau shall not affect the timing or disposition of any administrative proceeding under Section 21.16 of this article. Upon execution of a written settlement agreement on behalf of both parties, any pending administrative proceeding on a claim which is the subject of the settlement shall terminate. Upon the commencement of litigation by or against the City on the merits of a claim which is the subject of a pending settlement offer or counteroffer, said pending offer or counteroffer shall be deemed rejected.
(c) Any settlement offer or counteroffer accepted by the Settlement Bureau, which requires the approval of a person or entity, other than the City Attorney, pursuant to Charter Section 273 or Los Angeles Administrative Code Sections 5.173 or 5.175, shall be accepted provisionally on behalf of the City, subject to obtaining such other required approval.

Sec. 2. The provisions of this Ordinance shall become operative on January 1, 2002.
Sec. 3. The City Clerk shall certify to the passage of this ordinance and cause the same to be published in some daily newspaper printed and published in the City of Los Angeles.

I hereby certify that the foregoing ordinance was introduced at the meeting of the Council of the City of Los Angeles \textbf{JUN 20 2001}, and was passed at its meeting of \textbf{JUN 27 2001}.

\textbf{J. MICHAEL CAREY}, City Clerk

\underline{By Maria Keating}  
Deputy

\underline{Approved \textbf{JUL 12 2001}}

\underline{James E. Hahn}  
Mayor

Approved as to Form and Legality

\underline{June 14, 2001}

\textbf{JAMES K. HAHN}, City Attorney

\underline{By Ronald Tuller}  
Ronald Tuller  
Assistant City Attorney

File No. \underline{98-2358 $\#1$}

File No. 33513

L-9 Sched D, 3 of 3
LESSON 10

MISCELLANEOUS GENERAL PROVISIONS

OUTLINE

I. CONFIDENTIAL CHARACTER OF INFORMATION
   A. Sec. 21.17
   B. Items that can be disclosed to the Public
   C. Research Procedures
   D. Formal Request for Records

II. EFFECT OF REPEALS AND AMENDMENT
    Sec. 21.23

III. BUSINESS TAX ECONOMIC INCENTIVE PROGRAM
    A. Sec. 21.26
    B. Section 21.27
LESSON 10

MISCELLANEOUS GENERAL PROVISIONS

I. CONFIDENTIAL CHARACTER OF INFORMATION

A. DISCUSS SEC. 21.17

1. Ordinance No. 174084 amends Sec. 21.17 (effective 8-19-01) allowing disclosure of information to members of the Board of Review for the administration or enforcement of the Los Angeles Business tax.

2. Ordinance No. 174617 amends Sec. 21.17 (effective 7-12-02) allowing disclosure of information to contractors, including their employees, with whom the City of Los Angeles has contracted to assist the City in the administration and/or enforcement of the Los Angeles Business tax, provided that such contract requires the contractor to abide by the confidentiality requirements of this Section and the City Council has approved the award and execution of such contract.

3. Ordinance No. 180380 amends Sec. 21.17 (effective 1/5/09) allowing disclosure of information to:
   a. Federal, State, and local officials
   b. Particular taxpayer or relating to particular taxpayer
   c. Taxpayer himself or his successors, receivers, trustees, executors, etc.
   d. City Council
   e. Purchasers of Accounts Receivable
   f. Taxpayer with delinquent business, sales, or use taxes
   g. Court Order or judicial process

B. DISCUSS SCHEDULE A: ITEMS THAT CAN BE DISCLOSED TO PUBLIC

C. Formal Request for Records:
   The Tax Code Analysis Unit (formerly Code Review) is now the centralized coordinating point to receive all formal requests for records pursuant to the California Public Records Act (CPRA). All such formal requests, as well as all Subpoenas For Records/WitnessAppearances, should be date
stamped upon receipt and immediately forwarded to the Unit to the attention of "Custodian of Records", LATAX

Summons and Complaints:

All lawsuits (Summons & Complaint) where the City is a named defendant must be served upon the City Clerk. The City Clerk is the agent for the service of process for the City of Los Angeles and the only office authorized to accept legal process.

II. EFFECT OF REPEALS AND AMENDMENT

Briefly discuss Sec. 21.23

III. BUSINESS TAX ECONOMIC INCENTIVE PROGRAM

A. DISCUSS Sec. 21.26: EMPOWERMENT ZONE – CITY BUSINESS TAX REDUCTIONS, LIMITATIONS, AND EXEMPTIONS

REFERENCES SCHEDULE B: Memo on Empowerment Zone “A” Information; D. True; 4-4-00

SCHEDULE C: Memo on Federal Empowerment Zones

This section provides basic and additional tax relief to taxpayers located in the business tax incentive area (referred to as Empowerment Zone A).

1. Sec. 21.26(a)(b): Basic Tax Relief

   a. Minimum tax payment of $25
   b. $500 exemption from the next business tax liability after payment of the minimum tax
   c. Program begins January 1, 1995 ending on or before the termination of the City’s Empowerment Zone to be established by the City Council in an ordinance.

2. Sec. 21.26(c)(d)(e)(f): Additional Tax Relief

   a. Established the base year tax payment
   b. Capped the business tax liability for a maximum period of 5 years to the base year’s tax payment. After 5 years tax relief reverts to Subsection (a) (Basic Tax Relief)
   c. Program begins January 30, 1999

Subsection (c): Existing Businesses on or after January 1, 1998 within the Business Tax Economic Incentive Area
Base Year: Tax Year 1998
Tax Payment Cap: Tax Payment as of TY98

**Subsection (d):** Existing Business within the City on or before December 31, 1998, Relocating into the Business Tax Economic Incentive Area on or after January 1, 1999

Base Year: Year Moved into the Empowerment Zone
Tax Payment Cap: Annual Tax Payment as of Relocation Year

**Subsection (e):** Existing Businesses Outside the City as of December 31, 1997, Relocating into the Empowerment Zone on or after January 1, 1998.

Base Year: Year of Relocation
Tax Payment Cap: $25

**Subsection (f):** Newly Established Businesses within the Empowerment Zone

Base Year: Year Started Business
Tax Payment Cap: $25

3. **Sec. 21.26(g):** Change of Ownership of Existing Businesses

New proprietors of pre-existing businesses located within the empowerment zone are not eligible for the tax relief stated in Subsections (e) and (f).

New proprietors are considered to be a newly established business pursuant to Section 21.00(c). Since Section 21.26(g) specifically excludes them from the tax relief of Subsections (e) and (f), it can be surmised that the only tax relief to which they may be eligible is Subsection (a). Emphasize that the only exclusions to the incentives are those stated in Sections 21.26(g) and 21.26(h).

4. **Sec. 21.26(h):** Excluded Businesses

Businesses within the empowerment zone whose primary activities in any of the following areas are not entitled to any of the business tax relief described in Subsections (a) through (f):
• Sale of alcoholic beverages for off-premises consumption.
• Sale of guns and ammunition
• Adult entertainment business as defined in the LAMC Section 12.70B.

5. **Sec 21.26(i):** Conditions to Receive Tax Exemption

Persons seeking tax relief under Subsections (e) and (f) must meet one of the following conditions:

(a) The business pays all of its work force a wage rate at least equal to the living wage identified in the City’s Living Wage ordinance in Los Angeles Administrative Code Section 10.37.
(b) The Business provides goods or services urgently needed in the business tax economic incentive area.
(c) The business can show proof of a significant investment in its workforce (example: job training, child care, etc)
(d) A newly established business in the empowerment zone hires at least 50% of its workforce locally from the business tax economic incentive area or the buffer zone.

B. **DISCUSS Sec. 21.27: ENTERTAINMENT AND MULTIMEDIA BUSINESS TAX LIMITATIONS**

This section provides a limitation on the amount of business taxes paid by entertainment and multimedia businesses located in either the Hollywood or the North Hollywood Redevelopment Areas.

1. **Sec. 21.27(c)(1):** Definition of Entertainment Business

These businesses may be under Section 21.79/21.47(a) (Commission Brokers), Section 21.109 (Motion Picture, Television and Radio Producers), Section 21.166/21.42/21.41(g) (Wholesale Sales), Section 21.167/21.44(a)/21.43(e) (Retail Sales), Section 21.189.2/21.45(a)/21.43(g) (Radio and Television Broadcaster), Section 21.190/21.49(c) (Professions and Occupations) and Section 21.192/21.46(e) (Personal Property Rental).

2. **Section 21.27(c)(2):** Definition of Multimedia Business (Section 21.189.4) /21.41(b)

Counter Reference: Lesson 42 (discussed in detail)

3. Eligibility Guidelines:

a. Must be located in either the Hollywood or the North Hollywood Redevelopment Areas.
b. Businesses must generate 50% or more of their gross receipts from entertainment and/or multimedia business activities.
c. Does not apply to any “adult entertainment business” as defined by Sec. 12.70B of this Code.
d. An exception to the January 1, 1997 operative date would be any business, which commences operations in either of the two areas on or after January 1, 1996.

4. Tax Limitations:
   a. Business tax of $25,000 or lower
   b. In excess of $25,000, only 10% of the excess is added to the tax of $25,000.

*Important Note: The Federal Empowerment Zone (FEZ) as well as the City of Los Angeles Empowerment Zone (EZA) incentive expired on December 31, 2011.*
Lesson 10 – Schedule A

ITEMS THAT CAN OR CANNOT BE DISCLOSED TO THE PUBLIC
(Reference: Sec. 21.17)

You may give out the following information:

1. Name of owner.
2. Address of taxpayer.
3. Fictitious Trade Name (dba).
4. Classification (type of business).
5. Starting Date.
6. Date out of business.
7. Whether or not account is current or not.
8. Date of payment.
9. Person signing application or statement but do not show signature.

You may not give out the following information:

1. Do not show signature.
2. Amount paid or gross receipts
3. How cancelled; delinquent; mail, close.

/L10SCHA

L-10 Sched A, 1 of 1
MEMORANDUM

interoffice

DATE: April 4, 2000

TO: All Tax and Permit Division Supervisors

FROM: Dedra True, Communications Officer

SUBJECT: EMPOWERMENT ZONE “A” INFORMATION

Attached is an updated and expanded summary chart of the revisions to Section 21.26, effective January 31, 1999. This was created as a helpful tool for employees to ensure correct application of this complicated section. Please make the required copies and review this information with your staff as appropriate.

To find out if your business is located within the Empowerment Zone, log on to:

http://egis.hud.gov/egis/cpd/rceze

Attachments

cc: Sylvia Nesbit, Chief II
    Jim Hickey, Chief I
    Ken White, Sr. MA I
    Josefina Sison, Sr. TA
** For example, if the taxpayer renewed their BTRC on 2-28-99 and then moved into the EZA on 7-1-99, their tax base cap is the tax due on the TY99 renewal. This section results in one of the following situations (in all examples, tax due is principal tax only):

a. If the taxpayer’s business tax liability stays the same for the tax period following the year of relocation, decreases, or increases less than $500, then the taxpayer will take advantage of the original incentive (pay $25, exempt from next $500), which will be the lesser amount of tax due.

b. If the taxpayer’s business tax liability increases by more than $500 for the tax period following the year of relocation, then the taxpayer will take advantage of the tax base cap, which will be the lesser amount of tax due.

c. If the taxpayer’s business tax liability increases by exactly $500 for the tax period following the year of relocation, there will be no change in the tax due.

FYI: SECTION 21.27 EMPOWERMENT ZONE B* (HOLLYWOOD)
EMPOWERMENT ZONE C* (NORTH HOLLYWOOD)

Revised 4-4-00
Memo

TO: Field Audit II Staff
FROM: Ed Cabrera
DATE: January 4, 2007

SUBJECT: FEDERAL EMPOWERMENT ZONES

The following two websites can be utilized to verify whether or not a taxpayer’s business address is located within a Federal Empowerment Zone for application of possible Business Tax Exemption per Los Angeles Municipal Code Section 2.26.

http://www.lacity.org/cdd/bus_taxzin.html

http://egis.hud.gov/egis/cpd/rcezec/ezec_open_rf.asp

The first listed website is for the City’s Community Development Department. The second website is that of the U.S. Department of Housing and Urban Development. Accessing either of these two internet sites will allow you to use the federal Empowerment Zone Address Locator. This on-line tool will enable the user to enter an address and a search will indicate if the location is within one of the City’s Empowerment Zones.

Attached, you will find samples of the two websites. In addition, there is a map of the Federal Empowerment Zones located within the City of Los Angeles. This map can be printed from the CDD web page listed above.
### SUMMARY
EZA REVISIONS
EFFECTIVE JANUARY 31, 1999
SECTION 21.26 LAMC ORDINANCE #172358

<table>
<thead>
<tr>
<th>SECTION 21.26 IMPORTANT SUBSECTIONS</th>
<th>AFFECTED TAXPAYERS</th>
<th>TAX INCENTIVE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subsection (a) ORIGINAL INCENTIVE</td>
<td>Excluding ineligible businesses (see Subsection [b] below), this includes taxpayers in EZA and new businesses after 1-1-98 who do not qualify for one or more conditions under Subsection (i).</td>
<td>Original incentive, pay $25, exempt from next $500, pay regular rate above the first $525.</td>
</tr>
<tr>
<td>A*</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Subsection (b) NEW INCENTIVE SECTIONS Affecting Subsections (c), (d), (e) and (f) only.</td>
<td></td>
<td>AVAILABLE FOR MAXIMUM 5 YEARS</td>
</tr>
<tr>
<td>Subsection (c) A1*</td>
<td>Existing taxpayer in EZA on or after January 1, 1998</td>
<td>Establishes a tax base cap of A98 tax due. Taxpayers will pay the lesser of the tax base cap OR the original incentive (pay $25, exempt from next $500), for up to 5 years.</td>
</tr>
<tr>
<td>Subsection (d) A2*</td>
<td>Existing taxpayer in City relocates to EZA on or after January 1, 1999</td>
<td>Establishes a tax base cap based on the tax due for the year of relocation. Taxpayers will pay the lesser of the tax base cap OR the original incentive (pay $25, exempt from next $500), for up to 5 years. **</td>
</tr>
<tr>
<td>Subsection (e) A3*</td>
<td>Existing taxpayer OUTSIDE City relocates to EZA on or after January 1, 1998</td>
<td>If one or more conditions in Subsection (i) are met, tax is only $25 flat for up to 5 years. If no conditions is met (subject to Mayoral approval), exemption defaults to Subsection (a), the original incentive (pay $25, exempt from next $500).</td>
</tr>
<tr>
<td>Subsection (f) A4*</td>
<td>Newly established business in EZA on or after January 1, 1998</td>
<td>If one or more conditions in Subsection (i) are met, tax is only $25 flat for up to 5 years. If no condition is met (subject to Mayoral approval), exemption defaults to Subsection (a), the original incentive (pay $25, exempt from next $500).</td>
</tr>
<tr>
<td>Subsection (g)</td>
<td>Change of ownership for existing businesses in EZA</td>
<td>Eligible for original incentive only (pay $25, exempt from next $500). Not entitled to Subsection (e) and (f).</td>
</tr>
<tr>
<td>Subsection (h)</td>
<td>Fund 700 series businesses (off premise alcohol sales, sale of guns and ammunition, adult entertainment)</td>
<td>No incentive, must pay full tax liability.</td>
</tr>
<tr>
<td>Subsection (i)</td>
<td>SEE APPLICATION FOR LIST OF CONDITIONS</td>
<td></td>
</tr>
</tbody>
</table>

L-10 Sched C, 2 of 2
LESSON 11

FLAT TAX BY PERIOD

OUTLINE

I. Sec. 21.53: Amusement Park
II. Sec. 21.55: Auctioneer
III. Sec. 21.74(c): Circus - Permanent Building
IV. Sec. 21.75(a): Sideshow
V. Sec. 21.75(b): Carnival
VI. Sec. 21.75(i): Parade
VII. Sec. 21.85: Public Dance
VIII. Sec. 21.94: Rides
IX. Sec. 21.169: Christmas Trees
X. Sec. 21.108: Lending Money, etc.
LESSON 11

FLAT TAX BY PERIOD

Briefly discuss the following ten (10) Sections that are based on flat tax by period. Take note of which ones are proratable.

I. **SEC 21.53: AMUSEMENT PARK**

- Must be of a permanent nature having a fixed location
- Adult rides and concessions

II. **SEC. 21.55: AUCTIONEER** (Refer to S. Nesbit memo dated 5/25/99 [Sch A])

- BTRC is issued only to an individual person
- If employer is a corporation, the corporation is taxed under Section 21.190/21.49(c)
- An Out-of-City Auctioneer whose business is limited exclusively to auctioning *real estate* is exempt from the City of Los Angeles’ Business Tax pursuant to Section 16002.1 of the California Business and Professions Code. All other Out-of City Auctioneers engaged in business in the City are subject to LAMC Sec. 21.55
- Out-of-City Auctioneers may prorate the flat tax based on the percentage of work in City
- In City Auctioneer, including *real estate* auctioning activity, is taxed pursuant to LAMC Sec. 21.55

III. **SEC. 21.74(a,b,c): CIRCUS - PERMANENT BUILDING**

a. Has no regular established place of business in LA
b. Tax is based on number of seating capacity
c. Must be in a permanent structure (amended by Ord. No. 166204, effective 10/11/90, Oper. 1/1/91.)
IV. **SEC. 21.75(a): SIDE SHOWS, CARNIVALS, CONCESSIONS**  
(Amended by Ord. No. 178101, Effective 1/9/07.)

• Must be a separate fee charged, received, or collected (Separate charge from circus)

V. **SEC. 21.75(b,c,d,e,f): CARNIVAL**

• Charge for each concession/per day

• Temporary nature

• If person operating carnival is religious, charitable, educational or non-profit, then no BTRC. However, if anyone else receives any gain then a BTRC is required

• Coin-operated machines are concessions

VI. **SEC. 21.75(i): CIRCUS PROCESSION OR CIRCUS PARADE**

• Is required if no BTRC for circus

VII. **SEC. 21.85: PUBLIC DANCE**  
(Amended by Ordinance No. 166204, Eff. 10/11/90, Oper. 1/1/91.)

• If you have 21.83 BTRC you don't need this

• For profit or not

• Public is allowed to participate

VIII. **SEC 21.94 (a,b,c): RIDES**  
(Amended by Ordinance No. 174241, Eff. 11/3/01, Oper. 1/1/01.)

• These are machine rides / no pony rides

• If you have 21.53 BTRC you don't need this

• No tax is required for operating a ride at any carnival, fair or festival if conducted by a California Agricultural District.  
  (Amended by Ord. No. 178101, Eff. 1/9/07.)
IX. **SEC. 21.169: CHRISTMAS TREES**  
(Amended by Ord. 178101, Eff. 1/9/07)

• You don't need if you have fixed place of business and are selling other things under (21.16721.44(a)/21.43(e) - Retail)

X. **SEC. 21.108: LENDING MONEY, ETC.**  
(Amended by Ord. 178101, Eff. 1/9/07)

**Note:** Sec. 21.108 will be discussed in-depth after the discussion on Sec. 21.190/21.49(c).
DATE: May 25, 1999

TO: All Tax and Permit Division Supervisors

FROM: Sylvia Nesbit, Chief II
     Tax and Permit Division

SUBJECT: SECTION 21.55 (AUCTIONEER) L.A.M.C.

The following provides clarification relative to the taxability of auctioneers conducting business within the City of Los Angeles.

For purposes of classifying a person under Section 21.55 (Auctioneer) L.A.M.C., an auctioneer is defined as, “an individual, whether an employee or an independent contractor, who sells real or personal property on behalf of another to the highest bidder.”

Taxation is as follows: Classification

Out-of-City real estate auctioneer whose business is limited exclusively to auctioning real estate. Not Taxable

Note: Pursuant to the provisions set forth in Section 16002.1 of the California Business and Professions Code, the aforementioned auctioneers are exempt from a City business tax

Out-of-City auctioneer conducting other auctioneering activities (except real estate) Sec. 21.55 L.A.M.C.

In-City auctioneer activity, including the auctioneering of real estate Sec. 21.55 L.A.M.C.

Real estate developed and auctioneer by the owner Sec. 21.193 L.A.M.C.

Personal property owned and sold (auctioned) by auctioneers

Sec. 21.166 L.A.M.C. and/or Sec. 21.167 L.A.M.C.

Auctioneer partnership or corporation

*Sec.21.55 L.A.M.C. for each officer, partner, employee and/or independent contractor
Police and Fire Permit Requirements

- No specific police/fire permit required.
- Person auctioning their own secondhand merchandise is required to obtain appropriate police permit.

Nexus and Apportionment

- The City has nexus with any auctioneer who provides auctioning services within the City.
- No City Clerk Ruling is applicable to Section 21.55 (Auctioneer) L.A.M.C.
- Out-of-City auctioneers may prorate the flat tax specified in Section 21.55 (Auctioneer) to reflect the percentage of business conducted within the City. For example, if an auctioneer does 10% of the total auctions within the City, such individual should remit 10% of the flat tax specified in Section 21.55 (Auctioneer) L.A.M.C.

Noteworthy Information:

*A TRC is never issued to a partnership or corporation.

If there are additional concerns, please discuss them with your immediate supervisor. Thank you.

c: Jim Hickey, Chief I
     Dedra True, Chief I
LESSON 12

FLAT TAX BY ITEM

OUTLINE

1. Sec. 21.62: Billiards, etc.
2. Sec. 21.63: Amusement Machines
3. Sec. 21.64: Music Machines
4. Sec. 21.65.1: Coin-Operated Service Machines
5. Sec. 21.70: Bowling Alleys, Tables, etc.
6. Sec. 21.74(b): Circus
7. Sec. 21.83: Dance Hall
8. Sec. 21.98.1: Swap Meet Operator
9. Sec. 21.124: Oil Wells (Repealed)
10. Sec. 21.142: Stevedores
11. Sec. 21.194: Transporting Persons for Hire
12. Sec. 21.195: Trucking/Hauling
13. Sec. 21.196: Miscellaneous Trucking
LESSON 12

FLAT TAX BY ITEM

Briefly discuss the following twelve (12) Sections that are based on flat tax by item.

Note: The following items were not consolidated (non-gross receipts)

1. SEC. 21.62: BILLIARDS, ETC.
   (Amended by Ord. No. 166204, Eff. 10/11/90, Oper, 1/1/91.)
   - If social/athletic club charges for use, it is taxable
   - Taxable whether used or not
   - Conducting or operating - does not have to be owner of table

2. SEC. 21.63: AMUSEMENT MACHINES
   (Amended by Ord. No. 166204, Eff. 10/11/90, Oper, 1/1/91.)
   - For premises owner - not route operator
   - 21.64 / 21.70 machines taxes separately

3. SEC. 21.64: COIN-OPERATED PHONOGRAPHS AND MUSIC MACHINES
   (Amended by Ord. No. 166204, Eff. 10/11/90, Oper, 1/1/91.)
   - If used in rooms which are for dwelling purposes then not taxed for premise owner but tax is still for 21.65.1 - route operator

4. SEC. 21.65.1: COIN-OPERATED SCALES AND SERVICE MACHINES
   (Amended by Ord. No. 178101, Eff. 1/9/07.)
   - This is for the route operator
   - No tax on automatic telephone or fare boxes on carrier

5. SEC. 21.70: BOWLING ALLEY, SKEE-BALL SHUFFLEBOARD, ETC.
   (Amended by Ord. No. 166204, Eff. 10/11/90, Oper, 1/1/91.)
   - If operated as an incident to the purpose of a social club - no tax
   - This is for each lane on bowling alley
6. **SEC. 21.74(b): CIRCUS**
   (Amended by Ord. No. 166204, Eff. 10/11/90, Oper, 1/1/91.)
   - By seating capacity

7. **SEC. 21.83: DANCE HALL**
   - All dance floors at one address are added together
   - Do not need a separate BTRC for dance academy if under same management and same location
   - Tax is based on square footage of dance floor *(amended by Ord. No. 166204, Eff, 10/11/90, Oper. 1/1/91.)*

8. **SEC. 21.98.1: SWAP MEET OPERATOR**
   (Repealed by Ord. No. 178101, Eff. 1/9/07.)

   (Repealed by Ord. No. 171411, Eff. 12/22/96, Oper. 1/1/96.)

10. **SEC. 21.142: STEVEDORES (MIXED BY PERIOD/ITEM)**
    - Must be from fixed place of business within LA, otherwise, not taxable
      1. Stevedoring activities **do not** include the loading and unloading of cargo *occurring any place* in the terminal. These activities are taxable under **Section 21.190/21.49(c)**. (Amended by Ord. No. 178101, Eff. 1/9/07.)
    - Have two tax measures

11. **SEC. 21.194: TRANSPORTING PERSONS FOR HIRE** *(show supplemental form from the renewal in the Office of Finance Website- Sch A)*
    - No tax is required to be paid for the operation of any motor vehicle for any day or fraction thereof when such vehicle is operated exclusively between points within the City of Los Angeles and points outside the State of California [21.194(e)]
    - If the taxpayer has both a PUC certificate and a certificate of public convenience and
necessity from the Interstate Commerce Commission then it is exempt [21.194(f)]

- All taxicabs exempt either due to franchise or they qualify under 21.194(b) 4

- Separate tax for school buses

- Always a back tax

- Examples of taxpayers under 21.194 – Limo services and Charter Buses; not public transportation that have specific routes such as DASH and MTA buses in the City of LA.

12. **SEC. 21.195: TRUCKING HAULING** (show supplemental form from the renewal in the Office of Finance Website Sch. B)

- No tax is required to be paid for the operation of any motor vehicle for any day or fraction thereof when such vehicle is operated exclusively between points within the City of Los Angeles and points outside the State of California [21.195(e)]

- If the taxpayer is subject to tax under the Highway Carriers’ Uniform Business Tax Act, then it is exempt [21.195(f)]

- No tax is required to be paid by persons who are engaged in business as a *for-hire motor carrier of property* and required to pay a fee to the State of California under the Household Goods Carriers Uniform Business License Tax Act or the Motor Carriers of Property Uniform Fee Act. **California State legislation AB 1683** (effective September 1996) preempts the City from imposing a business tax upon persons so situated.

13. **SEC. 21.196: MISCELLANEOUS TRUCKING**

- Must be hauling their **OWN** tools, goods, wares, or merchandise

- Used when no other tax can be used
TRANSPORTING PERSONS FOR HIRE (L.A.M.C. SECTION 21.194/294) TAX WORKSHEET
THIS FORM MUST BE RETURNED WITH YOUR BUSINESS TAX RENEWAL FORM

INSTRUCTIONS

Renewal Year

COL. A: This is the seating capacity for each of your vehicles.  
COL. B: This is the daily rate for each vehicle.

If using TEST WEEK:

UseCols. C, D, E & F. Vehicle days are the number of days each vehicle operated in the City.  Multiple trips by the same vehicle on the same day are counted as one vehicle day.  EXAMPLE: 5 vehicles for 4 days + 2 vehicles for 7 days + 10 vehicles for 5 days = 84 vehicle days.  Number of vehicle days for each test week cannot be more than number of vehicles used multiplied by 7.  If you did not conduct operations during one or more of the test weeks below, please substitute the next succeeding full week in which you did conduct such operations and correct the test week dates.  DO NOT SUBMIT A ZERO STATEMENT IN ANY TEST WEEK.

COL. G: Enter the Number of Weeks during the prior year in which operations were conducted.

COL. H: Calculated Vehicle Days.  Divide Col. G by 4, then multiply by Line A.

COL. I: Tax Due.  Multiply the rate in Col. B by the amount in Col. H and enter the result here and also enter the total for Col. I on Line 1.

If using ACTUAL VEHICLE DAYS:

Use Col. J to indicate the Actual Vehicle Days.  Number of vehicle days for actual vehicle days used cannot be more than number of vehicles used multiplied by 365.

COL. K: Tax Due.  Multiply the rate in Col. B by the amount in Col. J and enter the result here and also enter the total for Col. K on Line 1.

<table>
<thead>
<tr>
<th>SEATING CAPACITY</th>
<th>DAILY RATE</th>
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</thead>
<tbody>
<tr>
<td>10 OR LESS</td>
<td>$ 1.00</td>
</tr>
<tr>
<td>11-30</td>
<td>$ 1.60</td>
</tr>
<tr>
<td>31 OR MORE</td>
<td>$ 2.19</td>
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<tr>
<td>SCHOOL BUSES ONLY</td>
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<tr>
<td>SEATING CAPACITY</td>
<td>DAILY RATE</td>
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<tr>
<td>10 OR LESS</td>
<td>$ 0.30</td>
</tr>
<tr>
<td>11-30</td>
<td>$ 0.44</td>
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<tr>
<td>31 OR MORE</td>
<td>$ 0.60</td>
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<table>
<thead>
<tr>
<th>TEST WEEK</th>
<th>Line A</th>
<th># of operating weeks in the prior year</th>
</tr>
</thead>
<tbody>
<tr>
<td>2nd week of January</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2nd week of April</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2nd week of July</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2nd week of October</td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CALCULATED</td>
<td></td>
<td></td>
</tr>
<tr>
<td>TAX DUE</td>
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<table>
<thead>
<tr>
<th>ACTUAL VEHICLE DAYS</th>
<th>COL. J</th>
<th>COL. K</th>
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<tbody>
<tr>
<td>ACTUAL VEHICLE DAYS</td>
<td></td>
<td></td>
</tr>
<tr>
<td>TAX DUE</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1. Tax Due.  Add all amounts in Col. I or Col. K and enter here.  
2. Minimum tax paid in the prior year.  
3. Additional tax due for prior year Line 1 minus Line 2, if this amount is less than 0 then enter 0 here.  
4. Minimum tax for current year.  
5. TOTAL (LINE 3 PLUS LINE 4).  Enter here and in Col. H of the Business Tax Renewal Form adjacent to the Fund Class Code L194 and/or L294.

L-12 Sched A, 1 of 1
ACCOUNT #: ________________________________  LEGAL NAME: ________________________________

TRUCKING, HAULING (L.A.M.C. SECTION 21.195/295) AND
MISCELLANEOUS TRUCKING (L.A.M.C. SECTION 21.196/296) TAX WORKSHEET

THIS FORM MUST BE RETURNED WITH YOUR BUSINESS TAX RENEWAL FORM

NOTE: IF YOU ARE TAXED UNDER SECTION 21.195 AND YOU HAVE EITHER A HOUSEHOLD GOODS CARRIER PERMIT OR A MOTOR CARRIERS PERMIT, NO TAX IS DUE. PLEASE ENTER YOUR PERMIT NUMBER HERE _________ AND RETURN THIS FORM WITH YOUR BUSINESS TAX RENEWAL FORM. ENTER 0 IN COL. D AND COL. H OF THE BUSINESS TAX RENEWAL FORM ADJACENT TO FUND CLASS CODE L195.

INSTRUCTIONS

COL. A: This is the weight category for each of your vehicles.  COL. B: This is the daily rate for each vehicle.

Renewal Year _________

If using TEST WEEK:

Use Cols. C, D, E & F. Vehicle days are the number of days each vehicle operated in the City. Multiple trips by the same vehicle on the same day are counted as one vehicle day. EXAMPLE: 5 vehicles for 4 days + 2 vehicles for 7 days + 10 vehicles for 5 days = 84 vehicle days. **Number of vehicle days for each test week cannot be more than number of vehicles used multiplied by 7.** If you did not conduct operations during one or more of the test weeks below, please substitute the next succeeding full week in which you did conduct such operations and correct the test week dates. **DO NOT SUBMIT A ZERO STATEMENT IN ANY TEST WEEK.**

COL. G: Add Cols. C through F.  LINE A: Enter the Number of Weeks during the prior year in which operations were conducted.

COL. H: Calculated Vehicle Days. Divide Col. G by 4, then multiply by Line A.

COL. I: Total Due. Multiply the rate in Col. B by the amount in Col. H and enter the result here. Also enter the total for Col. I on Line 1.

If using ACTUAL VEHICLE DAYS:

Use Col. J to indicate the Actual Vehicle Days. **Number of vehicle days for actual vehicle days used cannot be more than number of vehicles used multiplied by 35.**

COL. K: Total Due. Multiply the rate in Col. B by the amount in Col. J and enter the result here. Also enter the total for Col. K on Line 1.

<table>
<thead>
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</tr>
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<td>UNLADEN</td>
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<tr>
<td>WEIGHT OR LESS</td>
<td>RATE</td>
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<tr>
<td>4000 LBS</td>
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<tr>
<td>4001-8000 LBS</td>
<td>$.71</td>
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<tr>
<td>OVER 8000 LBS</td>
<td>$.78</td>
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<tr>
<td>TRACTORS</td>
<td>$.78</td>
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<table>
<thead>
<tr>
<th>COL. C</th>
<th>COL. D</th>
<th>COL. E</th>
<th>COL. F</th>
<th>COL. G</th>
<th>COL. H</th>
<th>COL. I</th>
</tr>
</thead>
<tbody>
<tr>
<td>2nd week of Jan</td>
<td>2nd week of Feb</td>
<td>2nd week of March</td>
<td>2nd week of April</td>
<td>TOTAL</td>
<td>CALCULATED</td>
<td>TAX DUE</td>
</tr>
<tr>
<td>VEHICLE DAYS</td>
<td>VEHICLE DAYS</td>
<td>VEHICLE DAYS</td>
<td>VEHICLE DAYS</td>
<td>VEHICLE DAYS</td>
<td>VEHICLE DAYS</td>
<td>VEHICLE DAYS</td>
</tr>
</tbody>
</table>

1. Tax Due. Add all amounts in Col. I or Col. K and enter here. $_____
2. Minimum tax paid in the prior year. $_____
3. Additional tax due for prior year. Line 1 minus Line 2, if this amount is less than 0 enter 0 here. $_____
4. Minimum tax for the current year. $_____
5. TOTAL (LINE 3 PLUS LINE 4). Enter here and in Col. H of the Business Tax Renewal Form adjacent to the Fund Class Code L195/295 and/or L196/296. $_____
LESSON 13

GROSS RECEIPTS

OUTLINE

1. OVERVIEW OF BUSINESS TAX CODE SECTION CLASSIFICATIONS THAT ARE MEASURED BY GROSS RECEIPTS
   A. Sale or Rental of tangible property
   B. Sale of Service
   C. Consolidation of Fund Classes

2. DEFINITION OF GROSS RECEIPTS
   Sec. 21.00(a): Gross Receipts.

3. INCLUDABLE AND EXCLUDABLE GROSS RECEIPTS
   A. Sec. 21.00(a)
   B. Includable gross receipts
   C. Excludable gross receipts
   D. Related Entity Transactions

4. SECONDARY BUSINESS ACTIVITIES
   Current Policy on Secondary Business Activity

5. SINGLE CATEGORY FILING (Section 21.06.01)

6. INDEPENDENT CONTRACTOR VS. EMPLOYEE: SECTION 21.00 (J) (K)
   A. Definition of an independent contractor
   B. Definition of an employee
   C. Importance of distinguishing an independent contractor from an employee
   D. Factors that determine the status of a worker
   E. Employment Status
LESSON 13

SEC. 21.00(a): GROSS RECEIPTS

1. OVERVIEW OF BUSINESS TAX CODE SECTION CLASSIFICATIONS THAT ARE MEASURED BY GROSS RECEIPTS

Two general categories of businesses measured by gross receipts:

A. SALE OR RENTAL OF TANGIBLE PROPERTY


C. CONSOLIDATION OF FUND CLASSES

Refer to the “Business Tax Rate Tables” for new Fund Class #, See Lesson 3 Sch C

2. DEFINITION OF GROSS RECEIPTS

* Ask a student to read the first sentence of Sec. 21.00(a).

Gross receipts is defined to mean:

- The total amount of the sales price
- The total amount charged or received for the performance of any act, service, or employment
- Without any deduction on account of the cost of the property sold, the cost of the materials used, labor or service costs, losses or any other costs whatsoever.

* Analyze the first sentence of Sec. 21.00(a) by clearly explaining each part of the definition of gross receipts as follows:

a. The total amount of sales price

- Define sales
  * Ask a student to read Sec. 21.00(g)
- Define price
  Price - is the consideration passing from the buyer to the seller for the seller's interest on the thing sold.
  (H. S. Crocker Co., Inc. v. McFaddin, 148 C.A.2d 639)
b. The total amount charged OR received for the performance of any act, service or employment

**Charged:** an item that has been billed, though not received, is considered gross receipts. There is no requirement that the taxpayer actually collect the amount billed for it to be considered taxable gross receipts.

**For tax periods prior to January 1, 2005,** we use the *accrual method of accounting* based on a calendar year in determining the taxable gross receipts. However, effective January 1, 2000, the taxpayer may elect to report based on a fiscal year operation pursuant to Section 21.28 (since repealed and replaced by **Ordinance No. 176326** amending Sec. 21.00(a) - refer to Lesson 7).

Ask a student:

(i) What is the difference between accrual and cash methods of accounting?

(ii) How to convert cash to accrual?

(iii) How to convert fiscal year to calendar year and vice versa - Cross-reference: Lesson 7

Discuss **Schedule A:** Court Case Upholding the Use of Accrual Method of Accounting (Taxpayer now has the option to elect filing on cash or accrual basis in accordance with Internal Revenue Service guidelines)(Section 21.00,a)

**Received:** the amount received is not limited to the sales price.

Anything received in connection with the sale or service rendered is considered gross receipts.

**General rule for Taxpayers electing to use the accrual basis of accounting:**

We tax what has been charged or received, whichever comes first.

In the cash basis of accounting, sales are recognized when cash is received. But before the cash is received, billings (charges) are first made. Hence, charging comes first before the receipt of the cash. For this reason, we generally say that we use the accrual method of accounting over cash method. However, this does not mean that if there is unearned income (cash is received although the service is not yet rendered or the selling process is complete) we are precluded from including the unearned income in the taxable gross receipts.
In the accrual method of accounting, we can also tax unearned income at the time or period that we received the said unearned income because "gross receipts" as defined under Sec. 21.00 means "the amount charged or received."

In general, any amount that has been charged or received (with the exception of capital contributions or passive income from investments) is considered taxable gross receipts whether or not the amount is earned.

For example: The first and last month rent received from a tenant are deemed taxable gross receipts in the period they were received in spite of the fact that they were recorded by the taxpayer as unearned rent.

**CASH BASIS ELECTION**

For tax periods beginning January 1, 2005, a taxpayer may elect to report the tax measure on either a cash basis or an accrual basis per Ordinance No. 176326 amending Sec. 21.00(a). If a taxpayer elects to report on an accrual or cash basis of accounting, it must be in accordance with Internal Revenue Service guidelines.

c. Without any deduction on account of the cost of the property sold, the cost of materials used, labor or service costs, losses, or any other expenses whatsoever

   Essentially, the expenses of doing business are not deducted in arriving at the amount of gross receipts.

   Any cost or loss is not allowed to reduce the amount of gross receipts.

Differentiate what is a cost to a seller from what is a cost to a buyer by using the following examples:

(i) Property Tax - is **includable** gross receipts because it is a tax on the landlord. Therefore, when charged to the tenant by the landlord it becomes a taxable reimbursed expense of the landlord.

(ii) Use Tax - is **excludable** because it is a tax on the buyer. It is also specifically exempted under Sec. 21.00(a).

(iii) Sales Tax - is **excludable** because it is specifically stated under Sec. 21.00(a) as not part of gross receipts.

   **Note:** To determine if an expense belongs to a seller or buyer, investigate **who is legally responsible** for the expense.

   Explain the difference between a discount as a reduction of list price. (e.g., trade discounts) and a discount that is considered an expense.
3. **INCLUDABLE AND EXCLUDABLE GROSS RECEIPTS**

A. *Ask a student to continue reading the rest of Sec. 21.00(a).*

B. Enumerate the includable gross receipts and discuss each one as follows:

a. Federal Manufacturer or Importer's Excise Tax

Although the manufacturer or importer is also the retailer, and such tax is stated as a separate charge, federal manufacturer or importer's excise tax is taxable gross receipts because it is an excise tax on the manufacturer or importer who is our taxpayer. Therefore, if it is passed on to the manufacturer or importer's customer, it is a form of reimbursed expense, which is taxable.

Briefly mention Ruling 11.

b. Total amount charged or received whether or not in connection with the sale or service rendered, and without deduction for any cost, loss, or any expense whatsoever.

Implications of the above statement:

(i) Reimbursed expenses are includable gross receipts

Why are reimbursed expenses taxable?

Reimbursed expenses are taxable because they are charges or amounts received, and, usually, they are charged or received in connection with the sale or service rendered. **Exception: Effective January 1, 2002 reimbursed expenses between some related entities are not subject to tax, see Page 9, item i.**

However, we can tax the reimbursements of the expenses of the taxpayer. If the reimbursement is for an amount advanced by the taxpayer for another person, such reimbursements are not includable gross receipts.

Test to determine if a reimbursement is taxable or not:

Determine whose obligation is the expense. If it is the obligation of the taxpayer, its reimbursement is taxable. If it is the obligation of another person for whom the taxpayer is acting as an agent, its reimbursement is not taxable because we deem that the taxpayer is being reimbursed for the amount advanced by the taxpayer on behalf of its principal or client.

Ways to determine whose obligation is the expense reimbursed:
- Find out who is named in the invoice as responsible for the amount due.

- Find out who can be legally sued if the expense is not paid.

Discuss **Schedule B**: Court Cases Re: Taxability of Reimbursed Expenses

* Briefly discuss 1 or 2 of these court cases.

(iii). Bad debts** or any loss or expense is not deductible.

**Sec. 21.00(a)** states that no cost or expense or loss whatsoever can be deducted from gross receipts. Unlike income tax which is based on net income - (allows the deduction of expenses), our tax is based on "gross receipts." Therefore, any expense of the taxpayer cannot be deducted from gross receipts. Examples of such expenses:

- Bad debts (for periods prior to January 1, 2005)
  - NSF checks
- Payments to outside contractors or consultants (Example: A general contractor is not allowed to deduct payments to sub-contractors).
- Royalty payments (Example: ABC Corp. obtained a license from Disney to manufacture and sell Lion King jackets. ABC sells the jackets for $50.00 and books the sale as:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash</td>
<td>$50.00</td>
</tr>
<tr>
<td>Sales</td>
<td>$40.00</td>
</tr>
<tr>
<td>Royalty-Disney</td>
<td>$10.00</td>
</tr>
</tbody>
</table>

ABC’s gross receipts for Business Tax purposes is $50.00, not $40.00. The Royalty collected is actually an expense of ABC and should not be excluded from the measure of tax.

**Effective January 1, 2005, bad debts may be excluded from taxable gross receipts if a taxpayer has elected to report on the accrual basis (per Ordinance No. 176326).**

(iii). Profit or loss is not an issue in making the determination of taxable gross receipts.
The tax is on the total amount charged or received without regard to whether the taxpayer gained any profit or incurred a loss on the sale or service rendered.

Discuss: City of Los Angeles v. Olson Farms, Inc.

142 Cal.App.3d 527 (1983) v. Olson

Background: Olson Farms, Inc. arranged short-term loans for its subsidiaries, gave them the money, and charged them the same rate of interest as it paid. Olson Farms, Inc. did not have any profit on this transaction.

Court's decision: The court held that interest received from subsidiaries should be included in gross receipts. Profit or loss is not an issue in making the determination of what is taxable.

c. Gross receipts from a discontinued business segment that is not transferred or sold are taxable gross receipts.

Example: CY 1994: Sold:
   Shoes $4 million
   Bags $1 million

   12/31/94: discontinued selling bags.

* Ask students what is the TM for TY 1995.

Answer:

1995 TM = $5 million because TM is based on prior year's gross receipts and since the business of selling bags was not transferred or sold to another entity, the gross receipts from the sale of bags are taxable.

d. Transactions between affiliated companies are subject to Business Tax, prior to 01/01/02.

Discuss Schedule C: Court Cases Re: Taxability of Business Transactions Between Affiliated Companies

Note: This no longer applies based on ordinance no. 174086 if ownership of 80% or more is held directly or indirectly by the same persons or persons, effective 01/01/02, which amended Section 21.00 (a),5 exclusions from gross receipts,
C. **DISCUSS THE FOLLOWING EXCLUDABLE GROSS RECEIPTS:**

a. **Sales and Use Tax**

   Specifically mentioned under **Sec. 21.00(a)** as excludable.

b. **Federal Tax on Retail Sales**

   - same as "a"
   - *Briefly mention Ruling 11.*

c. **Sales Returns and Allowances**

   Specifically mentioned under **Sec. 21.00(a)** as deductible gross receipts.

d. **Sales Discounts**

   *Discuss Ruling 8.*

   *Reiterate the difference between a trade discount and an expense treated as a discount.*

e. **Sale or Transfer of a Business Segment**

   Gross receipts from a business segment that has been sold or transferred are excludable gross receipts.

   **Example:**

   Taxpayer sells bags, jewelry, and shoes. Results of operations from CY 1994 were as follows:

   Bags: $10 million, this business was sold on 10/31/94.

   Jewelry: $5 million, this business was discontinued on 12/15/94.

   Shoes: $20 million, this is still an on-going business.

   Ask students to compute the TM for TY 1995.

   **Answer:**

   Jewelry Sales $5 million
   Shoe Sales $20 million
   Tax Measure, TY 1995 $25 million
Note:
Bag sales are not taxable because that business was sold.

Jewelry sales are taxable because that business was just discontinued, not transferred or sold.

f. Passive Income / Investment of Surplus Funds

Partnership distributions are not taxable gross receipts because they represent return of capital investment.

**Sec. 21.00** taken as a whole states that the gross receipts subject to tax should be derived from business.

A partner is an investor; he is not in business as it is defined under **Sec. 21.00**. Therefore, income distributions from a partnership are not taxable gross receipts.

Investment of Surplus Funds

g. Alcoholic Beverage Sales

State Constitution prohibits us from imposing Business Tax on gross receipts from the sale of alcoholic beverage sales.

h. Sale of Capital Assets

Gross receipts from sale of capital assets are not taxable because the taxpayer is not engaged in the business of selling capital assets.

i. Related Entity Transactions

Related entity transactions are not includable as gross receipts if 80% or more of the ownership interests in both value and voting power of the entities are held directly or indirectly by the same person or persons. Discuss **Schedule E**: Ordinance No. 174086; and **Schedule F**: Memo on Related Entities; T. Manocchio; September 9, 2002.

Notwithstanding the foregoing, any amount received from or charged to any person which is a related entity to a taxpayer shall be included in gross receipts, when such amount is compensation performed by any taxpayer for any person, which is not a related entity to the taxpayer.

Cite example from the same memo, by T. Manocchio

j. Specific Exemptions under each section(e.g. Out of state retail and wholesale sales under , Section 21.168.1 sales for convenience under 21.168.2, out of state personal property rental under 21.192.1, etc

k. Bad Debts
Effective January 1, 2005, bad debts may be excluded from taxable gross receipts if a taxpayer has elected to report on the accrual basis (per Ordinance No. 176326).

Any uncollectible amount apportioned to the City of Los Angeles that has been written off as a “bad debt” in compliance with Internal Revenue Service guidelines may be excluded from taxable gross receipts if a taxpayer elects to report on the accrual basis. Any portion of a bad debt subsequently recovered by a taxpayer shall constitute taxable gross receipts in the year that it is recovered.

4. SECONDARY BUSINESS ACTIVITIES

Secondary Business Activities:

a. Must determine if activity is integral to business or is actually another kind of business engaged in.

b. After determining if the activity is a secondary business and if the gross receipts are $3,000 or more, a BTRC will be required.

c. If the gross receipts are $3,000 or less, such gross receipts may be included in the measure of tax reported under the primary business activity, in lieu of obtaining a separate BTRC.

5. SINGLE PRIMARY TAX CLASSIFICATION ELECTION

Effective January 1, 2004 per Ordinance No. 175385 adding LAMC Sec. No. 21.06.1, when a person engages in a business that consists of two or more activities taxable on the basis of annual gross receipts and one of the activities generates at least 80% of the person’s annual taxable gross receipts, that person may elect on a yearly basis to have all of its taxable annual gross receipts reported and taxed at the rate applicable to the activity constituting at least 80% of annual taxable receipts.

a. Affected taxpayer’s activities must be taxed on an annual gross receipts basis.

b. Activity selected as Primary Tax Classification must comprise 80% of annual taxable gross receipts.

c. All applicable apportionment formulas must be utilized for each classification prior to electing the single primary tax classification. The 80% threshold is applied after apportionment formulas have been calculated.

d. Any activities taxed on a basis other than annual gross receipts may not be
combined with business activities taxed on the basis of annual gross receipts, and shall continue to be taxed under the existing tax sections and shall be excluded in computing the 80% threshold.

e. Election of single primary classification shall only apply to business activities conducted at or originating from the same location.

f. A full year of gross receipts is not a requirement for declaring under SCF

g. Choice of Single Category filing (SCF) is optional, whether it pays in a lower or higher tax classification. SCF is offered to provide tax simplification for the taxpayer even if it increases the taxes.

6. INDEPENDENT CONTRACTOR vs. EMPLOYEE: Section 21.00 (j) (k)

A. Definition of an Independent Contractor:

- Any entity, other than an individual, that performs services for a principal;
- Any individual who performs services for a principal for a specified recompense for a specified result, under control of the principal as to the result of the work, not as to the means by which such result is accomplished.

B. Definition of an Employee:

Any individual who performs services for a principal in a capacity other than as an independent contractor and whose income is reported by the principal to the IRS on Form W2 and may not deduct the cost of the use of a home for business purposes.

C. Importance of Distinguishing an Independent Contractor from an Employee:

There are constitutional and statutory requirements to apportion gross receipts based on the location and/or performance of the taxpayer. The “being” of the taxpayer extends to his employees, not to independent contractors who also do work for the taxpayer. Hence, it is important to determine the relationship of a worker to the taxpayer i.e. as an employee or as an independent contractor.

D. Factors that Determine the Status of a Worker:

1. Primary Factor: Right of Direction and Control by the Principal

   The principal has the right to direct and control the manner by which the work is performed, even if the principal never actually exercises the control.
The right to discharge a worker at will and without cause is strong evidence of the right of direction and control.

2. Overall Factors: When the right to direct and control the worker is not clear, the overall factors should be examined.

<table>
<thead>
<tr>
<th>Factor</th>
<th>Independent Contractor</th>
<th>Employee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Instructions How to Perform Services</td>
<td>Not Required to Follow</td>
<td>Required to follow</td>
</tr>
<tr>
<td>Skills &amp; specialization</td>
<td>Specialized no need of training</td>
<td>May need training</td>
</tr>
<tr>
<td>Services Essential Part of Business</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Subcontracting</td>
<td>May</td>
<td>Cannot</td>
</tr>
<tr>
<td>Supervision by Principal or His Employees</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Relationship with Principal</td>
<td>Specified period or project</td>
<td>Permanent part time or on call</td>
</tr>
<tr>
<td>Set Hours of Work</td>
<td>Complete control</td>
<td>Set by principal</td>
</tr>
<tr>
<td>Availability of Services to Others</td>
<td>Has right</td>
<td>No right. Time committed to principal</td>
</tr>
<tr>
<td>Location of Services</td>
<td>May choose</td>
<td>Chosen by Principal</td>
</tr>
<tr>
<td>Control of Manner/Method Of Performance</td>
<td>Has control</td>
<td>Principal’s Control</td>
</tr>
<tr>
<td>Requirement: Interim Reports</td>
<td>Not required</td>
<td>Can be required</td>
</tr>
</tbody>
</table>
l. Work Rate
Generally, flat
Hourly or salary

m. Business Expenses
Assume burden
Do not assume

n. Tools/Equipment
Owned
Provided by principal

o. Investment: Tools Equipment/Supplies
Ownership
Not required

p. Benefit/Risk of Gain/Loss
Assumed
No risk

q. Multiple Firms Simultaneously
Can work
Can be precluded

r. Services to the Public
Directly for him/herself
Indirectly, only for principal

s. Termination
According to Agreement
At will

t. Right to Terminate
Responsible to finish work
Can quit without liability

E. Employment Status:

We also follow the guide of the Employment Development Department (EDD) of the State of California in the determination of employment.

**Schedule D:** Worksheet on Employment Status
Lesson 13 – Schedule A

Court case upholding the City’s requirement that cash basis taxpayers must report their gross receipts, and pay taxes thereon, on the accrual basis.

WILSHIRE CREST MEDICAL GROUP (City of Los Angeles v.)
(1980) 113 Cal. App. 3d 887

Held that a TP on a cash basis has gross receipts measured by its billings

This is not unfair to the TP even though the billing never matures
(i.e. cash is never received)

Ct. cites City of Los Angeles v
SECURITY SYSTEMS, INC. (1975)
46 Cal. App. 3d 950 for the proposition that money need not actually be received to constitute gross receipts
Lesson 13 – Schedule B

COURT CASES RE: TAXABILITY OF REIMBURSED EXPENSES

1. Rexall Drug Co. v. Peterson, 113 Cal. App. 2d 528 (1952)

2. City of L.A. v. Clinton Merchandising Corp., 58 Cal. 2d 675 (1962) (Also, for inter-company sales)


Lesson 13 – Schedule C
COURT CASES RE: TAXABILITY OF BUSINESS TRANSACTIONS BETWEEN AFFILIATED COMPANIES

Transactions between affiliated companies are subject to the City Business Tax.

1. **City of Los Angeles v. Clinton Merchandising Corp.,** 58 Cal. 2d 675 (1962), sustained the City Business Tax for sales and services to affiliated corporations.

2. **City of Los Angeles v. Security Systems, Inc.,** 46 Cal. App.3d 950 (1975), held that the entire payroll of a corporation that acted solely as a financial and employer “conduit” for two wholly owned subsidiaries, and its assumed reimbursement for the payroll by the affiliates, constituted “gross receipts” under the City Business Tax. At the end of each accounting year, the corporation by bookkeeping transactions allocated all income and expenses between the affiliates.
WORKSHEET ON EMPLOYMENT STATUS

Questions 1 through 3 are significant questions. If the answer to any of them is “Yes” it is a strong indication that the worker is an employee, and you have a high probability of risk if you classify the worker as an independent contractor.

1. Do you instruct or supervise the person while he or she is working?  
   Yes____ No _____

   Independent contractors are free to do jobs in their own way, using specific methods they choose. A person or firm engages an independent contractor for the job’s end result. When a worker is required to follow company procedure manuals and/or is given specific instructions on how to perform the work, the worker is normally an employee.

2. Can the worker quit or be discharged (fired) at any time?  
   Yes____ No _____

   If you have the right to fire the worker without notice, it indicates that you have the right to control the worker.

   Independent contractors are engaged to do specific jobs and cannot be fired before the job is complete unless they violate the terms of the contract. They are not free to quit and walk away until the job is complete. For example, if a shoe store owner hires an attorney to review his or her lease, the attorney would get paid only after satisfactory completion of the job.

3. Is the work being performed part of your regular Business?  
   Yes____ No _____

   Work which is a necessary part of the regular trade or Business is normally done by employees. For example, a sales clerk is selling shoes in a shoe store. A shoe store owner could not operate without sales clerks to sell shoes. On the other hand, a plumber engaged to fix the pipes in the bathroom of the store is performing a service on a onetime or occasional basis that is not an essential part of the purpose of the business enterprise. A certified public accountant engaged to prepare tax returns and financial statements for the business would also be an example of an independent contractor.
A “No” answer to question 4 through 6 indicates that the individual is not in a business for themselves and would therefore normally be an employee.

4. Does the worker have a separately established business? Yes____ No ____

When individuals hold themselves out to the general public as available to perform services similar to those performed for you it is evidence that the individuals are operating separately established businesses and would normally be independent contractors. Independent contractors are free to hire employees and assign the work to others in any way they choose. Independent contractors have the authority to fire their employees without you knowledge or consent. Independent contractors can normally advertise there services in newspapers and/or publications, yellow page listings, and/or seek new customers through the use of business cards.

5. Is the worker free to make business decisions, which Affect his or her ability to profit from the work? Yes____ No ____

An individual is normally an independent contractor when he or she is free to make business decisions which impact his or her ability to profit or suffer a loss. This involves real economic risk, not just the risk of not getting paid. These decisions would normally involve the acquisition, use, and/or disposition of equipment, facilities, and stock in trade which are under his or her control. Further examples of the ability to make economic business decisions include the amount and type of advertising for the business, the priority in which assignments are worked, and selection of the types and amounts of insurance coverage for the business.

6. Does the individual have a substantial investment which would subject him or her to a financial risk of loss? Yes____ No ____

Independent contractors furnish the tools, equipment, and Supplies needed to perform the work. Independent contractors normally have an investment in the items needed to completer their tasks. To the extent necessary for the specific type of business, independent contractors provide their own business facility.
Questions 7 through 13 are additional factors that should be considered. A “Yes” answer to any of the questions is an indication the worker may be an employee but no one factor by itself is deciding. All factors must be considered and weighted together to determine which type of relationship exists. However, the greater the number of “Yes” answers to questions 7 through 13 the greater the likelihood the worker is performing services as an employee.

7. Do you have employees who do the same type of work?  
Yes____ No ____

If the work being done is basically the same as work that is normally done by your employees. It indicates that the worker is an employee. This applies even if the work is being done on a onetime basis. For instance, to handle an extra workload or replace an employee who is on vacation, a worker is hired to fill in on a temporary basis. This worker is a temporary employee, not an independent contractor.

(Note: If you contract with a temporary agency to provide you with a worker, the worker is normally an employee, but may be an employee of the temporary agency. You may wish to request EDD’s Information Sheet DE 231F, on the subject of temporary service and leasing employers.)

8. Do you furnish the tools, equipment, or supplies used to perform the work?  
Yes____ No ____

Independent business people furnish the tools, equipment, and supplies needed to perform the work. Independent contractors normally have an investment in the items needed to complete their tasks.

9. Is the work considered unskilled or semi-skilled labor?  
Yes____ No ____

The courts and the California Unemployment Insurance Appeals Board have held that workers who are considered Unskilled or semi-skilled are that type of workers the law is Meant to protect and are generally employees.
10. Do you provide training for the worker?  Yes____ No ____

In skilled or semi-skilled work, independent contractors usually do not need training. If training is required to do the task. It is an indication that the worker is an employee.

11. Is the worker paid a fixed salary, an hourly wage or based on a piece rate basis? Yes____ No ____

Independent contractors agree to do a job and bill for the service performed. Payments to independent contractors for labor or services are made upon the completion of the project or completion of the performance of specific portions of the project.

12. Did the worker previously perform the same or similar services for you as an employee? Yes____ No ____

If the worker previously performed the same or similar service for you as an employee it is an indication that the individual is still an employee.

13. Does the worker believe that he or she is an employee? Yes____ No ____

Although belief of the parties is not controlling, intent of the parties is a factor to considered when making an employment or independent contractor determination. When both the worker and principal believe the worker is an independent contractor, an argument exists to support an independent contractor relationship between the parties.
Interpretations of Answers

Depending on the services being performed and the type of occupation, this questionnaire may produce a variety of results. There may be some factors, which lean toward employment, and some, which lean toward independence. The answers to questions one through six provide a strong indication of the presence or absence of direction and control. The answers to questions seven through thirteen when joined with other evidence may carry greater weight when indicating the presence or absence of direction and control.

1. If all of the answers to questions one through three are “No” and all of the answers to questions four through six are “Yes” there is an indication of independence. When this is the case, there are likely to be a number of “No” answers to questions seven through thirteen, which add to the support of the determination.

2. If all of the answers to questions one through three are “Yes” and all of the answers to questions four through six are “No” it is very strong indication that the worker in question is an employee. When this the case, there are likely to be a number of “Yes” answers to questions seven through thirteen which add to the support of the determination.

3. If the answer to question one or two is “Yes” or the answer to any one of questions four through six is “No” there is a likelihood of employment. At the very least, this pattern of answers makes the determination more difficult since the responses to questions seven through thirteen will probably be mixed. In such situations, the business owner would be well advised to complete form DE 1870, giving all of the facts of the working relationship, and requesting a ruling from EDD.

4. If the answer to question three is “Yes” and the answer to question four is “No” there is a likelihood of employment. Given this pattern of answers, it is probable that the answers to questions five and six will also be “No”. When this happens you may also see more “Yes” answers to the last group of questions (seven through thirteen). This scenario would support an employment determination.

These four scenarios illustrate only a few combinations of answers that could result from the use of this employment determination guide, depending on the working relationship a principal may have with a worker and the type of occupation. The more the patterns of answers vary from the above four situations, the more difficult it is to interpret them. In situations one and two, there is a greater chance that the interpretation will be accurate, and they present the least risk to the business owners complete form DE 1870, giving a complete description of the working relationship, and requesting a ruling from the Department.

NOTE: Some agent or commission drivers, traveling or city salespeople, homeworkers, artists, authors, and workers in the construction industry are employees by law even if they would otherwise be considered independent contractors under common law. If you are dealing with workers in any of these fields, request the Information Sheet, DE 231SE, from the Employment Tax Customer Service Office.
EXAMPLES OF INDEPENDENT CONTRACTORS AND COMMON LAW EMPLOYEES

Independent Contractors

An attorney or accountant who has his or her own office, advertises in the yellow pages of the phone book under “Attorneys” or “Accountants”, bills clients by the hourly is engaged by the job or paid and annual retainer, and can hire a substitute to do the work is an example of an independent contractor.

An auto mechanic who has a station license, a resale license, buys the parts necessary for the repairs, sets his or her own prices, collects from the customer, sets his or her own hours and days of work, and owns or rents the shop from a third party is an example of an independent contractor.

Dance instructors who select their own dance routines to teach, locate and rent their own facilities, provide their own sound systems, music and clothing, collect fees from customers, and are free to hire assistants are examples of independent contractors.

A repairperson who owns or rents a shop, advertises the services to the public, furnishes all of the tools, equipment, and supplies necessary to make repairs, sets the price for services, and collects from the customers is an example of an independent contractor.

Employees

An attorney or accountant who is employed by a firm to handle their legal affairs or financial records, works in an office at the firm’s place of business, attends meetings as needed, and the firm bills the clients and pays the attorney or accountant on a regular basis is an example of an employee.

An auto mechanic working in someone’s shop who is paid a percentage of the work billed to the customer, where the owner of the shop sets the prices, hours and days the shop is open, schedules the work, and collects from the customers is an example of an employee.

Dance instructors working in a health club where the club sets hours of work, the routines to be taught and pays the instructors from fees collected from the customers are examples of employees.

A repairperson working in a shop where the owner sets the prices, the hours and days the shop is open, and the repairperson is paid a percentage of the work done is an example of an employee.

NOTE: Payroll tax audits conducted by EDD have disclosed misclassified workers in virtually every type and size of business. However certain industries seem more prone to have a higher number of misclassified workers than others. Historically, industries at higher risk of having misclassified workers include businesses that use:

- Construction workers
- Seasonal workers
- Short-term or “casual” workers
- Outside salespersons
ORDINANCE NO. 174086

An Ordinance amending Subsection (a) of Section 21.00 of the Los Angeles Municipal Code, to provide an exemption from business tax for amounts received from related entities.

THE PEOPLE OF THE CITY OF LOS ANGELES

DO ORDAIN AS FOLLOWS:

Section 1. Subsection (a) of Section 21.00 of the Los Angeles Municipal Code is hereby amended by adding a new paragraph thereto to read:

The term “gross receipts” as used in this article shall not include any amount received from or charged to any person which is a related entity to the taxpayer. A person is a related entity to a taxpayer if 80% or more of the ownership interests in both value and voting power of said person and the taxpayer are held, directly or indirectly, by the same person or persons. Notwithstanding the foregoing, any amount received from or charged to any person which is a related entity to a taxpayer shall be included in “gross receipts” when said amount is compensation for activities, including, but not limited to, selling, renting and service, performed by the taxpayer for any person which is not a related entity to the taxpayer.

Section 2. The provisions of this Ordinance shall become operative on January 1, 2002.
DATE: September 9, 2002
TO: Field Audit Section I, II and III
FROM: Terrance Manocchio, Chief I
Tax and Permit Division

SUBJECT: RELATED ENTITIES: SECTION 21.00 (a)

Effective January 1, 2002, we have to make a determination in our audits, whether gross receipts affecting related entities are taxable or not. Below are various scenarios that will clarify the intent of Ordinance No. 74086, amending Section 21.00 (a) of the L.A.M.C.

Scenario 1:

Corporation A owns 80% of the voting stocks of Corporation B. Corporation B provides management services to Corporation A and receives management fees from Corporation A.

Question:

Is the management fees received by Corporation B taxable?

Answer:

No. The management fees are gross receipts from a related entity for services provided by Corp. B to Corp. A.

There are two important rules to follow in the implementation of the ordinance whenever the activities involve the related entities only:

1. The same person or persons must hold directly or in directly a minimum of 80% ownership interests in both value and voting powers of said person and taxpayer.
2. The selling, renting and service activities are performed between related entities only, whether the relationship is direct or indirect.

Scenario 2:

Corporation A own 100% of Corporation B. Corporation A is located in San Francisco and sells computers to dealers, which it delivers with its own trucks. Corporation A assigns Corporation B,
which is located in Los Angeles, to bill and collect from the customers of Corporation A. Corporation A pays Corporation B fixed amount of $30,000 a month for the billing and collection function Corporation B performs for Corporation A. On a monthly basis, Corporation B bills and collects $200,000 from dealers and disburses these collections to Corporation A.

Question:

1. Is the monthly fee of $30,000 received by Corporation B from Corporation A taxable?

2. Is the monthly collections of $200,000 received by Corporation B from the customers of Corporation A taxable to Corporation B?

3. Is Corporation A taxable for the monthly $200,000 collections received from Corporation B?

Answer:

1. The monthly fee of $30,000 received by Corporation B from Corporation A is not taxable because these are gross receipts from service performed by Corporation B for the sole benefit of Corporation A.

2. The monthly collections of $200,000 received by Corporation B from the customers of Corporation A are not taxable to Corporation B because Corporation B is merely acting as an agent of Corporation A. The monthly collections of $200,000 represent a true “pass through income” to Corporation B. In this scenario, the person who is liable to the customers is Corporation A. If the computers are defective, the customers will go after Corporation A, not Corporation B.

3. Corporation A is taxable for the monthly $200,000 collections it receives from Corporation B even though it receives the collections from Corporation B, a related entity, because these gross receipts represent collections from the customers of Corporation A.
**Scenario 3:**

Corporation A owns 80% of stocks of Corporation B. Corporation B repairs the computers sold by Corporation A to its customers. For the repair services, Corporation A reimburses Corporation B for its cost.

**Question:**

Is Corporation B taxable for the reimbursed costs received from Corporation A?

**Answer:**

Yes, because Corporation B performed the service to third parties for Corporation A and not to Corporation A nor solely for the benefit of Corporation A. Note that what differentiate Scenarios 3 from Scenarios 1 and 2 is that any activity (selling, renting and service) performed by a related entity is done to a **third party not solely** for the benefit of its related entity. The only gross receipts exempt from tax are those from an activity performed to a related entity or to a third party but **solely** for the **benefit of a related entity**, whether the related entity is direct or indirect.

**Scenario 4:**

Corporation A owns 100% of the common stock of Corporation B. Corporation B owns 80% of Corporation C. Corporation C owns 95% of Corporation D. Corporation D provides marketing services for Corporation B and obtains annual marketing fee of $300,000.

**Question:**

Is the marketing fee of $300,000 from Corporation B taxable to Corporation D?

**Answer:**

No. Corporation D has an indirect relationship with Corporation B through the ownership of 80% of Corporation C, which owns 95% of Corporation D. The indirect relationship meets the 80% ownership threshold of the ordinance.
Scenario 5:

Corporation A owns 100% of Corporation B and 80% of Corporation C. Corporation C used to sell products, which it purchased from Corporation B. In tax year 2002, it was agreed that Corporation C would stop selling and assign its list of customers to Corporation B. Additionally, it would develop new customers for Corporation B. In consideration of the assignment and development of new customers, Corporation B pays a royalty income to Corporation C.

Question:

Is Corporation C taxable for the royalty income paid by Corporation B?

Answer:

No. Corporation B and Corporation C are both owned by Corporation A. There is, therefore, common ownership between the two.

Question:

If the taxpayer is engaged in an activity solely for its related entity, is the taxpayer exempt from business tax?

Answer:

No. The gross receipts are the ones exempt, not the taxpayer. The taxpayer must have a BTRC and pays the minimum tax. However, there are instances that a taxpayer may not be liable also for a minimum tax. Please check your Los Angeles Municipal Code. In that case, the taxpayer must still have a BTRC, reports zero gross receipts and does not pay the minimum tax.

Please take note that to be considered a related entity, a minimum of 5% ownership in interest both in value and voting power is required. However, to qualify for the exemption on related entities, Section 2100 (a) requires an 80% minimum ownership interest both in value and voting power.
LESSON 14
SEC. 21.166/21.42: WHOLESALE SALES

OUTLINE

1. DEFINITION
   A. Sec. 21.166(a)/21.42/21.41(g): Wholesale Sales
      (Repealed by Ord. No. 183,419, Eff. 3/20/15.)
   B. a. Who is subject to Sec. 21.166/21.42/21.41(g)?
        b. Conditions to be classified under Sec. 21.166/21.42/21.41(g)
        c. What is considered goods, wares, or merchandise?
        d. Examples that illustrate the meaning of "per year or fractional part thereof"
        e. What is the basis of tax under Sec. 21.166/21.42/21.41(g)?

2. EXEMPTIONS UNDER SEC. 21.166/21.42
   A. Sec. 21.166(d)/21.42(b)/21.41(g)(1): Partial Exemptions for the blind
   B. Sec. 21.166(e)/21.42 (c)/21.41(g)(2): Sale to owner members of non-profit
   C. Sec. 21.168.1: Out of State Shipments
   D. Sec. 21.168.2: Sales for Convenience
   E. Sec. 21.168.3: Solicitors Deemed Employees
   F. Sec. 21.168.4: Temporary Exhibitors at Trade Shows
LESSON 14

SECTION 21.166/21.42: WHOLESALE SALES
(Repealed by Ord. No. 183419, Eff. 3/20/15 and
Amended by Section 21.41 (g))

Section 21.42/21.41(g). Gross Receipts Fund Class 1
(Added by Ord. No. 183419, Eff. 3/20/15)

1. DEFINITION

A. Ask a student to read Sec. 21.166/21.42/21.41 (g) Wholesale Sales

B. Analyze Sec. 21.166/21.42/21.41(g):

a. Who is subject to tax under Sec. 21.166/21.42/21.41(g)?

   (i) Seller at wholesale any goods, wares or merchandise

   (ii) Seller or Furnisher of advertising or advertising space in printed
     matter at wholesale

b. Conditions to be classified under Sec. 21.166/21.42/21.41(g):

   (i) Must sell goods, wares, or merchandise at wholesale.

   (ii) Must not be specifically taxed under other provisions of Art. 1,
     Chapter 2.

c. What is considered goods, wares, or merchandise?

   • Tangible personal property is considered goods, wares, or merchandise.

   • Section 21.166 (d)/21.41(g) (3) states that “goods, wares or
     merchandise include newspapers, magazines, periodicals, books and
     other printed matter.

   • Review the distinction between real and personal property.

   • **Tangible personal property** is defined in Section 6016 of the Revenue
     and Taxation code as "personal property, which may be seen, weighed,
     measured, felt, or touched, or which is in any other manner perceptible
to the senses." (See Court Case of Capitol Records v. State Board of Equalization)

**Examples:**

(i) Sale of records/tapes/videos or software’s for resale over the counter.

The above items may seem to be sales of something intangible - considering that the value of the disk or tape is insignificant compared to the value of the intellectual material it contains. However, we treat them as sales of tangible personal property based on the following authorities:

1. **Simplicity Pattern Co., Inc. v. State Board of Equalization,** 27 Cal. 3d 900; 167 Cal.Rptr. 366, 615 P. 2d 555


**Exception:** Sale of tickets for a show, play etc. is taxable under Sec. 21.189/21.48, Gross Receipts Fund Class 8 because we don't consider the sale of tickets as a sale of tangible personal property (although the ticket is perceptible to the senses), instead we deem it as a "sale of the right" to see a show or play. The ticket is merely evidence of that right, while the disk is valuable because it contains the intellectual material.

(ii) Sale of newspapers, magazines, periodicals, books, and other printed matter are considered sale of goods, wares, and merchandise as stated under Sec. 21.166(f)./21.42 (d)/21.41 (g) (3)

**d.** Give examples that clearly illustrate the meaning of “per year or fractional part thereof.”

**e.** Ask a student what is the basis of tax under Sec. 21.166/21.42/21.41(g).

- Gross receipts as defined in **Section 21.00(a)**
Sec. 21.166(f)/21.42 (d)/21.41 (g) (3) states that gross receipts shall include advertising income from the selling or furnishing of advertising or advertising space in printed matter.

C. Ask a student to read Sec. 21.166(b)/21.42(a)/21.41(g)

- Emphasize that wholesale sales is a sale for purposes of resale.
- Any goods, wares, or merchandise that is sold not to the ultimate consumer of a product is considered sold at wholesale.

- Explain that there can be many wholesale sales of the product but there will be only one retail sale.

Examples:

(i) Selling tires to a retail tire store

(ii) A magazine publisher selling to a distributor who in turn sells to retail outlets

(iii) Selling food to a catering truck

(iv) Retail auto dealer selling parts or cars to another auto dealer

2. EXEMPTIONS UNDER SEC. 21.166

A. Sec. 21.166(d)/21.42(b)/21.41(g) (1): Partial exemption for the blind

Briefly discuss Sec. 21.166(d)/21.42 (b)/21.41(g) (1)

B. Sec. 21.166(e)/21.42(c): Sale to owner-members of nonprofit wholly retailer owned food cooperative as stated under Sec. 21.166(e)/21/166 (c)/21.41(g) (2).

C. Sec. 21.168.1: Out of state shipments

a. Emphasize that the exemption is on the gross receipts not the business.

Example: I. Coleman, Inc. an existing taxpayer is the exclusive distributor of Westinghouse appliances in Thailand. I. Coleman, Inc. has a sales office in Bangkok and headquarters in Los Angeles City. It has no other business locations. It
does not sell any appliance in California. All products sold to department stores are shipped to Thailand. In 2015, I. Coleman, Inc.’s total sales is $160,000,000.

Questions:

1. Is I. Coleman, Inc. still required to file L.A. City Business Tax?

2. If so, compute the tax due.

Answer:

1. Yes. Although all out of states sales is exempt per Section 21.168.1, I Coleman Inc. is still required to file business tax with zero tax measures.

b. Explain that shipments to or by the designees of the purchaser and seller is tantamount to shipments to or by the purchaser or seller.

c. Explain that all shipments outside of California are exempt as decided upon in N.I. Industries v. City of Los Angeles.

Example: Thomas & Co. has a warehouse in Nevada and in Los Angeles City. The headquarters is in the City of Los Angeles. Any sales shipped out of the Nevada or Los Angeles warehouses to points outside of California are exempt regardless of whether or not all selling activities occur inside Los Angeles City.
d. Explain that under Sec. 21.168.1, the shipping arrangement (F.O.B. Shipping point or destination) is irrelevant. As long as the product sold is shipped outside California by the seller or its designee, the gross receipts from such sale is exempt. However, if the purchaser decided to pick-up the product in Los Angeles City subsequent to an arrangement that the product be shipped to a point outside of California, then the gross receipts from such sale are not exempt.

Example: Campana Corp. sold $100,000 worth of bells to F. Lim & Co. at wholesale. F. Lim & Co. instructed Campana Corp. to ship the bells to its branch in Arizona on June 10. However, on May 30, F. Lim & Co. went to Campana Corp’s warehouse in Los Angeles to pick-up the bells for its Arizona location. The $100,000 gross receipts are taxable.

e. Explain the exception to the exemption - government bills of lading.

The only out of state shipments that are subject to tax are those shipped outside California on government bills of lading. The government, rather than the seller, is considered the shipper in these cases. This is supported by the court case: ITT Gilfillan, Inc. v. City of Los Angeles, 72 Cal.App.3d 421 (1977).

D. Sec. 21.168.2: Sales for Convenience Discuss Sec. 21.168.2

a. Emphasize that the “sale for convenience” is a sale of NEW goods, wares, or merchandise between persons who sell the same or similar kinds of articles.

b. Emphasize that items (i), (ii), and (iii) of Sec. 21.168.2 must all be present in any of the situations discussed under paragraphs (1), (2), (3), and (4) of that section to be considered a sale for convenience.

E. Sec. 21.168.3: Solicitors Deemed

Employees Briefly discuss Sec. 21.168.3.

F. Sec. 21.168.4: Temporary Exhibitors at Trade

Shows Briefly discuss Sec. 21.168.4.
3. ONE BTRC FOR ALL SEC. 21.166/21.42/21.41(g) IN ONE LOCATION

Review Lesson 13: Gross Receipts from a discontinued Business Segment are:

(i) Not taxable if the discontinued business segment is transferred or sold to another person.

(ii) Taxable if the discontinued business segment is not transferred or sold to another person.
LESSON 15

SEC. 21.167/21.44(a): RETAIL SALES

OUTLINE

I. DEFINITION

Sec. 21.167/21.44(a) – Repealed by Ordinance No. 183419 effective 3/20/15.
Amended by Section 21.43(e)

III. EXEMPTIONS

A. Sec. 21.167(a)(2)/21.44(a) 2/21.43 (e)(2): Partial exemptions for the blind and definition of blind

B. Sec. 21.167(a)(f)/21/44 (a) 5/21.43(b): Vendors at Swap Meet and Antique Show

C. Sec. 21.168.1: Out of State Shipments

D. Sec. 21.168.2: Sales for Convenience

E. Sec. 21.168.3: Solicitors Deemed Employees

F. Sec. 21.168.4: Temporary Exhibitors at Trade Shows

G. Sec. 21.168.5: Certified Producers Deemed Employees

H. Section 21.171: Retailer of new Passenger Motor Vehicles - Exempt
LESSON 15

SECTION 21.167/21.44: RETAIL SALES
(Repealed by Ord. No. 178101, Eff. 1/9/07)

Section 21.43(e). Gross Receipts Fund Class 2,(a) Retail Sales
(Added by Ord. No. 183419 Eff. 3/20/15)

I. DEFINITION

A. **ASK A STUDENT TO READ SEC. 21.167(a)/21.44(a, 1)/21.43(e)(1).**

B. **ANALYZE SEC. 21.167(a) IN THE SAME MANNER AS SEC. 21.166(a)/WHOLESALE, SECTION 21.42 GROSS RECEIPTS FUND CLASS 1.**

· Emphasize that the meaning of goods, wares, and merchandise is the same for both sections.

· Gross receipts meaning is the same as Sec. 21.166's/21.42/21.41(g).

C. **ASK A STUDENT TO READ SEC. 21.167(b)/21.44(a, 1)/21.43(e)(1)**

*Clearly explain that a sale is considered retail if any of the following applies:*

1. a sale to an ultimate consumer

2. a sale for any purpose other than resale

3. the identity of the product sold is lost.

**Examples:**

a. Sale of chemical to a paint manufacturer

   **Sec. 21.167/21.44(a)/21.43(e)(1)**

   **Reason:** The paint manufacturer is not selling the chemical as is. The manufacturer is using the chemical to produce paint. Therefore, the purpose of the sale of chemical is something other than to resell the chemical. Also, the identity of the chemical is lost when it was mixed in with other materials to produce paint. And one can argue that the ultimate user of the "chemical" is the manufacturer.
b. Sale of paint to a department store:

- who will resell the paint

  **Reason:** Self explanatory

- who will use the paint to refurbish store

  **Reason:** Purpose of sale is not to resell the paint. Also department store is the ultimate user of the paint.

Sec. 21.166/21.42/21.41(g)

Sec. 21.167/
21.44(a)/21.43(e)

Sec. 21.167/
21.44(a)/21.43(e)

Sec. 21.167/
21.44(a)/21.43(e)

Sec. 21.167/
21.44(a)/21.43(e)

D. Additional Examples
II. EXEMPTIONS

A. **SEC. 21.167 (a) & (d)/ 21.44(a)(2)/21.43(e)(2):** PARTIAL EXEMPTION FOR THE BLIND AND DEFINITION OF BLIND

B. **SEC. 21.167( f)/21/44(a)(5)/21.43(b):** VENDORS AT SWAP MEET AND ANTIQUE SHOW

   Note: Not an exemption under Sec. 21.166/21.42/21.41(g)

C. **SEC. 21.168.1:** OUT OF STATE SHIPMENTS

   *Briefly review Lesson 14's discussion on Sec. 21.168.1.*

D. **SEC. 21.168.2:** SALES FOR CONVENIENCE

E. **SEC. 21.168.3:** SOLICITORS DEEMED EMPLOYEES

F. **SEC. 21.168.4:** TEMPORARY EXHIBITORS AT TRADE SHOWS

G. **SEC. 21.168.5:** CERTIFIED PRODUCERS DEEMED EMPLOYEES

   Note: Not an exemption under Sec. 21.166/21.42/21.41(g).

H. **SEC. 21.171:** RETAILER OF NEW PASSENGER MOTOR VEHICLES
   (ADDED PER ORDINANCE No 182184 Effective 1/1/13 to 2020 tax year.
   **Schedule A**)

   - Applies to Dealer of new and unregistered passenger motor vehicles acquired from manufacturers or distributors of those motor vehicles.
ORDINANCE NO. 182184

An ordinance adding Section 21.171 to the Los Angeles Municipal Code to exempt the retail sale of new passenger motor vehicles from this Article.

THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:

Section 1. A new Section 21.171 is added to Article 1 of Chapter 2 of the Los Angeles Municipal Code to read as follows:

SEC. 21.171. RETAILERS OF NEW PASSENGER MOTOR VEHICLES.

(a) Notwithstanding the provisions of Section 21.44, all gross receipts from the retail sales of new passenger motor vehicles by a dealer of new passenger motor vehicles are exempt from taxation under this Article:

(b) For the purpose of this Section:

1. A “dealer of new passenger motor vehicles” is a person who acquires for resale new and unregistered passenger motor vehicles from manufacturers or distributors of those motor vehicles. A “dealer of new passenger motor vehicles” must be subject to and comply with the provisions of Chapter 6 of Division 2 of the California Vehicle Code (i.e., the requirements of the New Motor Vehicle Board).

2. The term “motor vehicle” shall have the same meaning as that set forth for “motor vehicle” in California Vehicle Code Section 415, as of the effective date of this Section.

3. This Section shall only apply to the sale of passenger vehicles. A “passenger vehicle” shall have the same meaning as that set forth for “passenger vehicle” in California Vehicle Code Section 465 as of the effective date of this Section. “Passenger vehicle” shall not include housecars, mobile homes, motorcycles, motor-driven cycles, motorized bicycles, motorized quadricycles, motorized scooters or similar motorized vehicles.

(c) This section and the tax treatment for retailers of new passenger motor vehicles shall be operative effective January 1, 2013, through the 2020 tax year.
Sec. 2. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of  

JUNE LAGMAY, City Clerk

By

Deputy

Approved  

JUL 09 2012

Approved as to Form and Legality

CARMEN A. TRUTANICH, City Attorney

By

DANIEL M. WHITLEY
Deputy City Attorney

Date 7/3/12

File No. 12-0711
DECLARATION OF POSTING ORDINANCE

I, MARIA VIZCARRA, state as follows: I am, and was at all times hereinafter mentioned, a resident of the State of California, over the age of eighteen years, and a Deputy City Clerk of the City of Los Angeles, California.

Ordinance No. 182184 – Adding Section 21.171 to the Los Angeles Municipal Code to exempt the retail sale of new passenger motor vehicles from this Article - a copy of which is hereto attached, was finally adopted by the Los Angeles City Council on July 3, 2012, and under the direction of said City Council and the City Clerk, pursuant to Section 251 of the Charter of the City of Los Angeles and Ordinance No. 172959, on July 11, 2012 I posted a true copy of said ordinance at each of the three public places located in the City of Los Angeles, California, as follows: 1) one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; 2) one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; 3) one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

Copies of said ordinance were posted conspicuously beginning on July 11, 2012 and will be continuously posted for ten or more days.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 11th day of July, 2012 at Los Angeles, California.

Maria Vizcarra, Deputy City Clerk

Ordinance Effective Date: August 20, 2012

Council File No. 12-0711
LESSON 16

CITY CLERK'S RULING NOS. 13 AND 14
APPORTIONMENT OF SEC. 21.166/21.42/21.41(g) AND
21.167/21.44(a)/21.43(e) GROSS RECEIPTS

OUTLINE

I. OVERVIEW
   A. Why do we apportion gross receipts?
   B. How do we apportion gross receipts?
   C. Who is entitled to apportionment?

II. CITY CLERK'S RULING NO. 13
   A. City Clerk's Ruling #13
   B. 1. Solicitation by employees.
      2. Delivery by using own vehicles
      3. Warehouse

III. CITY CLERK'S RULING NO. 14
   A. Conditions when Ruling 14 is Applicable
   B. Selling Activities Carried within & without the City of L. A.
   C. Activities Occurring in the City
LESSON 16

CITY CLERK’S RULING NOS. 13 AND 14
APPORTIONMENT OF SECTION 21.166/21.42/21.41(G) – WHOLESALE SALES
AND 21.167/21.44/21.43(E) - RETAIL SALES

I. OVERVIEW

A. WHY DO WE APPORTION GROSS RECEIPTS?

In the case of City of Los Angeles v. Belridge Oil Co., the California Supreme Court ruled that:

"Because a City can only tax activities within its territorial limits, only those gross receipts which are directly attributable to activities within the City should form the measure for the basis of the tax. Gross receipts attributable to activities performed outside the City should not be included in its measure of tax."

B. HOW DO WE APPORTION THE GROSS RECEIPTS?

In the case of City of Los Angeles v. Shell Oil Co., the California Supreme Court concluded that apportionment should be done in a manner by which the measure of tax fairly reflects that proportion of the taxed activity, which is actually carried on within the taxing jurisdiction. The measure of tax should depend upon a factor, which bears a fair relationship to the proportion of the taxed activity actually taking place within the taxing jurisdiction.

The Los Angeles Office of Finance has adopted several rulings that deal with apportionment. Such rulings are approved by the City Attorney. Examples are Ruling Nos. 13 and 14.

Emphasize that under Sec. 21.15(h) the Director of Finance has the power to make rules and regulations for the apportionment of the gross receipts as necessary and desirable to overcome constitutional objections. However, the City Attorney has to approve such rules and regulations for them to be effective.

C. WHO IS ENTITLED TO APPORTIONMENT?

The current rule is that generally a taxpayer is only entitled to an apportionment when the taxpayer (like sole proprietor) or its employees perform activities outside the taxing city. "Generally by a taxpayer" - because activities of officers or partners can also be considered in apportionment.
A taxpayer who subcontracts some of its activities to an out-of-city firm, as opposed to having its employees perform an activity outside the taxing city, is not entitled to apportionment.

Court cases supporting the above:

(i) **Irvine Co. v. McColgan**, 26 Cal.2d 160 (1945)

(ii) **American President Lines v. Franchise Tax Bd.**, 3 Cal.App.3d 587 (1970)

(iii) **Hospital Medical Collections v. City of Los Angeles**, 65 Cal.App.3d 46 (1976)

II. **CITY CLERK'S RULING NO. 13**

A. ASK A STUDENT TO READ CITY CLERK'S RULING NO. 13. CLEARLY EXPLAIN THAT RULING 13 APPLIES ONLY IF ALL OF THE FOLLOWING CONDITIONS EXISTS:

1. there is no fixed place of business in the City

2. there is physical presence in the City through employees, or equipment

3. employees or equipment in the City are designed to solicit, promote, stimulate, or otherwise encourage the sale of goods, wares, or merchandise

B. **EMPHASIZE THE FOLLOWING:**

1. Solicitation by employees

- There must be solicitation by the taxpayer's employees to be subject to tax under Sec. 21.166/21.42/21.41(g) and 21.167/21.44/21.43(e).

2. Delivery by taxpayer's own vehicles

A taxpayer who:

a. has no fixed place of business in the City

b. has no employees who solicit in the City

c. but delivers goods using the taxpayer's own vehicles

is NOT subject to tax under Sec. 21.166/21.42/21.41(g) or 21.167/21.44/21.43(e). Instead, the taxpayer is taxable under Sec. 21.196 (Miscellaneous Trucking).
3. If a taxpayer's only location in the City is a warehouse, that warehouse is considered a fixed place of business and must have a BTRC. Hence, Ruling 14 applies, not Ruling 13.

---Cross Reference:  *Sec. 21.06(a)*, *Lesson 2.*

### III. CITY CLERK'S RULING NO. 14

A. **CLEARLY EXPLAIN THAT RULING 14 APPLIES WHEN ALL OF THE FOLLOWING CONDITIONS EXIST:**

1. when a taxpayer has a fixed place of business in the City
2. selling activities occur outside the City
3. selling activities generally must be performed by the taxpayer or employees of the taxpayer.

B. **SELLING ACTIVITIES CARRIED ON WITHIN AND WITHOUT THE CITY OF LOS ANGELES.**

1. *Discuss the elements of Ruling 14.*
2. *Clearly explain that the selling activities must generally be performed by the taxpayer or the taxpayer's employees to be entitled to any apportionment.*

C. **ACTIVITIES OCCURRING IN THE CITY ARE NOT ANY OF THE ELEMENTS OF RULING 14.**

1. Modification of the Apportionment Formula where Selling Activities are carried on within and without the City.

*Ruling 14 Apportionment formula may be modified:

a. if a person can prove that the percentage of allowable deduction should be greater than the provisions of Ruling 14.

In such case, an application for modification of the percentage accompanied by a statement of facts supporting the basis for such modification should be made in writing to the Office of Finance.

b. If the Office of Finance determines that the percentage of allowable deduction should be less than the provisions of Ruling 14.*
The Office of Finance should investigate to ascertain the facts and revise the percentage, if required.

If the recommendation to reduce the percentage of allowable deduction is based upon the results of an audit, the tax auditor should submit a written memo to the Chief I of the Tax and Permit Division recommending a deviation from Ruling 14.

• Any variation (either (a) or (b) above) from the percentages provided for under Ruling 14 shall be approved in writing by either the Chief II or Chief I of the Tax and Permit Division.

2. Modification of Ruling 14 when none of the Selling Activities occur in the City.

If the activities conducted by the taxpayer in the City are not one of the elements of Ruling 14 a written request to use an apportionment formula different from the provisions of Ruling 14 should be submitted to the Chief II or I of the Tax and Permit Division. Such request should be accompanied by a statement of facts supporting the basis for the use of a different apportionment formula.

A formula based on cost is normally an acceptable and equitable method of apportioning the gross receipts.

We must completely abandon Ruling 14 elements if the use of the cost allocation formula is more equitable. This means that in taxing a taxpayer who has several in-City and out-of-City locations where some of which do not have any of the selling activities (or elements) of Ruling 14, we should use the same formula to all locations. We cannot use Ruling 14 for some locations and cost allocation formula for other locations. One formula should be uniformly applied to all locations.

Refer to Lesson 27, Schedule L: Ruling 15 Deviation Methods.

3. Apportionment of Taxpayers with a Business Location Overlapping City-County or City-City Boundaries.

When a taxpayer has a business premises that is located in the City of Los Angeles and another municipality, such as unincorporated Los Angeles County or another city, apportionment will be done based on a “Square-
foot Analysis”. This method requires an analysis of the location’s square footage to determine the percentage that is in the City of Los Angeles. The percentage of the business premises that is determined to be in the City of Los Angeles is multiplied by the taxpayer’s gross receipts to derive with the tax measure.
LESSON 17

SEC. 21.65/21.46(b): VENDING MACHINES

OUTLINE

I. SEC. 21.65(a)/21.46(b)(1)
   A. Conditions necessary to be taxed under Sec. 21.65
   B. Tax Due
   C. Tax Measure and Taxability

II. SEC. 21.65(b)/21.46(b)(2)

III. SEC. 21.65(c)/21.46(b)(3): EXEMPTIONS
   A. Postage stamp machines
   B. Vending machines dispensing sanitary or hygienic articles, etc.
   C. Any person who owns and supplies his own vending machines
   D. Any machine dispensing newspaper or printed matter

IV. EXAMPLES
LESSON 17

SEC. 21.65: VENDING MACHINES
(Repealed by Ord. No. 178101, Eff. 1/9/07)

Section 21.46 (b). Gross Receipts Fund Class 6
(Added by Ord. No. 178101, Eff. 1/9/07)

I. SEC. 21.65(a)/21.46(b)

A. CONDITIONS NECESSARY TO BE TAXED UNDER SEC. 21.65/21.46(b):

1. Must be coin-operated vending machines
2. Must dispense goods, wares, or merchandise or any other tangible personal property

B. TAX DUE

*Explain that this is one of the two sections (the other being Sec.21.188: Contractors), which cannot be calculated by directly multiplying the gross receipts with the tax rate. The minimum gross receipts must be subtracted from the total gross receipts. The remaining gross receipts are then multiplied by the tax rate and the minimum is then added to that total.*

C. TAX MEASURE AND TAXABILITY

<table>
<thead>
<tr>
<th>Tax Measure</th>
<th>Code Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>Machines located in the City (Qualify by noting the exemption under Sec. 21.65(c)3.) from the machines</td>
<td>Sec.21.65/21.46(b) No Apportionment</td>
</tr>
<tr>
<td>Machines located outside the City, with an in-City office location machines located out of City but California</td>
<td>from Sec. 21.167/21.44/21.43(e) Subject to Ruling 14*</td>
</tr>
</tbody>
</table>
*Current office policy, tax at 60%. Exemption is based on the following activities deemed to be performed out of the City:

<table>
<thead>
<tr>
<th>Activity</th>
<th>Tax Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Approval</td>
<td>- 10%</td>
</tr>
<tr>
<td>Warehouse</td>
<td>- 20%</td>
</tr>
<tr>
<td>Shipment</td>
<td>- 5%</td>
</tr>
<tr>
<td>Collection</td>
<td>- 5%</td>
</tr>
<tr>
<td>Total exempt</td>
<td>- 40%</td>
</tr>
</tbody>
</table>

II. SEC. 21.65(b)/21.46(b)(2)

1. Machines must be identified with the owner's name, address, BTRC number, and telephone number.

2. If machines are not identified, the City has the authority to seal the machine.

III. SEC. 21.65(c)/21.46(b)(3): EXEMPTIONS

1. Postage stamp machines either owned by an operator or owner of premises are not taxable.

2. Vending machines dispensing sanitary or hygienic articles, drinking cups, towels, or medicine are not subject to tax under Sec. 21.65/21.46(b) if owned and supplied by the owner or operator of the premises where such machines are installed. However, a vending machine operator having such machines at various locations is subject to tax under Sec. 21.65/21.46(b).

3. Any person who owns and supplies his own vending machines on the premises where he conducts another business subject to tax under Sec. 21.166/21.42/21.41(g) or Sec. 21.167/21.44/21.43(e) is not subject to tax under Sec. 21.65/21.46(b). He must report the gross receipts from the vending machine on his wholesale or retail certificate. However, if that other business is not subject under Sec. 21.166/21.42/21.41(g) or Sec. 21.167/21.44/21.43(e), the owner is subject to tax under Sec. 21.65/21.46(b) measured by the gross receipts derived from the vending machines on the premises.

4. Any machine dispensing newspaper or printed matter is taxed under Sec. 21.167/21.44/21.43(e), not 21.65/21.46(b).

IV. EXAMPLES

1. John owns one candy machine and one cigarette machine. He places them in Steven's Liquor Store. Each year, John pays Steven 10% of the gross receipts from the two machines for renting John the space at Steven's Liquor Store.

   a. John is taxable under Sec. 21.65/21.46(b), the tax measure is based on the total gross receipts without deducting the amount paid to Steven.
Ask the class why the amount paid to Steven is not deductible.

Answer:

Because it is an expense of John and Sec. 21.00(a) states essentially the expenses of doing business are not deductible from gross receipts.

b. Steven is subject to tax under Sec. 21.98/21.43(d) for renting space.

2. Mary owns a pool room. The only food sold in the pool room is sold from vending machines owned and operated by Mary.

Mary is taxable under Sec. 21.65/21.46 (b).
LESSON 18

SEC. 21.109: MOTION PICTURE, TELEVISION, AND RADIO PRODUCERS

OUTLINE

I. DEFINITION
   A. Who are considered producers under 21.109?
   B. When does the liability under 21.109 start?
   C. Tax Measure
   D. Tax Rate

II. TAXATION OF OTHER BUSINESS ACTIVITIES ENGAGED IN BY A PRODUCER

III. TAXABILITY OF ACTIVITIES SIMILAR TO OR CONNECTED WITH MOTION PICTURE PRODUCTION
   1. Producers of film strips not utilizing the services of actors or not using cartoons
   2. Persons engaged in the business of furnishing titles for motion pictures
   3. Post production

IV. MISCELLANEOUS ITEMS
   A. Taxability of a Motion Picture Producer
   B. City Attorney's Opinion on Activities of Major Studios
   C. Sec. 21.109: Audit Procedures
LESSON 18

SEC. 21.109: MOTION PICTURE, TELEVISION, AND RADIO PRODUCERS

I. DEFINITION

A. WHO ARE CONSIDERED PRODUCERS UNDER SEC. 21.109?

1. Motion picture producer - the person who is "at risk" and engaged in the business of making or producing motion pictures or photoplays, filmed cartoons, advertising films

   "At risk" refers to the person who bears the possibility of financial gain or loss in a production

2. Television or radio program producer

3. Television or radio commercial producer (not at risk)

4. Persons engaged in the reconstruction of previously produced motion picture films, television programs, or commercials by synchronizing pictures with sound, sound scoring and/or sound dubbing

5. Persons engaged in the making or producing of sound scores who are not the producers of the motion picture.

6. Producer of videotapes of weddings, graduation ceremonies, or training program.

B. WHEN DOES THE LIABILITY UNDER SEC. 21.109 START?

1. Producers with a fixed place of business within the City:

   The liability begins at the time when the first production cost of a motion picture is incurred.

   Examples of incurred first costs:

   a. when a producer sets up a special checking account at a bank for a production of a specific motion picture
   b. when a producer purchases a story or hires script writers
   c. when a producer begins story development
   d. preparation costs of shooting films
e. when commissions are paid to individuals to seek out stories, or another service prior to the actual shooting of the motion picture, television program, or commercial.

2. Producers without a fixed place of business within the City:

Business tax liability under Sec. 21.109 is incurred at the time when the shooting of the motion picture begins within the City of Los Angeles.

C. TAX MEASURE

1. Total cost incurred within the City

Note: Costs incurred outside the City are excludable.

2. Gross receipts from lending of employees services to another producer

Note: Emphasize that lending of employees services must be to another Sec. 21.109 producer. Otherwise, such gross receipts should be taxed under 21.190/21.49(c), or 21.189.1/21.48, or 21.189.2./21.45(a)/21.43(g) (Refer to Lesson 28, Page 3: Temporary Help Agency; and, Lesson 29).

3. Gross receipts from rental of studio facilities to other producers provided that the rental of studio facilities include the equipment and services of technicians such as cameramen, soundman, carpenters, electricians, and set decorators.

Note: The studio facility must be rented to another Sec. 21.109 producer and must include equipment and services of technicians.

If rented to somebody other than a Sec. 21.109 producer, the gross receipts are taxed under Sec. 21.98/21.43(d).

If the studio facility rented is unequipped or is a bare wall studio, the gross receipts are taxed under Sec. 21.98/21.43(d) regardless of whether or not it is rented to another Sec. 21.109 producer.

D. TAX RATE

1. For periods prior to July 1, 2005 - The tax rate of a producer is based on a graduated table, ranging from a minimum tax of $147.80 (where the measure of tax is less than $50,000) to a maximum tax of $12,711.90 (where the measure of tax is $4,200,000 or more).
Notes:

(a) Where the in-City costs incurred to produce a motion picture are $4,200,000 or more, there is no need to determine the gross receipts from the lending of services or rental of studio facilities with equipment and technicians to other producers since the maximum tax due already applies. However, for clarity, the lending services or rental of studio facilities with equipment and technicians to other producers must be mentioned in the comment.

(b) **Schedule A:** Schedule of Costs. This is an outline of the costs that are includable as tax measure. Note that costs paid to independent contractors are included. The policy is to include all costs. So if certain cost items are not included in this schedule, such items should be included in computing the tax measure if the said items are expenses incurred in the production of a film.

“Below the line” costs refer to costs associated with the production, such as crew members, location and equipment rentals, set building, postproduction, and film processing. It does not include the cost of people with agents, including the stars, directors and producers.

2. **For periods beginning July 1, 2005** – The minimum tax shall be $145.00 per year or fractional part thereof for the first $2,500,000 of the measure of tax, plus $1.30 per year for each additional $1,000 of the measure of tax or fractional part thereof in excess of $2,500,000, provided that the maximum tax shall be $12,495.00 for all measures of tax greater than $12,000,000 (per Ordinance No. 176325 amending Sec. 21.109(c)).

3. **For periods beginning Jan 21, 2011** – The minimum tax shall be $145.00 per year or fractional part thereof for the first $5,000,000 of the measure of tax, plus $1.30 per year for each additional $1,000 of the measure of tax or fractional part thereof in excess of $5,000,000, provided that the maximum tax shall be $9,245.00 for all measures of tax greater than $12,000,000 (per Ordinance No. 181477 amending Sec. 21.109(c)).

4. Any motion picture, television, or radio producer as defined in Subsection (a) of this section and subject to the tax imposed by this section, shall not be taxed under Section 21.45(a)/21.43(g) for production activity. (Amended by Ord. No. 178101, Eff. 1/9/07).
5. **TAXATION OF OTHER BUSINESS ACTIVITIES ENGAGED IN BY A PRODUCER**

Usually, a film producer conducts other business activities, which may be subject to tax under other code sections. The guidelines set forth in Schedule B should be used to determine the taxability of business activities conducted by a producer.

*Discuss Schedule B:* Taxation of other Business Activities Engaged in by a Producer.

6. **TAXABILITY OF ACTIVITIES SIMILAR TO OR CONNECTED WITH MOTION PICTURE PRODUCTION**

A person engaged in the following activities are not taxable under Sec. 21.109. Instead, they are taxed as indicated below.

1. Producers of film strips not utilizing the services of actors or not using cartoons

   - Sec. 21.167/21.44/21.43(e)

2. Persons engaged in the business of furnishing titles for motion pictures

   - Sec. 21.167/21.44/21.43(e)

3. Post production

7. **INCENTIVES**

1. Sec. 21.26: Empowerment Zone-City Business Tax Reductions, Limitations, and Exemptions

2. Sec. 21.27: Entertainment and Multimedia Business Tax Limitations

Refer to Lesson 10 for review of both sections.

3. Sec. 21.29: Small Business Exemption
8. EXCLUSION FROM INCENTIVES

Sec. 21.30: New Business Exemption

Businesses as defined by Section 21.109 are excluded from the incentives provided by Sec. 21.30 such as non-payment of minimum tax and back tax if the taxable gross receipts on the first two years of operation are less than $500,000.

9. MISCELLANEOUS ITEMS

• DISCUSS LEGAL OPINION #17: MOTION PICTURE PRODUCER

B DISCUSS SCHEDULE C: CITY ATTORNEY'S OPINION ON ACTIVITIES OF MAJOR STUDIOS

C. DISCUSS SCHEDULE D: SEC. 21.109: AUDIT PROCEDURES
### Lesson 18 – Schedule A

**SCHEDULE OF COSTS INCLUDABLE AS SEC. 21.109 GROSS RECEIPTS**

<table>
<thead>
<tr>
<th>Costs above the line are:</th>
<th>Costs below the line are:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commissions</td>
<td>Camera</td>
</tr>
<tr>
<td>Office/Executive Costs</td>
<td>Sound Recording</td>
</tr>
<tr>
<td>Story (includes scripts writers)</td>
<td>Electrical</td>
</tr>
<tr>
<td>Producer</td>
<td>Re-recording, Scoring and Dubbing</td>
</tr>
<tr>
<td>Director</td>
<td>Wardrobe</td>
</tr>
<tr>
<td>Cast</td>
<td>Set Dressing &amp; Props</td>
</tr>
<tr>
<td>Music</td>
<td>Location</td>
</tr>
<tr>
<td>Production Staff</td>
<td>Set Operations</td>
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<td></td>
<td>Process</td>
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<tr>
<td></td>
<td>Special Effects</td>
</tr>
<tr>
<td></td>
<td>Make-Up &amp; Hairdressing</td>
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<td></td>
<td>Insurance</td>
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<td></td>
<td>Transportation</td>
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<td></td>
<td>Legal Fees</td>
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<td></td>
<td>Film Editing &amp; Projection</td>
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<tr>
<td></td>
<td>Publicity</td>
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<td></td>
<td>Film &amp; Laboratory</td>
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<tr>
<td></td>
<td>Construction</td>
</tr>
<tr>
<td></td>
<td>State Rental &amp; Studio Facilities</td>
</tr>
<tr>
<td></td>
<td>16MM Prints</td>
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<tr>
<td></td>
<td>General Production Expense</td>
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<tr>
<td></td>
<td>Accounting</td>
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<tr>
<td></td>
<td>Pre &amp; Post Prod. Costs, Shutdowns</td>
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<td></td>
<td>Production Fee</td>
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<tr>
<td></td>
<td>Holidays, Severance, Etc.</td>
</tr>
<tr>
<td></td>
<td>Payroll Charges</td>
</tr>
<tr>
<td></td>
<td>Host Spot Shooting</td>
</tr>
</tbody>
</table>
Lesson 18 – Schedule B

TAXATION OF OTHER BUSINESS ACTIVITIES ENGAGED IN BY A PRODUCER

A. Sale of Films or reprints of original motion pictures, television programs or commercials on which a tax has been paid under Section 21.109  
   Not Taxable

B. Royalties from rental of films, television programs on which a tax under Section 21.109 has been paid.  
   Not Taxable

C. Residuals from commercials on which a tax under Section 21.109 has been paid.  
   Not Taxable

Note: Gross receipts from items A, B, and C are not Taxable because these gross receipts are generated by the business activities already taxed under Section 21.109. Instead of using the resulting gross receipts as the measure of tax, the City based the tax on the cost of production. It would be double taxation if we tax items A, B, and C again after imposing the tax under Section 21.109

D. Sale of make-up equipment, costumes or any other tangible Personal property:  
   Not Taxable
   a. If this is a regular business activity (if such items are sold after finishing each film)  
      Sec. 21.167/21.44(a)/21.43(e)
   b. If producer sells off costumes and equipment just to Get rid of them  
      Not Taxable

E. Interest from loans to actors and other personnel who are:  
   a. not employees of the producer  
      Sec. 21.108
   b. employees of the producer  
      Sec. 21.109 or Sec. 21.190/21.49(c)

F. Sale of story, television or scenario rights  
   Sec. 21.190/21.49(c)

G. Rental of stock shots, sound tracks, music tapes, studio Equipment to non-producers  
   Sec. 21.192/21.46(e)

H. Sale of commissary goods or food to employees for their convenience  
   Sec. 21.167/21.44(a)/21.43(e)
I. Lending of employee services:
   a. to another producer  
      Sec. 21.109
   b. to a person other than a producer  
      Sec. 21.190 or 21.189.1/21.48 or 21.189.2/21.45(a)/21.43(g)

J. Rental of studio facilities with equipment and technicians:
   a. to another producer  
      Sec. 21.109
   b. to a person other than a producer  
      Sec. 21.98/21.43(d)

K. Rental of bare wall studio facility without any equipment to any person including a producer  
   Sec. 21.98/21.43(d)
Lesson 18 – Schedule C

CITY ATTORNEY’S OPINION ON ACTIVITIES OF MAJOR STUDIOS

In a report to the City Council, the office of City Attorney presented his interpretation of ordinance requirements as follow:

1. Where a so-called “major studio” and an independent producer jointly produce a motion picture, only one tax under Section 21.109 would be required from the venture;

2. That under such joint production agreement where the major studio provides the financing and/or production staff for such production, the major studio would not be required to pay City Business Taxes under Section 21.190/21.49(c); for the service costs reimbursed in connection with the venture;

3. That the transfer of story rights pursuant to such a joint production agreement would not give rise to liability under Section 21.190/21.49(c);

4. That where more than one picture is made under a single contract between a studio an independent producer, the producer of all the pictures will be considered the same person. For example, if the contract calls for two pictures, one of which is completed early in the year and the other is commenced later in the year, the cost of both pictures, incurred in that year, should be combined and made the measure of a single tax under Section 21.109;

5. That a studio which is a producer only to the extent that it is party to such joint production agreement, will nevertheless be considered a producer for purposes of including in the measure of its tax under Section 21.109 its receipts from furnishing services and/or equipment and facilities in the manner described in Section 21.109;

6. That to the extent of a major studio transfers story rights to another with whom no such joint production agreement exists, the receipts therefrom would be included in the studio’s measure under Section 21.190/21.49(c);
7. That to the extent the studio furnished services or rents equipment to one with whom no such joint production agreement exists, the receipts therefrom would be included in the studio’s measure of tax under Sections 21.190/21.49(c); and 21.192/21.46(e), respectively, except as provided in Section 21.109;

8. That to the extent the studio furnished services of rents equipment to the joint production itself, which services are not within the scope of the studio’s contribution to the venture, the receipts therefrom would be included in the studio’s tax under 21.190/21.49(c); and 21.192/21.46(e), except as provided in 21.109;

9. That to the extent the studio engages in those activities described in Section 21.108 it would be required to pay a tax thereunder;

10. That to the extent the studio engages in those activities described in Section 21.167, such as the sale of stock shots or other tangible personal property, it would pay a tax thereunder;

11. That to the extent the studio engages in other service activities, such as performing accounting and tabulating services for affiliates, the receipts therefrom would be included in the studio’s base under 21.190/21.49(c);

12. That to the Extent the studio sells literary property rights (for example, television or stage rights), the receipts therefrom would be included in the studio’s base under 21.190/21.49(c).
Lesson 18 – Schedule D

Audit Procedure – Section 21.109

(1) In the audit of any major studio, the auditor should first follow the procedures outlined in Chapter IV, paragraph 4.4 (Starting an Audit General) and 4.5 (Preliminary Arrangements).

(2) All Productions in which the studio is interested in any way are consecutively numbered in a register whether they are “own” pictures or being produced by or for an independent. This is the first record that should be checked and a segregation made between “own” and other productions. All numbers must be accounted for, but only those actually worked on need be listed.

(3) Companies maintain individual production cost sheets. The total figure on the final individual production cost sheet of “own” pictures should be listed. That total is usually the tax base under section 21.109. (if production is still in process, use the total for the week ending nearest December 31.) Out-of-City production costs may be deducted if they are segregated.

(4) Should the annual production costs fall below the maximum “$5,000,000.00”, a check must be made to ascertain gross receipts derived from furnishing studio facilities including the services of technicians as described in Sec. 21.109 (a) 1 and 2. These gross receipts are added to production costs until the maximum tax bracket is reached. These figures can be obtained from the general ledger or general journals.
Audit Procedures – Other Sections

(1) Experience has disclosed that most studios are subject to tax under other sections of the Code, such as:

a. **Section 21.108**: Most studios lend money under conditions that subject them to tax under this section. Information can be obtained from “Loans Receivable” account in the general ledger, or if this not available, from an interest receivable schedule.

b. **Section 21.167/21.44(a)/21.43(e)**: Most studios have gross receipts from sales of tangible personal property to independents working on the studio’s lot, sales of stock shots and prints, and from sales made by the studio cafeteria. If Sales Tax Returns are available, they are best source of this information. If they are available, the general ledger or journals may be used.

c. **Section 21.190/21.49(c)**: The main source of gross receipts under this section are from (1) services to other persons not already reported under Section 21.109, and (2) sales of story rights. Information under (1) can be obtained from the general ledger or journal and under (2) from the Story Property Register.

In the last few years an additional source of income has appeared on the books of both the majors and the independents, which must be taken into consideration in accumulating the tax base under this section. Royalties received from sale of book rights, music rights and by-product (games, dolls and other toys) rights are subject without any deduction. The only exemption is if the entire transaction is handled by an office of the company located outside the City of Los Angeles. Experience has shown that most of the majors handle this type of business in New York but that it is handled locally by the independents.

Income received from leasing or sub-leasing of trucks or automobiles with drivers by majors to independents must be taken into consideration in accumulating the tax base under this section. Usually this type of income is found to be credited out in truck or automobile expenses sections of the general ledger.

d. **Section 21.192/21.46(e)**: The studio may rent motion picture equipment (Without services) stock shots, music tapes, and automotive vehicles. The receipts from rental of bare stages or location sites are not subject. This information is found in the general ledger or in the journals. Gross receipts from automotive rentals may be carried as a contra item to transportation expenses. The gross receipts from rental of films (unless the producer is the distributor) is not considered subject except to the distributor. (See Film Distributors and Exchanges).
Independent Producers

(1) Independent producers are divided into two general categories. Those who are financed by a major studio, and those who are furnished rented facilities at the studio. Those that are financed normally produce a picture in a joint venture with the major. Both categories usually have a releasing agreement for the distribution of pictures produced with the major.

(2) Financed independent producer’s records are usually maintained by the major studio’s tax department and should be audited with the major’s records. There is seldom any tax liability except under Section 21.109. However, care should be used to insure that both the major’s and the independent’s total costs are included in the reported total.

(3) Other independent’s records may be either at the studio in which they work or at their own office. Here again, the only probable tax liability is under Section 21.109.
Film Distributors and Exchanges

Most films are released for use through a separate entity known as a distributor or exchanges. The producer is paid a percentage of the gross income from rentals. The distributor is subject to a tax on 100% of the gross receipts from rentals in California, without deduction for the percentage paid to the producer, under Section 21.192/21.46(e). The City Attorney has ruled that in calculating the tax base on releases for T.V. showing, a ratio of stations using in California to total stations using, should be used. In this case, point of delivery by distributor is immaterial. The distributor may also be subject to tax under Section 21.167/21.44(a)/21.43(e) for the sale of reels and carrying cases. Separate audits are usually mailed on the distributing function even if both distributor and producer are divisions of the same corporation.
LESSON 19

SEC. 21.192/21.46 (e): PERSONAL PROPERTY RENTAL

OUTLINE

I. DEFINITION
   A. Sec. 21.192/21.46 (e)

II. EXAMPLES OF BUSINESS TRANSACTIONS TAXABLE UNDER SEC. 21.192/21.46 (e)
   A. Rental of cars, equipment, etc.
   B. License Agreements
   C. Perpetual Licensing of Software

III. EXEMPTIONS
   A. Sec. 21.192.1/21.46 (e)2

IV. RULING NO. 10

V. APPORTIONMENT
LESSON 19

SEC. 21.192: PERSONAL PROPERTY RENTAL
(Repealed by Ord. No. 178101, Eff. 1/9/07.)

Section 21.46(e). Gross Receipts Fund Class 6
(Added by Ord. No. 178101, Eff. 1/9/07)

I. DEFINITION

Ask a student to read Sec. 21.192/21.46(e).

Clearly explain that this section does not require outright ownership of tangible personal property to be classified as rental activity.

Discuss Schedule A: Lessor - Lessee - Distributor Relationship;
D. DeBord; 04-28-82

II. EXAMPLES OF BUSINESS TRANSACTIONS TAXABLE UNDER SEC. 21.192/21.46(e)

A. RENTAL OF CARS, EQUIPMENT, OFFICE FURNITURE, COMPUTER HARDWARES, APPLIANCES, ETC.

Exception: If the rental of a heavy duty equipment includes the services of operators or technicians, the entire gross receipts are taxable under Sec. 21.190/21.49(c), instead of Sec. 21.192/21.46(e). This is our current office policy.

The following gross receipts of a lessor are subject to tax as indicated below:

1. Finance charges received by lessor from lessees for financing the lease......................... Sec. 21.192/21.46(e)

However, if lessor is engaged in lending money described under Sec. 1.108, the finance charges from lessees are no longer taxable gross receipts. They are covered by the flat tax due under Sec. 21.108.
2. Commissions from sale of insurance

a. agent ............................................ Not Taxable

b. broker ............................................ Sec. 21.190/21.49(c)

3. Maintenance contracts:

a. if lessor acts as an agent of person providing maintenance, only the commissions are taxable............................. Sec. 21.190/21.49(c)

b. if lessor will provide the maintenance, the entire gross receipts from sale of maintenance contracts are taxable............. Sec. 21.190/21.49(c)

B. LICENSE AGREEMENTS INVOLVING A TRANSFER OF TANGIBLE PERSONAL PROPERTY (USUALLY CALLED MASTER COPY OR MASTER DISKETTE) BUT WHERE THE OWNERSHIP TO THE TANGIBLE PERSONAL PROPERTY THAT IS TRANSFERRED IS RETAINED BY THE LICENSOR.

Example:

1. Motion picture distributors

The tax measure for a motion picture distributor should be the total receipts without deducting the royalty fees or percentage share paid to the producers.

C. PRECANNED SOFTWARES OR PERPETUAL LICENSING OF SOFTWARES:

1. General guidelines in taxing softwares:

Prewritten or Pre canned Softwares

a. if sold over-the-counter or off-the-shelf....... Sec.21.167/21.44(a)/21.43(e)

Note: These software programs are usually written for general public consumption and are sold through vendors or stores.

b. if licensed by manufacturer to customers...... Sec.21.192/21.46(e)

Note: These programs are usually written for a specific industry and are not sold over-the-counter. Customers access the programs only by having a licensing agreement directly with the manufacturers.
c. if major modification is made to meet a customer's needs and as a result of which the price of the modified pre canned software is greater by 100% or more than the unmodified pre canned software.................. Sec.21.190/21.49(c)

d. if minor modification is made to meet a customer's needs but the modification did not increase the price of the pre canned software by at least 100%.......................... Sec.21.192/21.46(e)

Customized Programs........................................... Sec.21.190/21.49(c)

Maintenance Charges to maintain or upgrade the software:

a. if included in the licensing agreement at no extra-cost to the lessee.......................... Sec.21.192/21.46(e)

b. if it requires an extra-cost to the lessee........... Sec.21.190/21.49(c)

Sale of documentations

a. if included in the licensing agreement at no extra-cost to the lessee.......................... Sec. 21.192/21.46(e)

b. if it requires an extra-cost to the lessee........... Sec. 21.167/21.44(a)/21.43(e)

c. if included in the price software package sold over-the-counter.............................. Sec. 21.167/21.44/21.43(e)

d. if sold separately over-the-counter............ Sec. 21.167/21.44/21.43(e)

III. EXEMPTIONS

Discuss Sec. 21.192.1.

Emphasize that the exemption requires that the equipment be used wholly out of California to be exempt.

This ordinance was enacted as an incentive to Los Angeles based lessors to enable them to compete effectively throughout the country.
It was not enacted because of interstate commerce clause. We don’t have to give this exemption, but we do for the reason stated above.

IV. DISCUSS CITY CLERK'S RULING #10

V. APPORTIONMENT

Discuss City Clerk's Ruling #17
OFFICE MEMORANDUM

Date: April 28, 1982
To: All Division Personnel
From: D. J. DeBord, Communications Officer
Subject: Lessor-Lessee – Distributor Relationship 21.190/21.192

In order for a person to lease an item to another, he must be either: the owner, possess the right to sublease or have the capacity to act as an agent on behalf of the lessor.

A contract does not have to contain the work “agent” in order to be construed as an “agent” contract. Such a contract allows one party to act on behalf of the other party, even though the clauses and verbiage may be very complicated.

When a contract grants the right to use property…..then it is not an “agent” contract. The lease in the contract then acquires the right to sublease the property unless the contract specifically prohibits it.

Section 21.192 L.A.M.C. does not require outright ownership of tangible personal property in order for a person to be engaged in the “business of leasing or renting”.

The following are example of rentals whereby the party who is handling the actual rental may be doing so as an agent or in the capacity of a lessor (even though he himself may be a lessee).

1. Car rentals at hotels
2. Chartered airplanes
3. Film distributors
4. Film rentals
5. U-Haul trailers at service stations
6. Waxers, cleaners at supermarkets

The general rule:
Agent……Taxable under Section 21.190 for Commissions etc. subject o CCR #15.

Lessor…..Taxable under Section 21.192 for total rentals subject to CCR #17 and Section 21.192.

DJDB:la
PI: meg
LESSON 20

SEC. 21.98/21.43 (d): RENTAL OF OFFICE, COMMERCIAL BUILDINGS, ETC.

OUTLINE

I. A. Sec. 21.98 (d)/21.43(d)2
   B. Who is required to pay the tax?
   C. How is the tax reported?
   D. Gross Receipts

II. SEC. 21.98/21.43 d: EXEMPTIONS
LESSON 20

SEC. 21.98: RENTAL OF OFFICE, COMMERCIAL BUILDINGS, ETC.
(Repealed by Ord. No. 178101, Eff. 1/9/07.)

Section 21.43. Gross Receipts Fund Class 2
(Added by Ord. No. 183419, Eff. 3/20/15)

I. DISCUSS SEC. 21.98(d)/21.43(d)

A. SEC. 21.98/21.43(d)

B. WHO IS REQUIRED TO PAY THE TAX?

Emphasize that:

Unless otherwise exempt under Sec. 21.98(d)/21.43(d)

a. A person is subject to tax under Sec. 21.98/21.43 (d) only if the building or structure for rent is located in the City of Los Angeles.

If the lessor has an office in the city, which is the headquarters for support services such as administrative or accounting functions, but all of the commercial properties for rent are located outside the City, the taxpayer is not subject to tax under Sec. 21.98/21.43 (d) or Sec. 21.190/21.49(c).

b. There must be a building or structure in the City to be taxable under Sec. 21.98/21.43 (d).

Lease of bare land is not taxable under Sec. 21.98/21.43 (d), except if the lease of the bare land is in connection with the tenancy of a leased building.

Lease of bare land to a developer who builds a commercial structure on the land and rents or lets portions of the structure to others does not subject the lessor of the bare land to taxation under Sec. 21.98/21.43(d).

Discuss Schedule B: Memo on Lease of Bare Land; D. True; 1-7-02

c. Must have gross receipts of at least $20,000.
C. HOW IS THE TAX REPORTED?

1. Discuss item #4 of Schedule A.

2. Emphasize that only one BTRC is required for all in-City locations.

D. WHAT SHOULD BE INCLUDED AS GROSS RECEIPTS?

1. Discuss item #6 of Schedule A.

2. Emphasize that:
   a. Landlord expenses such as taxes, plumbing repairs, utilities, etc. charged to or paid by the tenant to the landlord, must be included in the gross receipts.
   b. Deposits paid by the tenant to the landlord, such as security, key, cleaning, etc., must be included in the gross receipts.
   c. All charges made "on the premises" or "in connection with the tenancy" are taxable under Sec. 21.98/21.43(d)

II. SEC. 21.98: EXEMPTIONS

A. WHO IS EXEMPT FROM THE TAX?

Discuss item #7 of Schedule A.

B. EXEMPTIONS

Emphasize that a person who is exempt from Sec. 21.98/21.43 (d) due to a constitutional exemption is required to collect the Commercial Tenants Occupancy Tax (Art. 1.3) from its tenants.

Indicate that Commercial Occupancy Tax will be discussed in detail in Lesson 21.

Indicate that some of the statutory exemptions [Sec. 21.98(d)] are exempt because They are already taxed under other sections as follows:

1. Sec. 21.98 (d) 1. /21.43(d)#2, i - taxed under Sec. 21.141/21.46 (d), Storage
2. Sec. 21.98(d) 2/21.43 (d) #2 ii- taxed under Sec. 21.56/21.49 (a), Auto Park
3. Sec. 21.98(d) 3./21.43 (d) #2iii- taxed under Sec. 21.147/21.45(b)/21.43(h), Theater

4. Sec. 21.98(d) 5./21.43(d) #2 (v) - taxed under Sec. 21.63 or Sec. 21.64

   Note: Only 21.63, 21.64, and 21.70 are exempt from 21.98/21.43(d). The others (21.65/21.46(b) and 21.65.1) are not exempt.

5. Sec. 21.98(d) 7/21.43(d)#2vii. -taxed under Sec. 21.98.1 or 21.98.2

6. Sec. 21.98(d) 8/21.43(d)#2viii. - the tenants' commercial business will be taxed accordingly

C. WHAT IS CASUAL TENANCY?

Discuss item #8 of Schedule A.
DATE: January 14, 1971

TO: Tax and Permit Personnel

FROM: Harold B. Engen, Communications Officer

SUBJECT: Commercial Rentals Tax
Commercial Tenants Occupancy Tax

Following are questions and answers to the application of the Commercial Rentals Tax and the Commercial Tenant’s Occupancy Tax.

**Commercial Rentals Tax**
(Ordinance No. 140,704 – Section 21.98 L.A.M.C.)

1. Is Ordinance 140, 704 (Section 21.98) a part of the business tax?

   Yes; the same general provisions, which apply to all other business taxes apply to this section.

2. Who is required to pay the tax?

   All persons who rent a building, structure or space within a structure to others for purpose other than dwelling.

   The tax applies to every level of the lessor-lessee relationship. A lessee who subleases all or part of his premises becomes a lessor and is subject to the tax unless one of the exemptions in Section 21.98 (d) applies.

   Where a lessor leases bare land, even though the lessee is required to build a structure, the lease is not subject to tax under Section 21.98 because there was no leasing of a building or structure.

   Where a person holds a building for sales only, he would not be engaged in the business of renting a building and thus not subject to taxation under Section 21.98. If the person makes the premises available for rent, then he would be subject to taxation under Section 21.98.

   Where the operator of a bookkeeping service makes spare desks available to clients he is not renting space or the use or possession of space in a building. This appears to be a mere courtesy and would not be subject to taxation under Section 21.98.

3. When is the tax due?

   The tax is due January 1, 1971 and delinquent March 1, 1971 based upon gross receipts for 1970. No back tax for 1970 will apply even though the tax in subsequent years will be computed in the same manner used for other business taxes.
4. How is the tax to be reported?

On regular renewal statements, the same as any other business tax. The tax is payable in advance for the year or any fractional part thereof; therefore, no refund is due if property is sold during the year. The Business Tax Registration Certificate cannot be transferred unless the ownership after the ownership change is substantially the same as before the change.

5. How is the amount of tax to be determined?

Based upon the gross receipts of the previous year. The tax rate is $18.75 per year or fractional part thereof for the first $15,000 or less of gross receipts, plus $1.25 per year for each additional $1,000 of gross receipts or fractional part thereof in excess of $15,000.00.

6. What should be included in gross receipts?

All amounts paid by the tenant, which are for services, performed, materials, or utilities furnished by the lessor in connection with the tenancy.

(a) Where a lease requires the lessee to pay property taxes or maintain insurance, these items would be gross receipts to the lessor because they are charged or received by the lessor in exchange for the lease. They are part of the bargained for consideration which benefits the lessor.

(b) Where a lease requires that the lessee perform certain maintenance functions, along with paying rent, the values of these services would be gross receipts to the lessor, as long as a value is placed upon the functions in the lease.

(c) Amounts received for the rental of bare land only are not subject to the tax unless the land is used by the tenant for purposes related to his occupancy of a building or structure.

Parking lots are considered bare land unless there are structures, which are used for parking of automobiles on them.

(d) Security deposits and prepaid rent are includable in gross receipts when received by the lessor. If the lease is canceled and credit allowed for deposits or prepaid rent a credit may be taken in calculating gross receipts for the year in which the credit is allowed.

(e) The total rental charges are includable in gross receipts if the lease contains an escalation clause.

(f) Charges to tenants for the use of parking facilitates which are in connection with the tenancy of the lessee and which are not subject to tax as an auto park.

(g) Charges to concessionaires in department stores or discount houses.
(h) Rental fees charged by music stores for the use of facilities by the instructors unless otherwise taxed.

(i) Charges for the rental of booths in a beauty parlor by the operator of the parlor to other operators.

(j) Where a negotiated lease requires that the lessor provide certain improvements to the property (such as carpeting, wall paneling, etc.), which are paid by the lessee in one lump sum at the beginning of the lease, the lump sum payment constitutes gross receipts.

(k) Where the improvements indicated in “j” are performed by a contractor engaged by the lessor but the contractor is paid directly by the lessee, the lessee, the payment also constitutes gross receipts to the lessor.

(l) Where the improvements indicated in “i” are accompanied entirely by the lessee, no gross receipts are realized by the lessor.

7. Who is exempt from the tax?

(a) Constitutional Exemptions:

(1) Banks
(2) Insurance Companies
(3) Governmental agencies

(b) Statutory Exemptions:

(1) Section 21.98 (d)

The exemptions in Section 21.98 (d) are self-explanatory except for (d)

4. – Casual Tenants.

8. What is a Casual Tenancy?

A Casual Tenancy arises when:

(1) The consideration paid consists exclusively of services; or

(2) The tenancy is that of one or more tenants paying to a sub-lessee on a cost sharing basis for less than 25% of the space under the control of the sub-lessee, and is terminable at will.

(a) Where the lessor makes no charge for the tenancy, this would qualify as a casual tenancy and thus no tax

(b) The following do not qualify as casual tenancies:

(1) Rentals of halls, auditorium, or theatres rented on a daily basis.
(2) Concessionaires in department or discount stores.
9. Do realtors and leasing agents collect the tax?

   Only if acting as agent for a person who is subject to tax under Article 1.3. If they rent property on their own account they are subject to tax under Section 21.98.

10. What is the basis for determining the tax due under Section 21.98 and/or Section 21.192 from lessors who either for a flat fee or a percentage basis rent both a building and equipment to franchisees or lessees?

    The gross receipts under each section should be reported on a pro rata basis using comparative value as the basis of proration.

11. Is a lessor who rents a warehouse to a lessee who is subject to tax under Section 21.141 subject to the tax imposed under Section 21.98?

    Yes; The exemption is Section 21.98 (d) extends only to the operator of the warehouse and not to the prime lessor.

12. How are trust accounts taxed where a bank or any other person is the trustee?

    Each trust must have a separate Business Tax Registration Certificate. The payments for all trust administered by a particular trustee cannot be lumped into one payment.

13. “A” leases a building from “B” but does not have adequate parking space. A separate lease is entered into with “C” for an adjoining lot for customer parking to be used in connection with the business on the property covered by the lease with “B.”

   (a) Is “C” subject to tax under Section 21.98?

    No; This lease covers the rental of bare land only and is not subject to tax.

   (b) If “B” owned both parcels but entered into separate leases, would the gross receipts from the rental of the parking lot be included under Section 21.98?

    Yes; In this instance the lease of the lot from parking can be related to the tenancy created by the other lease covering the occupancy of building.

14. Where property owned by individuals (such as man and wife) is occupied by their wholly-owned corporation, which has no rental or lease agreement with the individuals, but does not make payments on the loan against the property and pays the property taxes, are the individuals subject to tax?

    Yes; the corporation’s occupation of the property owned by the individuals creates a lessor-tenant relationship. The amounts paid by the corporation for the individuals’ obligations constitute gross receipts to the individuals.
interoffice

MEMORANDUM

DATE: January 7, 2002
TO: All Tax & Permit Division and Revenue Management Division Employees
FROM: Dedra True, Chief I, Communications Officer Tax and Permit Division

SUBJECT: LEASE OF BARE LAND (GROUND LEASE)

The following is a re-statement of an existing policy regarding the leasing of bare land. Apparently there has been some recent confusion regarding the situation where the bare land is leased to a developer, who builds a commercial structure on the land and rents or lets portions of the structure to other. Note: The lessor of the bare land has no business tax liability under L.A.M.C. Section 21.98.

SECTION 21.98 (b) states that “For every lessor engaged in the business of renting or letting a building of structure of any kind on land located in the City of Los Angeles to a tenant for purposes other than dwelling, sleeping or lodging, or renting or letting space or the use of possession of space or the right to use or possess space in such a building or structure to a tenant for such purposes and for every lessor engaged in the business of renting or letting boats or moorings,…”

Persons subject to pay tax under Section 21.98:

- All persons who rent a building, structure or space within a structure to others for purposes other than dwelling.
- A lessee who subleases all or part of his premises becoming a lessor;
- A person who makes a building, structure or space with a structure, for purposes other than dwelling, available for rent.

Persons not subject to pay tax under Section 21.98:

- A person holding a building for sale only he is not engaged in the business of renting a building or structure;
- A person leasing bare land;
- An operator of a bookkeeping service who makes available spare desks to a client out of courtesy, and is not renting the space or the use or possession of space to the client;
- Persons exempt under Section 21.98 (d).

Where a lessor leases bare land, even though the structure on the land, the lessor is not subject to tax under Section 21.98 because there is no leasing of a building or structure. This has been a policy since 1971. There have been no changes made since then The City Attorney has affirmed that the policy still stands.

If you have additional questions or concerns regarding the above, please discuss them with your immediate supervisor. Thank you.
LESSON 21

ART. 1.3: COMMERCIAL TENANTS OCCUPANCY TAX

OUTLINE

I. WHAT IS COMMERCIAL TENANTS OCCUPANCY TAX?

II. TAX RATE

III. DEFINITIONS

IV. EXEMPTIONS
   A. Constitutional
   B. Statutory

V. SEC. 21.3.5: DUTY TO COLLECT AND REMIT THE TAX

VI. MISCELLANEOUS SECTIONS
   A. Sec. 21.3.6: Interest and Penalty
   B. Sec. 21.3.7: Actions to Collect
   C. Sec. 21.3.8: Additional Powers and Duties of City Clerk
   D. Sec. 21.3.9: Assessment of Administrative Remedy
   E. Sec. 21.3.10: Records
   F. Sec. 21.3.11: Refunds

VII. MISCELLANEOUS ITEMS
LESSON 21

ART. 1.3: COMMERCIAL TENANTS OCCUPANCY TAX

I. WHAT IS COMMERCIAL TENANT'S OCCUPANCY TAX (COT)?

Commercial Tenant's Occupancy Tax is an excise tax enacted to collect taxes from the tenants of persons who are exempt from Sec. 21.98/21.43(d) because of constitutional exemptions. (i.e., banks, insurance companies, and governmental agencies).

In effect, the tax under Sec. 21.98/21.43(d) is passed on to the tenants of banks, insurance companies, and governmental agencies.

*Emphasize that this is a tax on Sec. 21.98/21.43(d) tenants not Sec. 21.99/21.43 (C)).*

II. WHAT IS THE TAX RATE?

$1.48 for the first $1,000 "or less" of charges attributable to a calendar quarter plus $1.48 for each additional $1,000 or less of charges in excess of $1,000.

*Emphasize the following:*

1. COT is a quarterly tax
2. There is no minimum tax
3. Each tenant has a separate tax measure based on rent paid by each tenant.

III. DEFINITIONS

*Briefly discuss Sec. 21.3.2.(a) to (e).*

IV. EXEMPTIONS:

A. CONSTITUTIONAL

*Discuss Sec. 21.3.1*

*Cross-reference, Lesson 1, Schedule E: Constitutional Exemptions*
B. STATUTORY

1. Discuss Sec. 21.3.4

2. Emphasize that this is exactly the same as the exemptions under Sec. 21.98(d)/21.43(d)(2) except for item Sec. 21.3.4(f).

3. Emphasize that Sec. 21.3.4(f) is enacted so as not to tax the tenants of lessors who are already paying the tax under Sec. 21.98. Remind students of the purpose of COT.

V. DUTY TO COLLECT AND REMIT THE TAX

1. Discuss Sec. 21.3.5

2. Emphasize when is the due date and delinquency date of COT

3. For government agencies, since the City does not require other governmental agencies to collect tax from their tenants, the City collects the tax directly from those tenants. In this case, each tenant would require a separate BTRC.

4. For entities other than government agencies, the tax should be collected from the tenants by their lessor and remitted to the City.

5. The amount of tax collected in one calendar quarter is due to the City on or before the last day of the month following the close of each calendar quarter.

VI. MISCELLANEOUS SECTIONS:

Inform students that the following sections are similar to those under Business Tax Ordinance except for E.

A. **SEC. 21.3.6:** INTEREST AND PENALTY

B. **SEC. 21.3.7: **ACTIONS TO COLLECT

C. **SEC. 21.3.8: **ADDITIONAL POWERS AND DUTIES OF CITY CLERK

D. **SEC. 21.3.9: **ASSESSMENT ADMINISTRATIVE REMEDY

E. **SEC. 21.3.10: **RECORDS (are to be kept for 4 years)
F. **SEC. 213.11: REFUNDS**

VII. **MISCELLANEOUS ITEMS:**

A. **WHO HAS BTRC?** - Normally on the name of the landlord. However, if we collect directly form tenants, the BTRC will be on the tenant’s names.
LESSON 22

SEC. 21.99/21.43(c): HOTEL, APARTMENT, ETC.

OUTLINE

I. SEC. 21.99(a)/21.43 (c ) : IMPOSITION OF TAX
   A. Who is subject to tax?
   B. What is the tax due?

II. SEC. 21.99(b)/21.43 (c) 3: MINIMUM REQUIREMENTS

III. SEC. 21.99(c)/21/43 ( c ) 2: ONE BTRC FOR ALL LOCATIONS

IV. SEC. 21.99(d)/21/43 (c) 3: SUBSTANTIALLY THE SAME OWNERSHIP

V. EXEMPTIONS
   A. Constitutional
   B. Statutory
LESSON 22

SEC. 21.99: HOTEL, APARTMENT, ETC.
(Repealed by Ord. No. 178101, Eff. 1/9/07.)

Section 21.43 Gross Receipts Fund Class 2
(Amended by Ord. No. 183419, Eff. 3/20/15)

III. SEC. 21.99(c)/21.43(c) (2): IMPOSITION OF TAX

A. WHO IS SUBJECT TO TAX?

a. Persons engaged in conducting or operating a:

- hotel
  Persons managing a hotel are taxable under Sec. 21.99/21.43(c), instead of Sec. 21.190/21.49 (c).
- rooming house
- boarding house
- apartment house
- lodging house
- house court
- bungalow court
- bed and breakfast

b. Persons who rent or let:

- rooms
- apartments
- or other accommodations for dwelling, sleeping, or lodging in any such place

c. Persons engaged in the business of operating:

- any public camp
- trailer camp
- park or lot where the public may rent camping, trailer or tent space or services provided or available in connection with such space.

B. WHAT IS THE TAX DUE?

Rate per thousand: $1.27 from TY 2009.
IV. SEC. 21.99(c)/(c)/(c)/(c): MINIMUM REQUIREMENTS TO BE SUBJECT TO TAX

A. Clearly explain that a person who rents or let real property for dwelling, sleeping or lodging is required to have a BTRC if both of the following conditions exist:

a. A person must rent or let at least 4 units

   Examples:
   • rooms
   • apartment - at least 4 units
   • single family homes - at least 4 units
   • triplex - a triplex plus 1 single family
   • duplex - at least 2 duplexes
   • any combination such as 2 houses and 1 duplex

b. Must have gross receipts of at least $20,000.

B. The rental property must be located in the City for a person to be subject to tax.

V. SEC. 21.99(c)/(c)/(c)/(c): ONE BTRC FOR ALL LOCATIONS

VI. SEC. 21.99(d)/(c)/(c)/(c): SUBSTANTIALLY THE SAME OWNERSHIP

V. EXEMPTIONS

A. CONSTITUTIONAL EXEMPTIONS

   Review Lesson 1, Schedule A.

B. STATUTORY EXEMPTION

Sec. 21.99. (e)/(c)/(c)/(c) #4

Exemption of cooperative housing corporations that rents or lets to its tenant - stockholders.
LESSON 23

ARTICLE 1.7: TRANSIENT OCCUPANCY TAX

OUTLINE

I. SEC. 21.7.1: UNIFORM TRANSIENT OCCUPANCY TAX

II. DEFINITIONS - SEC. 21.7.2

A. Person
B. Hotel
C. Occupancy
D. Transient
E. Rent
F. Operator

III. SEC. 21.7.3: IMPOSITION OF TAX

IV. SEC. 21.7.4: EXEMPTIONS

V. SEC. 21.7.5: OPERATOR'S DUTIES

VI. SEC. 21.7.6: REGISTRATION

VII. SEC. 21.7.7: REPORTING AND REMITTING

VIII. SEC. 21.7.8: PENALTIES AND INTEREST
SEC. 21.7.9: ADDITIONAL POWERS AND DUTIES OF CITY CLERK, ETC.
SEC. 21.7.10: ASSESSMENT - ADMINISTRATIVE REMEDY
SEC. 21.7.11: RECORDS

IX. SEC. 21.7.12: REFUNDS

X. SEC. 21.7.13: ACTION TO COLLECT
LESSON 23

ARTICLE 1.7: TRANSIENT OCCUPANCY TAX

1. SEC. 21.7.1: UNIFORM TRANSIENT OCCUPANCY TAX

2. DEFINITIONS - SEC. 21.7.2

   A. "Person" - have student read (a). Emphasize that person has same meaning as in Sec. 21.00.

   B. Hotel - have student read (b). Includes all structures intended or designed for occupancy by transients - not the same definition as Sec. 21.99/21.43(c).

   C. Occupancy - same definition as in Sec. 21.99/21.43(c)(1)

   D. Transient - have student read (d).

      1. Any person other than an individual, whose occupancy or right to occupancy is for an indefinite period of time.

      2. Any individual who personally exercises occupancy or is entitled to occupancy for:

         • 30 consecutive calendar days or less. Portion of calendar days shall be deemed as full days, or

         • the first 30 days of stay if there is no agreement in writing between the operator and the occupant for a longer period of occupancy.

   Operator of hotel may refund tax collected or issue a credit if it could be established that the person was not a transient or was exempt from the tax or overpaid the tax.

   E. Rent - same as in Sec. 21.00 "A"

      Note: Complimentary room from operator for which no consideration is charged or received from anyone is not taxable.

   F. Operator - have student read (f). Emphasize that a managing agent shall also be deemed an operator.

      1. Principal Operator – The owner or proprietor who is primarily responsible for operation of the hotel shall be deemed to be the principal operator.
2. Secondary Operator – If the principal operator performs or assigns his functions, in whole or in part, through a managing agent, a booking agent, a room seller or room reseller, or any other agent or contractee, including but not limited to on-line room sellers, on-line room resellers, and on-line travel agents, of any type or character other than an employee, those persons shall be deemed to be secondary operators (per Ordinance No. 176005, effective July 7, 2004). See Schedule A

A secondary operator shall be deemed an operator for purposes of this article and shall have the same duties and liabilities as the principal operator, including but not limited to the collection and remittance of the full amount of the tax owed under the provisions of this article to the City (per Ordinance No. 176005, effective July 7, 2004).

Discuss the pending case on on-line resellers whereby the City asserts the right to collect on the mark up being charged on hotel bookings. The City is seeking recovery of dollars in taxes collected but never remitted to the City.

3. SEC. 21.7.3: IMPOSITION OF TAX
   A. Tax is currently 14% of room rent
   B. Tax is only on transients
   C. Rent and tax are to be collected at same time
   D. If payment is less than rent and tax, a proportionate share of the tax shall be deemed to have been paid

4. SEC. 21.7.4: EXEMPTIONS

   Have student read Sec. 21.7.4.
   A. Any person or any occupancy which is beyond the City to tax.
   B. Any Federal or State of California officer or employee, including employees of federal credit unions (added pursuant to Ordinance No. 172773 – effective September 25, 1999), who provides proof that he or she is on official Federal or State business. Ordinance No. 172773 also repealed the requirement that such Federal or State employee submit payment via duly authorized voucher or instrument of payment issued by the governing agency. See Schedule B
C. Any officer or employee of a foreign government expressly exempted by federal law or international treaty.

D. Any person whose rent is charged at the rate of $2.00 per day or less.

E. Any person or any occupancy, the rent of which is paid from funds administered by the Emergency Food and Shelter National Board Program. Operator must keep record of each exemption for a period of 4 years.

5. **SEC. 21.7.5: OPERATOR'S DUTIES**

*Have student read Sec. 21.7.5.*

6. **SEC. 21.7.6: REGISTRATION**

Within 30 days of commencing business.

7. **SEC. 21.7.7: REPORTING AND REMITTING**

A. **For periods prior to January 1, 2005,** a quarterly renewal form is due on or before the last day of the month following the close of each calendar quarter.

B. **For periods beginning January 1, 2005,** a monthly renewal form is due on or before the 25th day of each calendar month following the close of each calendar month (*per Ordinance No. 176003*).

C. Due immediately upon cessation of business.

D. Held in trust by the Operator for the account of the City.

8. **SEC. 21.7.8: PENALTIES AND INTEREST**

SEC. 21.7.9: **ADDITIONAL POWERS AND DUTIES OF CITY CLERK, ETC.**

SEC. 21.7.10: **ASSESSMENT - ADMINISTRATIVE REMEDY**

SEC. 21.7.11: **RECORDS**

All of the above are the same as in the Business Tax Sections.

9. **SEC. 21.7.12: REFUNDS**
Have student read "a" - "d".

A. Same as Sec. 21.07

B. Operator may claim a refund or take as credit amount overpaid.

C. A transient may obtain a refund of taxes directly from the Office of Finance.

D. No refund unless there are written records showing entitlement thereto.

10. **SEC. 21.7.13: ACTION TO COLLECT**

A. Tax owed by transient is owed to City.

B. Tax paid to operator - then operator owes City.

C. Operator suing for unpaid rent may include the transient tax due in the amount sought to be recovered.
ORDINANCE NO. 176005

An Ordinance amending the Los Angeles Municipal Code to include hotel room sellers and resellers within the definition of a hotel operator who must collect the Transient Occupancy Tax.

THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN ASfollows:

Section 1. Subsection (f) of Section 21.7.2 of the Los Angeles Municipal Code is amended to read:

(f) Operator. “Operator” means the person who is either the proprietor of the hotel or any other person who has the right to rent rooms within the hotel, whether in the capacity of owner, lessee, mortgagee in possession, licensee or any other capacity. The owner or proprietor who is primarily responsible for operation of the hotel shall be deemed to be the principal operator. If the principal operator performs or assigns its functions, in whole or in part, through a managing agent, a booking agent, a room seller or room reseller, or any other agent or contractor, including but not limited to on-line room sellers, on-line room resellers, and on-line travel agents, of any type or character other than an employee, those persons shall be deemed to be secondary operators.

A secondary operator shall be deemed an operator for purposes of this article and shall have the same duties and liabilities as the principal operator, including but not limited to the collection and remittance of the full amount of the tax owed under the provisions of this article to the City. A secondary operator may satisfy its obligations under the provisions of this article by submitting the full amount of tax due under this article, with credit for any taxes remitted to any other operator, either directly to the Director of Finance or through the principal operator. The principal operator may satisfy any potential liability it may have for taxes owed by a secondary operator by entering into a legally binding agreement with that secondary operator to remit the portion of the tax owed by the secondary operator directly to the City. Upon request, the principal operator shall provide the Director of Finance with copies of any such agreements.

Compliance with the provisions of this article by either the principal operator or the secondary operator shall be deemed compliance by both and no provision of this article shall be deemed to require the payment and/or remittance of any amount other than the full amount of the tax owed by the transient.
Sec. 2. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located in the Main Street lobby to the City Hall; one copy on the bulletin board located at the ground level at the Los Angeles Street entrance to the Los Angeles Police Department; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles at its meeting of ________________.

J. MICHAEL CAREY, City Clerk

By Maria ________________
Deputy

Approved ________________

Mayor

Approved as to Form and Legality

ROCKARD J. DELGADILLO, City Attorney

By ________________
MIGUEL A. DAGER
Deputy City Attorney

Date ________________

File No. ________________
225623
DECLARATION OF POSTING ORDINANCE

I, MARIA C. RICO, state as follows: I am, and was at all times hereinafter mentioned, a resident of the State of California, over the age of eighteen years, and a Deputy City Clerk of the City of Los Angeles, California.

Ordinance No. 176005 - Amending Subsection (f) of 21.7.2 of the L.A.M.C. to include hotel room sellers & resellers within the definition of a hotel operator who must collect the Transient Occupancy Tax - a copy of which is hereto attached, was finally adopted by the Los Angeles City Council on May 25, 2004, and under the direction of said City Council and the City Clerk, pursuant to Section 251 of the Charter of the City of Los Angeles and Ordinance No. 172959, on May 28, 2004, I posted a true copy of said ordinance at each of three public places located in the City of Los Angeles, California, as follows: 1) One copy on the bulletin board at the Main Street entrance to Los Angeles City Hall; 2) one copy on the bulletin board at the ground level Los Angeles Street entrance to the Los Angeles Police Department; and 3) one copy on the bulletin board at the Temple Street entrance to the Hall of Records of the County of Los Angeles.

Copies of said ordinance were posted conspicuously beginning on May 28, 2004 and will be continuously posted for ten or more days.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 28th day of May 2004 at Los Angeles, California.

Maria C. Rico, Deputy City Clerk

Ordinance Effective Date: July 7, 2004 Council File No. 04-0600
ORDINANCE NO. 172773

An Ordinance amending Subsection (b) of Section 21.7.4 of the Los Angeles Municipal Code, to provide for an exemption from the Transient Occupancy Tax for all Federal and State employees, including employees from the Transient Occupancy Tax for all Federal and State employees including employees of federal credit unions, on official business.

THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:

Section 1. Subsection (b) of Section 21.7.4 of the Los Angeles Municipal Code is hereby amended to read:

(b) Any Federal or State of California officer or employee, including employees of federal credit unions, who provides proof that he or she is on official Federal or State business.

Section 2. The City Clerk shall certify to the passage of this ordinance and cause the same to be published in some daily newspaper printed and published in the City of Los Angeles.

I hereby certify that the foregoing ordinance was introduced at the meeting of the Council of the City of Los Angeles JULY 30, 1999, and was passed at its meeting of August 06, 1999.
LESSON 24

SEC. 21.98.1/21.43(b): SWAP MEET OPERATOR
AND
SEC. 21.98.2/21.43(a): ANTIQUE SHOW COLLECTOR'S EXCHANGE SHOW PROMOTER

OUTLINE

I. SEC. 21.98.1/21.43(b): SWAP MEET OPERATOR
   A. Definition
   B. Tax Measure

II. SEC. 21.98.2(21.43a): ANTIQUE SHOW AND COLLECTOR'S EXCHANGE SHOW PROMOTER
   A. Definition
   B. Tax Measure
LESSON 24

SEC. 21.98.1 / 21.43(b) : SWAP MEET OPERATOR
AND
SEC. 21.98.2 / 21.43/(a) ANTIQUE SHOW COLLECTOR'S EXCHANGE SHOW PROMOTER

I. SEC. 21.98.1 / 21.43(b) : SWAP MEET OPERATOR

A. DEFINITION

1. Discuss that "Swap Meet", "Swap Meet Operator", and "Swap Meet Vendor" are the same as stated in Section 103.311 of the LAMC.

   a. Per Section 103.311 definition, the nature of the goods sold at a Swap Meet or by a Swap Meet Vendor is secondhand. See Schedule A: LAMC Section 103.311

   b. Gross receipts from the sale of new or unused goods are taxable under Sec. 21.167./21.44(a)

2. Definitions contained in Section 21.98/21.43(d) shall apply - except this section is not limited to occupation of a building or structure or place therein - includes bare land!

3. Emphasize that the swap meet taxable under Sec. 21.98.1/21.43(b). are temporary in nature. Those that are permanent stores but called swap meet are not taxable under this section.

B. TAX MEASURE

1. This is a gross receipts tax and a per space/day tax.

2. If operator is exempt - the space rental tax shall still be collected and paid to the City.

   Example: charitable organization operating swap meet is exempt from the tax on the gross receipts but not on the $0.59 per space rental. The charitable organization either can pay it or collect it from the tenants.

3. Space rental tax can be passed on to the tenants and such reimbursement is not included in operator’s gross receipts.

4. Must have gross receipts of at least $20,000.
II. SEC. 21.98.2/21.43(a): ANTIQUE SHOW AND COLLECTOR'S EXCHANGE SHOW PROMOTER

A. DEFINITION

Discuss that "Antique Show", "Collectors' Exchange Show", "Antique Show or Collector's Exchange Show Promoter", and "Antique Show or Collectors' Exchange Show Exhibitor" are the same as stated in Section 103.301.1 of the LAMC.

B. TAX MEASURE

Same as in swap meet operator.
§ 103.311  MUNICIPAL CODE  Ch. 10, Art. 3, Div. 9

(i) Exemptions. This section shall not apply to the receipt or sale of secondhand books, secondhand text books or secondhand educational materials by any person who receives or purchases such books or materials from any other person when such other person has made required reports as fixed by rule or regulation of the Board and shall have held the said books or materials for the length of time therein required.

SEC. 103.311. SECONDHAND DEALERS.

(a) Definitions. As used in this article:

1. "SECONDHAND DEALER" means a person engaging in, conducting, managing, or carrying on the business of buying, selling, or otherwise dealing in secondhand or rebuilt or reconditioned goods, wares and merchandise. The term does not include secondhand dealer-jewelry, or persons holding permits as auto wreckers or used car dealers or secondhand book dealers. The acceptance, sale or disposal of used automobile tires or automobile batteries taken in part payment for new tires or batteries shall not be deemed to constitute the doing of the business of a secondhand dealer.

2. "SECONDHAND DEALER-JEWELRY" means a person engaging in, conducting, managing or carrying on the business of buying, selling, or otherwise dealing in secondhand jewelry, precious and semi-precious stones and metals and imitations thereof, watches, rings, bracelets, and other similar goods, wares and merchandise.

(b) Permit Required. No person shall engage in, manage, conduct or carry on the business of a secondhand dealer or a secondhand dealer-jewelry without a written permit from the Board.

(c) Change of Location. A change of location may be endorsed on a permit by the Board upon written application by the permittee accompanied by the change of location fee prescribed in Section 103.12.

(d) Permittee, Responsible for Conduct of Premises. It shall be the duty of permittee to see that no secondhand goods are sold or purchased by his agent or any other person in or upon the permittee's premises or location other than in the course of permittee's business.

(e) Advertising Restrictions. No permittee shall advertise any goods for sale when such goods are not actually for sale at the premises at the time the advertisement is inserted in the newspaper or medium.

Within 24 hours after the sale of any goods that have been advertised for sale, the permittee shall withdraw or cancel any advertisement relative to such goods.

(f) Hold-Order. A police officer may place a hold-order upon property acquired by the permittee in the course of his business, for a period of 90 days, and upon release of such property, may require the permittee to keep a record of the disposition of such property. It shall be unlawful for any person to dispose of any property contrary to any hold-order issued by a police officer.
(g) Holding Period. Property acquired in the course of permittee's business shall be reported and
held for such period of time as is fixed by rule and regulation of the Board.

(h) Violation. No permittee shall clean, alter, repair or otherwise change the appearance, melt,
destroy, sell, export or otherwise dispose of any article, goods, wares, merchandise, waste
materials, junk or things obtained in the course of his business until such articles have been
held for the period required by the Board.

(i) Exemption. (Added by Ord. No. 158,621, Eff. 2/20/84.) Any person engaging in,
conducting, managing, selling, exchanging, displaying or offering for sale or exchange,
secondhand personal property at a swap meet is exempt from Subsections (a) through (h),
inclusive, of this section, and any rules and regulations promulgated by the Board pursuant to said
subsections, but is subject to the following provisions and conditions:

I. Definitions. As used in this subsection:

a. "Swap Meet" means any event where secondhand goods are offered or displayed for sale or
exchange and

(I) A fee is charged for the privilege of offering or displaying secondhand goods for sale or
exchange; or

(2) A fee is charged to prospective buyers for admission to the area where secondhand goods
are offered or displayed for sale or exchange.

b. "Swap Meet Operator" means any individual, partnership, corporation, business association
or other person or entity which sponsors, controls, manages or otherwise conducts a swap meet.

c. "Swap Meet Vendor" means any individual, partnership, corporation, business association
or other person or entity which sells, exchanges, displays, or offers for sale or exchange, any
secondhand goods at a swap meet.

2. Permit Required. No person or entity shall operate a swap meet without a written permit
from the Board, except that a permit shall not be required for any event sponsored by and for the
exclusive benefit of any community chest, fund, foundation, association or corporation organized and
operated solely for religious or charitable purposes provided that no portion of any admission fee
charged swap meet vendors or prospective purchasers, or the receipts from the sale or exchange of
new or secondhand goods, inures to the benefit of any shareholder, officer, employee, person or
entity organizing, sponsoring or conducting such event.

a. No permit shall be issued which will permit the sale or display of firearms, flammables, and
hash pipes or other manipulative instruments relating to the use or consumption of drugs or their
derivatives.
LESSON 25

SEC. 21.193: SALE OF REAL PROPERTY

OUTLINE

I. WHAT TYPE OF BUSINESS IS TAXABLE UNDER SEC. 21.193
   A. Subdivide
   B. Lot-Split
   C. Construct and Sell at least 2 buildings
   D. Build and sell at least 1 apartment or commercial building

II. WHO ARE DEVELOPERS AND SELLERS?

III. EXEMPTIONS
   A. Constitutional
   B. Statutory

IV. SEC. 21.193(d), (e), (f), AND (G)

V. MISCELLANEOUS ITEMS
LESSON 25

SEC. 21.193: SALE OF REAL PROPERTY

I. WHAT TYPE OF BUSINESS IS TAXABLE UNDER SEC. 21.193?

Sec. 21.193 does not tax the business of selling real property. Instead, it taxes the business of developing and selling real property.

A person who has developed real properties and who is attempting to sell those properties is not subject to Sec. 21.193 tax. Only when that person has sold the developed real properties will he be liable to Sec. 21.193 tax.

Note: One has to develop and sell (not try to sell) to be taxable under Sec. 21.193.

*Emphasize that a person must develop and sell to be taxable under Sec. 21.193.*

Two ways of developing real property:

1. subdivide
2. construct

II. WHO ARE CONSIDERED DEVELOPERS AND SELLERS TAXABLE UNDER SEC. 21.193?

The persons deemed to be taxable under Sec. 21.193 are limited to the following who:

A. SUBDIVIDE

*Emphasize the following points:*

1. Subdivision (map recordation) makes the land more valuable. It is illegal to sell part of a lot that has not been subdivided. Hence, subdivision is a way of improving or developing real property.

2. Subdivider

Under Sec. 21.193, a subdivider is deemed to be the owner of record at the time of subdivision (map recordation).
Any person who has interest in a real property may file the subdivision map. However, the "sub divider" construed to be subject to **Sec. 21.193** tax is the "owner of record" although that owner may not necessarily be the person who filed the subdivision map.

A subdivider does not have to "construct" to be considered a developer. The subdivision is enough enhancement of the value of the property.

**B. LOT - SPLIT**

1. *Differentiate between lot-split and subdivision.*

Subdivision - involves the division of real property into 4 or more parcels, referred to as TRACT MAPS. This is covered under state law (Subdivision Map Act of California).

Lot-split - involves the division of real property into less than 4 parcels, referred to as PARCEL MAPS. This is covered by local government law (Los Angeles Municipal Code).

2. *Emphasize that there is no time limitation as to when the property was sold.*
C. CONSTRUCT AND SELL AT LEAST 2 BUILDINGS

1. **Emphasize the following requirements:**

X must sell at least 2 units **in one calendar year**

X buildings must be built or caused to be constructed by the seller (anytime)

X buildings must be sold within 3 years of recording the subdivision map by **respecting the properties sold pursuant to the Subdivision Map Act.**

2. **Explain that persons taxable under Sec. 21.193(b)3/21.193(2)iii are those who constructed any building whereby they purchased the real property from somebody else.**

D. BUILD AND SELL AT LEAST ONE APARTMENT OR COMMERCIAL BUILDING

**Emphasize the following:**

1. must sell at least one apartment or commercial building

2. apartment or commercial building must be build or caused to be built by the seller

3. must sell prior to or within 3 years from the issuance of Certificate of Occupancy because if beyond 3 years, the implication is that you developed (built a building) to invest in rental property, not to develop and sell.

**Note:** A developer and seller who is not taxable under Sec. 21.193(b)3/21.193,2iii may be taxable under Sec. 21.193(b) 4/21.193,2 iv

III. EXEMPTIONS

A. CONSTITUTIONAL

B. STATUTORY EXEMPTIONS

1. **Ask a student to read Sec. 21.193(c) //21.193(3).**
Audit Tip:

In determining the excludable encumbrance, use the following steps:

a. Determine if there is an encumbrance.

b. If there is an encumbrance, determine if the encumbrance was there at least 180 days prior to the date of sale. If so, you can exclude the encumbrance.

c. If the encumbrance was not there 180 days prior to date of sale, then determine if the encumbrance falls within 21.193(c)(2)(i) or (iii)./21.193 (3)i, iii or v

Note: Any encumbrance is deductible AS LONG AS IT AS IN EXISTENCE AT LEAST 180 DAYS prior to the date of sale. The only time we will consider 21.193(c)(2)(i) and (iii)/21.193(3) ii, and iv, is when the encumbrance existed less than 180 days from the date of sale.

2. Discuss Schedule A: Taxation under Sec. 21.193;
   T. Manocchio; 09-23-92

IV. DISCUSS SEC. 21.193(d), (e), (f), AND (g)/21.193 4,5,6,7, and 8

Emphasize that in the absence of substantial information to the contrary, 80% of the total gross receipts shall be deemed attributable to activities conducted in the jurisdiction in which the subject real property is located and 20% of the total gross receipts attributable to activities conducted other than where the subject real property was sold...

V. MISCELLANEOUS

1. Discuss Schedule B: Interest Income;
   A. Huegin; 10-27-78
Date: September 23, 1992
To: Sylvia Smith, Special Investigations Unit
From: Terrance Manocchio, Field Audit Section
Re: TAXATION UNDER SECTION 21.193

When we have a developer who is selling a multiple unit condominium project which has an encumbrance of record 180 days prior to the sale, gross receipts are to be computed as follows:

1. The loan amount of the encumbrance will be pro-rated for each unit. If we have 20 units for sale and the loan amount on the project is $1,000,000 each unit will be allocated $50,000.

2. The annual gross receipts will be the selling prices of the condominiums sold during the year less the amount of the encumbrances allocated to the units sold.
OFFICE MEMORANDUM

(Signed Copy on File)

Date: October 27, 1978

To: Tax and Permit Division Personnel

From: Albert Heugin, Communications Officer
   Tax and Permit Division

Subject: INTEREST INCOME

As a result of a recent Board of Review hearing, it has become apparent that interest income derived from the sale of real property has not been handled in a consistent manner throughout the Tax and Permit Division.

Prior memos or bulletins on this matter are hereby superseded. Interest received on loans where the obligation to repay is secured by a lien on real property will be subject to tax under Section 21.190, Los Angeles Municipal Code.

Determinations of tax based on this kind of activity will include all tax years under review.

AH:eg
LESSON 26

SEC. 21.190/21.49(c): PROFESSIONS AND OCCUPATIONS

OUTLINE

I. WHO IS SUBJECT TO SEC. 21.190 21.49 (c)?

II. SEC. 21.190(a)/21.33 (f): TAX RATE

III. SEC. 21.190(b)/21.49 (c) 2: REQUIRED BTRC

IV. EXEMPTIONS

V. GROSS RECEIPTS

VI. SEC. 21.190(d)/21.49 (c) 4: APPORTIONMENT

VII. MISCELLANEOUS ITEMS
LESSON 26

SEC 21.190/21.49(c) PROFESSIONS AND OCCUPATIONS

I. WHO IS SUBJECT TO TAX UNDER SEC. 21.190/21.49(c)?

Persons engaged in businesses which are not specifically taxed by other provisions of the Business Tax Ordinance are subject to tax under Sec. 21.190/21.49 (c). Hence, this section is referred to as the "catch-all provision."

This section is normally associated with services and includes such diverse vocations as accountants, lawyers, engineers, gardeners, etc. Other services are specifically taxed under different section(s) at lower tax rate(s) by the amendment of the ordinance.

II. SEC. 21.190/21.49(c) : TAX RATE (Amended by Ord#183419 Eff 3/20/15)

Tax rates are as follows:
- Tax year 2008: $5.28 per $1,000 or fractional part thereof
- Tax years 2009 & 2010: $5.07 per $1,000 or fractional part thereof
- Tax year 2016: $4.75 per $1,000 or fractional part thereof
- Tax year 2017: $4.50 per $1,000 or fractional part thereof
- Tax year 2018: $4.25 per $1,000 or fractional part thereof

III. SEC. 21.190/21.49 (C, 2): REQUIRED BTRC

A person engaged in more than one business taxable under Sec. 21.190/21.49(c) must consolidate the gross receipts and report under one BTRC. However, a taxpayer can request a separate BTRC for each business For example: A taxpayer who is both a CPA/Lawyer can obtain two BTRCs by reporting gross receipts from accounting and from legal services separately. Refer to our internal office policy of allowing taxpayer's request to have 2 separate BTRC's per location for different businesses taxed under Sec. 21.190/21.49(c).
IV. EXEMPTIONS

A. SEC. 21.190/ 21.49 (C,3) EXEMPTIONS

1. Discuss Schedule A page 1 & 2: Sec. 21.190/21.49(C, 3) Exemptions

   Note: The exemption is on the receipts, not the persons.

2. Explain that exempt entities mentioned under Section 21.49(c) subsection (i) to (iv) must apply directly to the OFFICE OF FINANCE

B. DISCUSS CITY CLERK’S RULING #7

Emphasize the following:

1. Only certain specifically described nonprofit organizations and, in some cases, only certain activities of these organizations are exempted from the tax (See Sec. 21.190/21.49 (C, iii, iv) and Sec. 21.22(a)).

2. The exemptions under Sec. 21.190/21.49(C-3) cannot be extended to other activities, which are taxable under other provisions of the Business tax Ordinance. They apply only to activities taxable under Sec. 21.190/21.49(c). If those exempt entities are engaged in activities taxable under other code sections, then they need to obtain a BTRC and pay the tax.

C. BRIEFLY DISCUSS SEC. 21.190.1

D. OTHER EXEMPT ENTITIES

1. Discuss Schedule A page 3.

   • Other Exemptions:

   a. Insurance companies/ agents
      • Exempt because of the in lieu tax provisions of Art XIII, 28(f) of California Constitution. However, they can be obligated to collect taxes such as COT, POT.

      • Insurance agents mush have Notice of Appointment from the Department of Insurance of the State of California. They have the authority to bind insurance contracts.
• Discuss **Schedule D**: Sample of Notice of Appointment and License from Department of Insurance. Memo on Insurance Agent or Broker; L. Tioseco; 06-02-89

• Discuss **Schedule D-1**: California Insurance Code Sec. 1707.5 Sample Letter: Memo on Notice of Appointment, L. Tioseco, 09-25-02

• In the case of Marsh & McLennan of California, Inc. v. City of Los Angeles 62 Cal.App.3d 108 (1976), the court held that the insurance broker is subject to municipal taxation because a broker acts as an independent contractor and not as an insurance agent.

• Discuss **Schedule E**: Surplus Line Broker; D. DeBord; 05-08-75

  b. Explain that a taxpayer can be engaged in business both as an insurance broker and agent. The gross receipts from the activity as insurance agent only are exempt.

  3. Financial institutions are not subject to tax under any section of the Business Tax Ordinance.


### V. TAXABLE / NON TAXABLE GROSS RECEIPTS

1. Gross receipts from service type activities are usually in the form of fees or commissions plus reimbursed expenses.

2. **Sec. 21.190/21.49(c)** is one of the sections that expressly states that reimbursed expenses are taxable. However, not all reimbursed expenses are subject to tax.

   Review Lesson 13, Reimbursed Expenses.

3. **Discuss Schedule F**: Tax on Reimbursements; Letter to L. A. Chamber of Commerce; 06-25-58

4. **Discuss Schedule G**: Payroll Agent; P. M. Inafuku; 11-22-82

5. **Discuss Schedule H**: Joint Ventures; H. Engen; 02-24-75

6. Commissions received from lotto, metro tickets or tokens are not subject to tax
per City Attorney’s legal opinion.

VI. DISCUSS SEC. 21.190/ 21.49, C,4: APPORTIONMENT OF GROSS RECEIPTS

1. Section 21.190/49 (c) (4) - This is the general provision for the apportionment of gross receipts when derived from or attributable to activities engaged in within or without the City.

2. The Office of Finance has adopted Ruling #15 to carry into effect the purpose of this subsection. Ruling #15 and other methods in apportioning taxpayer’s gross receipts are further discussed in detail in Lesson 27.

3. Emphasize that gross receipts derived from services performed by independent contractors are not subject to apportionment.
   Refer to Court case “Programming Enterprises vs. City of Los Angeles”

4. Emphasize that the gross receipts derived from isolated or occasional transactions at places outside the City, where the registrant is not regularly engaged in a course of business transactions, are deemed to be gross receipts derived from in-City activities.

5. Explain that gross receipts derived from or attributable to sources within the City include:
   a. gross receipts from tangible or intangible property located in the City
   b. when not contrary to law, gross receipts from any activities carried on in the City regardless of whether carried on interstate, intrastate, or foreign commerce.

   Differentiate this from 21.166/21.42/21.41(g), 21/167/21.44(a)/21.43(e) where out of state shipments are exempt, or from 21.192 (21.46) were usage of rented equipment wholly out of state are exempt.

VII. MISCELLANEOUS ITEMS

1. Retail businesses that charge for service or repair work will be taxed under this section whether or not the service is contracted out and whether or not a profit is made.
2. Interest income on loans secured by real property are taxable under Sec. 21.190/21.49(c) (see Sec. 21.108(b)).

3. Gross Receipts from rental of personal properties with operators provided by the taxpayer are taxable under this section instead of Section 21.192/21.46(e) (Personal Property Rentals) Internal Office policy

4. Royalty income is not always taxable under Sec. 21.190/21.49(c). An analysis of the nature of the royalty income should be performed to determine the correct tax classification. When a taxpayer receives royalties from promotional services performed to stimulate the sale of the product or services are taxable under this section. When a taxpayer receives royalties from the right to use a tangible personal property is subject to tax under Section 21.192/21.46(e) (Personal Property Rentals).

   Review Lesson 19, Sec. 21.192/21.46(e) item B.2

5. Gross receipts from management of "hotels" are taxable under Sec. 21.99/21.43(c), instead of Sec. 21.190/21.49(c), because it is included in the language of Sec. 21.99/21.43(c) as taxable under that section.

6. Maintenance and Enhancement Plan charges on licensed software are taxable under Sec. 21.190/21.49(c)

7. Street number curb painters taxable under Sec. 21.190/21.49(c).

   Discuss Schedule I: Street Numbers Curb Painters; P. M. Inafuku; 03-04-88.

8. Skilled Nursing Facilities or Convalescent Hospital

   Clearly explain that only the payroll and payroll related expenses of nurses (DON, RN, and LVN), plus gross receipts from specialized medical services (such as radiology) are subject to tax under Sec. 21.190/21.49(c). However, such payroll expenses should be deducted from Section 21.99/21.43 gross receipts.

   The gross receipts for providing lodging and ancillary services related to lodging are taxable under Sec. 21.99/21.43(c)
9. *Discuss Schedule B:* Real Estate Salespersons' Employment Contracts; 
   D. DeBord; 01-30-80.

10. *Discuss Schedule C:* Real Estate Brokers; 
    A. Huegin; 09-26-79.

11. *Discuss Schedule J:* Mutual Funds; D. DeBord; 04-14-76; Discuss Ord#181951 (Sch K)

12. *Discuss:* 
    Sale of extended warranties and any receipts for warranty work are an integral 
    part of the sale of the vehicle. Receipts from these two areas should be included 
    and taxed in the primary tax classification (generally, Sec. 21.166/21.42/21.41(g) 
    or Sec. 21.167/21.44/(a)/21.43(e).

**TAXATION OF HOSPITALS**

13. a. Determine if the hospital is for profit or non-profit.

   (i) Non-profit hospitals are exempt from Sec. 21.190/21.49(c) pursuant to 
       Sec. 21.190/21.49(c).3 and from Sec. 21.167/21.44/(a)/21.43(e) pursuant to 
       Sec. 21.22.

   (ii) *Discuss Schedule L* Profit / Non-Profit

   The taxpayer has the option to report under cash or accrual basis of accounting 
   under Ordinance 176326, effective January 1, 2005 (Refer to Section 21, a) in accordance to the IRS guidelines

   a. Determine if billings are shared with doctors or not.

   *Discuss Schedule M:* Shared Billings

   b. If the taxpayer choose to use accrual method of accounting it must determine the 
      allowable billing adjustments.

      Original billings may be reduced by the following adjustments:

   (i) Medicare and Medical billing reductions:
Usually the amount billed by hospitals exceeds the amount covered by Medical or Medicare.

Our policy is:

- If the patients are billed and collected for the excess amount not honored by Medical or Medicare, such billings are taxable gross receipts.

- If the patients are not billed, such excess amounts are treated as bad debts and/or allowable deductions to the billings.

(ii) Insurance Carrier's Billing Adjustments

Follow the policy as Medical or Medicare adjustments.

Notes: In all cases (for A and B), you must read the contracts with Medicare, Medical, and Insurance carriers to verify the billing adjustments.

c. Determine the correct tax classification of activities.

General guidelines:

(i) Sec. 21.167/21.44(a)/21.43(e) (Retail Sales)

- Retail sales from pharmacy / cafeteria operated by the hospital

- Items consumed by patients

Examples: meals, intravenous solutions, blood, aspirins

- Items taken by patient with him or her upon discharge

Examples: prosthesis, implants, shippers

(ii) Sec. 21.190/21.49 (Professions and Occupations)

- Items used in conjunction with the hospital medical services even though the hospital can identify the cost

Examples: gauze, tongue depressors, bandages, hypodermic needles, operating room charges, anesthesia, surgical supplies, etc.

(iii) Section 21.192/46 (Personal Property Rentals)

- Items used by patient for rent before and after discharge

Examples: Canes, wheel chairs, etc.
Lesson 26 – Schedule A

SEC. 21.190 EXEMPTIONS

I. Pursuant to Section 21.190 (c)/21.49(c)(3), the gross receipts of the following persons are exempt from Section 21.190/21.49(c):

1. **Sec. 21.190 (c)(1)/21.49(c)(3)(i):** Persons exempt because of constitutional exemptions.
   
   Review Lesson 1

2. Non-profit organizations or institutions:
   
   A. **Sec. 21.190 (c)2/21.49(c)(3)(ii):** Non-profit community organizations (such as community chests, funds, and foundations) where earnings do not insure to the benefit of any individual.

   B. **Sec. 21.190 (c) 3/21.49(c)(3)(iii):** Non-profit educational institutions:
      
      a. Colleges
      b. Secondary schools duly accredited by the University of California
      c. Elementary schools with pre-primary and primary grades

3. **Sec. 21.190 (c) 4/21.49(c)(3)(iv):** Community service organizations such as:
   
   a. Kiwanis and Lions Clubs
   b. Rotary
   c. Chambers of Commerce
   d. Non-profit automobile clubs

4. **Sec. 21.190 (c) 4/21.49(c)(3)(iv):** Trade associations such as:
   
   a. Labor organizations
   b. Merchants Plumbers Association
   c. Merchants and Manufacturers Association

5. **Sec. 21.190 (c) 5/21.49(c)(3)(v):** Railroad companies including street railways

6. **Sec. 21.190 (c) 5/21.49(c)(3)(v):** Car-loaning and car companies operating upon railroads in the City such as:
   
   a. sleeping car
   b. dining car
   c. drawing room car
   d. palace car companies
   e. refrigerator, oil, stock, fruit car-loaning companies
7. **Sec. 21.190 (c) 5/21.49(c)(3)(v):** Companies doing express business on any railroad, steamboat, vessel, or stage in the City.

8. **Sec. 21.190 (c) 5/21.49(c)(3)(v):** Telegraph and telephone companies (They are taxable under Art. 1.11 – PET)

9. **Sec. 21.190 (c) 5/21.49(c)(3)(v):** Companies engaged in the transmission or sale of gas or electricity

10. **Sec. 21.190 (c) 6/21.49(c)(3)(vi):** Agents or brokers if the gross receipts pertain to reimbursements for sums advanced by the agent for the principal’s legal obligations or to be invested on behalf of the principal.

However, the following gross receipts of an agent or broker are taxable under Sec. 21.190/21.49(c):

   (i) Fees, commissions, or charges for the performance of any service.
   (ii) Charges or reimbursements of payroll and related expenses (fringe benefits, payroll taxes, etc.)
   (iii) Charges or reimbursements for all other expenses incurred in the agent or broker’s name and used in the performance of the service taxed under Sec. 21.190/21.49(c).
   (iv) Trading profits less trading losses of agents or brokers who trade as principal (in their own account).

11. **Sec. 21.190 (c) 7/21.49(c)(3)(vii):** Publishers and sellers of newspapers, magazines and other periodicals (Taxable under Sec. 21.166/167).

12. **Sec. 21.190 (c) 8/21.49(c)(3)(viii):** Producers of radio or television programs or advertising materials (Taxable under Sec. 21.109).

13. **Sec. 21.190 (c) 8/21.49(c)(3)(viii):** Radio and Television Broadcasters (Taxable under Section 21.189.2/21.45(a)/21.43(g)

   a. Broadcasters
   b. Broadcasters and Producers
   c. Program element providers

14. **Sec. 21.190 (c) 9/21.49(c)(3)(ix):** Real Estate Salesman
II. Other exemptions:

a. Unincorporated Homeowner’s Association
b. Incorporated Homeowner’s Association as long as the operations are consistent with the Articles of Incorporation
c. Independent Insurance Agent
d. Bail Bond Business
e. Residential board and care facilities caring for six (6) or less individuals
f. Charter Airlines
OFFICE MEMORANDUM
TAX and PERMIT DIVISION

Date: January 30, 1980

To: Julian Gottlieb

From: D. J. Debord

Subject: Real Estate Salesperson’s Employment Contracts

You requested a position on two contracts which detail the charge(s) for desk, forms, etc., to the real estate salesperson(s) under contract to the Broker.

**Taxable position:**

A. Broker subject to tax on 100% of commissions. No deduction for advertising, MLS, etc. which maybe paid out of the total commissions to a franchisor or similar person directly from escrow. Escrows should be verified to Brokers records to insure 100% of commissions are recorded.

B. The salesperson is deemed an employee of the Broker and any operating costs of the Broker that are charged to the salesperson will be considered a part of the formula for salesperson compensation.

Therefore, the charges (s) will not constitute a reimbursed expense and/or rent basis, which would be subject to Section 21.98 or Section 21.190.

The above position will not hold in the instance(s) where a Broker is furnishing services to other Broker who are selling in their own right under California Law.

Approved:

**Signed A. Heugin**
A Huegin, Assistant Chief

cc: P. Inafuku
A. Taaff
OFFICE MEMORANDUM

TO: TAX AND PERMIT DIVISION PERSONNEL

FROM: ALBERT HUEGIN, COMMUNICATIONS OFFICER
       TAX AND PERMIT DIVISION

SUBJECT: REAL ESTATE BROKERS

Pursuant to Subdivision 9, added to Section 21.190 (c) L.A.M.C. by Ordinance No. 152, 091 – Real Estate Brokers should include their entire gross commissions, including commission on sales made by those persons acting as real estate salesmen, when computing tax under Section 21.190 L.A.M.C. This procedure is consistent with current practice.

The Tax and Permit Manual describes the application of Section 21.190 L.A.M.C. to Real Estate Brokers located outside the City of Los Angeles who have sales activity within the City.

In those situations where Real Estate Brokers located within the City of Los Angeles sell property located outside the City; 50 percent of commissions earned from such sales will be accepted as prima facie evidence of proper allocation in the absence of a formula approved by the City Clerk.

AH: sv

/L26SchE
MEMO

Date: September 25, 2002

To: All Tax Auditors/Sr. Tax Auditors

From: Lerma Tioseco, Principal Tax Auditor

Subject: NOTICE OF APPOINTMENT FOR INSURANCE AGENTS/BROKERS

Attached is a copy of Section 1707.5 of the California Insurance Code, which states that in lieu of getting the actual copy of notices of appointment or notices of termination from the taxpayer as part of your audit procedure for an insurance agents/brokers, the taxpayer can provide a certification letter from the insurance commissioner stating that said agent/broker is licensed to transact such business or businesses.

A sample copy of the letter is attached for your future reference.

c: Zenaida De Jesus Mike Wilson
§1707.5. Destruction of documents

The commissioner in lieu of retaining in his or her files a copy of the notices of appointment or notices of termination described in Section 1707, if he or she has made entry of the facts pertaining to the appointments or the statements, including the cancellation, if any thereof, in some portion of his or her official records, may at any time thereafter destroy the documents. The commissioner’s certification as to the content of such an entry shall be competent evidence of the facts therein stated for any purpose in any court or administrative action or proceeding and shall be accepted in lieu of the actual documents.
July 15, 1998

Danny F. Coloso  
City of Los Angeles  
City Clerk – Tax and Permit Division  
City Hall, Room 101  
Los Angeles, CA 90012  

Subject: Lic #xxxxxxxx

Dear Mr. Coloso:

Enclosed, please find a list of companies that have appointed the above organization. In reading the list of companies, the start date is the appointment date and the stop date is the termination date.

Our records indicate that his organization is currently licensed as a Life Agent, with Variable Authority, and as a Fire and Casualty Broker-Agent. The organization has not had broker’s authority since February 24, 1987 and there is no active broker’s bond on file.

Also, enclosed is a copy of California Insurance Code Section 1707.5 pertaining to the destruction of appointments and terminations.

I hope this information is helpful.

Sincerely,

Signed Sidney J. Gauthreaux  
Sidney J. Gauthreaux  
Chief, License Bureau  

Enclosures  
Cc: Mr. Ed Martin  
    Human Inc.  
    P.O. Box 740026  
    Louisville, KY 40201-7426
NUMBER:

NAME:

START DATE: 06/17/93

CITY: CORPORATION

STAFF DATE: 01/28/83

LAST UPDATED: 02/10/83

WS#

See Other Name Record

NOTICES FOR:

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L-26 Sched D, 4 of 4
OPERATION BULLETIN

To: Senior Tax Auditors                  DATE: May 8, 1975
FROM: D.J. DeBord                      No: 7-75

SUBJECT: SURPLUS LINE INSURANCE BROKERS

Definition: Surplus Line Broker

One who handles insurance risks that another broker cannot place with an admitted insurance company.

In addition:

1. A surplus line broker cannot deal with the insured.
2. He is State licensed.
3. He must place this type of risk with a non-admitted insurance carrier.

For audit purposes, treat as a regular insurance broker with the following exceptions:

1. Pass along commissions- those commissions that the surplus line broker books on behalf of the broker who deals with the insured-will be excluded from taxable gross receipts.
2. Pass along policy fees, as stated charges on the written policy, will be handled the same as a commission.

When you have an audit to perform on a surplus line broker be sure to discuss with either W.Clements or J.Ulrich.

NOTE: This method was discussed with Richard Dawson, City Attorney’s Office; he concurred informally

D.J. DeBord
Principal Tax Auditor
Tax and Permit Division

*Not allowed to do business in California because he does not have a certificate of convenience from California. Therefore, insurance from this company must be through a surplus line broker or directly with the insured (customer going insurance company outside the state).
Excerpt of Letter to L.A. Chamber of Commerce
Re: Taxation of Reimbursed Expenses

June 25, 1958

With respect to “tax on reimbursable items”, it is the City’s position that if the gross receipts of any of the foregoing items represent expenses chargeable directly to the client and which are advanced by the architect or engineer as an agent for his client, these items may be excluded from the measure of the tax providing,

1. That they represent items for which the client instead of the architect or engineer is responsible for payment.

2. That the architect or engineer acts only as agent in advancing money for payment of these items.

3. That the contract between the architect and engineer and his client does not require the architect or engineer to perform these reimbursable services.

In order to determine which of the foregoing items may be excluded, it would be necessary to examine specific agreements between the architect or engineer and his Client.
OFFICE MEMORANDUM
TAX and PERMIT DIVISION

Date: November 22, 1982

To: ALL FIELD AUDIT PERSONNEL

From: Paul M. Inafuku

Subject: Payroll Agent

In a recent audit, which went to a formal hearing, it was determined through evidence and various documents that one corporation acted as a payroll agent for its related entity. Under Federal and State Law it is possible to designate one corporation to become a payroll agent for a group of employees. (See Section 3504 and 3505).

A problem has been created in the area of reimbursed expenses under Section 21.190 “6” (ii) where it states “receipts of any person received as partial or full compensation or reimbursement for salaries, payroll taxes, fringe benefits and any and all similar expenses for persons who are employees of said person under the criteria set forth in Division 4, Part 1, Chapter 2, Article 2 of the Labor Code of the State of California as effective July 1, 1976.”

After conferring with R. Dawson in the City Attorney’s office, he has informed me that in the majority of cases the W-2 issued by the employer would designate the employer and the employee. An exception to the rule would be the use of the payroll agent, which is allowed for Federal and State purposes. When you have a situation where there is a payroll agent you have to look to other evidence such as controller reporting for unemployment insurance, SNF/ICF wage certification, etc.

If the taxpayer raises the question as to a payroll agent for Federal and State purposes, we should look to the following information:

(1) Contribution return and report of wages under the unemployment insurance code and report of California personal income tax withheld.

(2) SNF/ICF Wage Certification (California).

(3) State of California unemployment development department report.
OFFICE MEMORANDUM

(Signed Copy on File)

TO: Tax and Permit Personnel

February 24, 1975

From: Harold B. Engen, Communication Officer

SUBJECT: JOINT VENTURES: REIMBURSEMENTS TO MEMBERS OF A JOINT VENTURE FOR FURNISHING PERSONNEL, EQUIPMENT OR OTHER ITEMS TO THE JOINT VENTURE

A joint venture is a business entity created for the accomplishment of a single specific undertaking. The joint venture is an entity separate and apart from its constituent members (which may be individuals, partnerships or corporations) and is in itself subject to the various business taxes imposed by the Los Angeles Municipal Code.

In many instances, the members of a joint venture furnish their employees, equipment, supplies, space, and/or other items to accomplish the work of the joint venture. The joint venture reimburses for their costs and expenses incurred in furnishing such personnel or items to the joint venture.

Questions have arisen as to whether the reimbursements received by the members constituent taxable gross receipts on the part of the members. Based on discussion with the City Attorney’s Office, this office will be guided by the following in making determinations as to whether the reimbursements are subject to tax:

1. If the joint venture agreement specifically provides that the parties to the agreement shall furnish personnel and/or any items to accomplish the work of the joint venture, such items shall be considered to be “Capital Contributions” to the joint venture. Amounts received from the joint venture in reimbursement for these contributions are not taxable gross receipts.

2. If the joint venture agreement does not specifically provide that personnel or other items shall be furnished by the parties to the joint venture, but a separate agreement exists which includes such provisions, the separate agreement must be examined to determine if it is an amendment to the original agreement. If so, reimbursements received from the joint venture would not be subject to tax.

3. Unless the joint venture agreement or an amendment to the agreement makes specific provisions for contributions by the members as mentioned above, the amounts received by the members for furnishing personnel, equipment, supplies, space or other items will be considered to be gross receipts subject to tax under the appropriate business tax classification.

The foregoing are general guidelines for determining whether reimbursements by a joint venture to its members are taxable gross receipts. Any specific situations which do not fall within these guidelines should be thoroughly examined and reviewed with your supervisor.
Date: March 4, 1988

To: All Tax and Permit Division Personnel

From: Paul M. Inafuku, Chief I Communications Officer

Subject: Street Number Curb Painters Section 21.190

Our office has discussed the issue of Street Number Curb Painters with the City Attorney’s Office. They have orally communicated with our office that street number curb painters are considered subject under Section 21.190. Since monies are received (irrespective of the amount given) and solicitation occurs when notices are mailed to the residents or a request for payment is made of the resident.
OPERATION BULLETIN

TO:                All Senior Tax Auditors               DATE:    April 14, 1976
FROM:              D. J. DeBord                        No.    3-76
SUBJECT:           Mutual Funds

The tax consequence of these entities will be based on cost of operations within the City subject under Section 21.190, City Clerk’s Ruling No. 15.

These costs shall include, but are not limited to:

1. Management fee
2. Rent/Depreciation
3. Office Expense
4. Salaries/Wages
5. Custodian and transfer agents fees
6. Auditing fees
7. Reports, postage and stationary
8. Directors liability insurance
9. Directors fees
10. Miscellaneous
11. Taxes (other than Federal Income Taxes) – This may include property tax which is part of and/or in lieu of rent.
12. Registration and filing fees
13. Administrative services
14. Insurance expense – Fire, theft, liability, workmen’s compensation, security bonds
15. Building repairs and/or services

16. Supplies

They shall not include:

1. Los Angeles City Business Taxes
2. Federal Income Taxes
3. State Income Taxes

Particular items to be analyzed

1. Reimbursed expense
2. Sales commissions may accrue to a selling entity and may not be an expense of the Fund.
3. No Load fund – sold by mail – no commissions paid.
4. Are expenses books in “net”, in other works, what does the expense account reflect, total or net expense?

Note: Additional information available in file folder in Principal Tax Auditor's office file.

D. J. DeBorg  
Principal Tax Auditor  
Tax and Permit Division

DJD:mp

Cc: A. Huegin  
J. Gottlieb  
M. Furuya
ORDINANCE NO. 181951

An ordinance adding paragraph (x) to Section 21.49(c)3 of Chapter II of Article 1 of the Los Angeles Municipal Code, regarding the business tax exemption of certain mutual funds.

THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:

Section 1. A new paragraph (x) is added to Section 21.49(c)3 of Chapter II of Article 1 of the Los Angeles Municipal Code to read as follows:

(x) Receipts (whether considered in total or measured by cost of operations in the City or any other proxy) of a mutual fund that is registered under the Investment Company Act of 1940, as amended (15 U.S.C. § 80a-1 to 80b-2), as an open-end management investment company provided that it qualifies as a Regulated Investment Company under Subchapter M of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 851) (the "IRC"). However, Receipts of a mutual fund that fails to qualify under Subchapter M or of a mutual fund that receives more than ten percent of its gross income from other than qualifying sources as described in section 851(b)(2) of the IRC shall not be excluded under this paragraph. The exemption for qualified mutual funds contained in this paragraph shall apply in full only to business tax periods commencing on or after January 1, 2014, and shall be phased in as follows: For business tax periods commencing on or after January 1, 2012, and before January 1, 2013, said Receipts shall be taxed at 2/3 of the rate set forth in Section 21.33(f), and for business tax periods commencing on or after January 1, 2013, and before January 1, 2014, said Receipts shall be taxed at 1/3 of the rate set forth in Section 21.33(f).
Sec. 2. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of November 1, 2011.

JUNE LAGMAY, City Clerk

By

Deputy

Approved

November 2, 2011

Mayor

Approved as to Form and Legality

CARMEN A. TRUTANICH, City Attorney

By

PEJMON SHEMTOOB

Deputy City Attorney

Date

October 27, 2011

File No.

C.F. 10-2297

L-26 Sched K, 2 of 3
DECLARATION OF POSTING ORDINANCE

I, MARIA VIZCARRA, state as follows: I am, and was at all times hereinafter mentioned, a resident of the State of California, over the age of eighteen years, and a Deputy City Clerk of the City of Los Angeles, California.

Ordinance No. 181951 – Adding paragraph (x) to Section 21.49(c)3 of Chapter II of Article 1 of the Los Angeles Municipal Code, regarding the business tax exemption of certain mutual funds - a copy of which is hereto attached, was finally adopted by the Los Angeles City Council on November 16, 2011 and under the direction of said City Council and the City Clerk, pursuant to Section 251 of the Charter of the City of Los Angeles and Ordinance No. 172959, on November 29, 2011 I posted a true copy of said ordinance at each of the three public places located in the City of Los Angeles, California, as follows: 1) one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; 2) one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; 3) one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

Copies of said ordinance were posted conspicuously beginning on November 29, 2011 and will be continuously posted for ten or more days.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 29th day of November 2011 at Los Angeles, California.

Maria Vizcarra, Deputy City Clerk
PROFIT/NON-PROFIT

If the taxpayer claims to be non-profit, but has no tax exempt certificates, take the following steps:

1. Provide the taxpayer the attached form (three copies). These forms may be obtained from the Processing Unit in Room 101.

2. Identify the tax classifications under which the taxpayer requests exemption. Have the taxpayer enter these classifications under number six on the form.

3. Request the taxpayer to submit the completed form, in triplicate, To the Special Investigations Unit along with the following:
   a. Articles of Incorporation
   b. By-laws
   c. Federal exemption letter from the Internal Revenue Service
   d. State exemption letter from the California Franchise Tax Board

4. Follow-up every 30 days to determine if the exemption(s) was granted or denied. Exemptions under Section 21.190 are granted by Special Investigations and the master code is “E” on TAPS. Exemptions for other tax classifications are granted by the Department of Social Service and the master code is “J” on TAPS.

5. Secure waiver of the Statute of Limitations as needed until the exemption is granted or the audit is completed.

6. If the exemption code does not appear on TAPS within six months, check with Special Investigations to determine the status of the exemption request.

/LISCHF
SHARED BILLINGS

Hospitals often bill for all services provided in the hospital. These billings may include fees for items (supplies and services) provided by both the hospital and by independent contractor operated departments or independent doctors. Sometimes the independent is subject to tax for the total amount of the billing and the hospital is subject to tax for the portion it retains. Other times it is a “shared billing”. That is the hospital is billing for its portion and also billing for the independent’s portion. In the latter case each taxpayer’s gross receipts are only is portion of the portion of the total bill. Thus, the total taxable amount is 100% of the billing, each taxpayer reporting only its portion of the total bill.

To determine if a taxpayer is subject to tax upon the entire amount or a portion of the bill, the contract must be reviewed. In your review, determine if each party is rendering services to a patient where there is a combined billing, it is a shared billing. Then each party is responsible for its portion of the total bill. If not, the independent is responsible for the total amount of the billing and the hospital is responsible for the portion it retains.

If there is no contract between the parties, there assumed to be no shared billing. Only if there is strong evidence to the contrary, will a shared billing be considered to exist without a contract.

Remember to secure a list of all independents from the hospital. These independents would be doctors of surgery, radiology, anesthesiology, etc. Other independents may be operators of the pharmacy, flower shop, etc. Verify that each independent has a Business Tax Registration Certificate.
LESSON 27

CITY CLERK'S RULING #15

OUTLINE

I. OVERVIEW

II. CITY CLERK'S RULING #15

III. MODIFICATIONS OF CITY CLERK'S RULING #15

IV. METHODS USED TO DEVIATE FROM RULING #15
LESSON 27

CITY CLERK'S RULING 15

I. OVERVIEW

A. City Clerk’s Ruling 15 was adopted to put into effect the general apportionment provisions of Sec. 21.190(d)/21.49(c,4).

B. This Ruling 15 is the apportionment formula used specifically for Sec. 21.190/21.49(c) activities only. However, in practice, we also apply it to other service type business classification sections such as 21.189.1 /21.48, (Miscellaneous Services), 21.189.2 /21.45(a).( Radio and TV Broadcasting), or 21.141/21.46,d,1,( Freight Forwarder).

C. Why apportion gross receipts?

As discussed in Lesson 16, Ruling Numbers 13 and 14, we need to apportion the gross receipts in order to overcome constitutional objections (See Lesson 8: Duties and Powers of the Office of Finance)

The Commerce Clause of the U.S. Constitution and the equal protection laws of the California Constitution require us to tax only those gross receipts, which are directly attributable to activities within the City. This is achieved by apportioning the gross receipts in a manner that clearly reflects that proportion of the taxed activity that is actually carried on within the City.

D. Who may apportion gross receipts?

A person who conducts business activities outside the City through that person’s employees or equipment.

If the activities out-of-the City are performed by independent contractors, no apportionment is allowed based on the activities of those independent contractors.

II. CITY CLERK'S RULING 15

A. Ask a student to read Ruling 15.

1. Clearly explain that Ruling 15 apportionment is based on where the activities of the taxpayer are performed.
2. *Emphasize that only the following activities are allowable basis of the apportionment:*

   a. Activities performed by the taxpayer's employees; those of the independent contractors are disallowed.

   *Discuss Schedule A: Programming Enterprises, Inc.*

   b. Use of real and tangible property whether owned or rented, or used by employees or its agents.

3. In the absence of substantial information to the contrary, the 80-20 factor assumes that 80% of the gross receipts is earned by the people who directly perform the service sold, while 20% is attributable to the people who provide support functions.

   **B. Emphasize that:**

   1. 100% taxable - when all work is performed in the City

   2. 20% taxable - when support activities are done in the City while most of the work are done outside the City

   3. Office policy:

      a. 5% - accounting functions
      b. 5% - billing functions
      c. 5% - collecting functions
      d. 5% - administrative functions

      The above breakdown of the taxable 20% is a general guideline. It is normally used in simple service type businesses where the above functions are performed in the headquarters. Example: lawyers, accountants, doctors, etc.

4. **Deviation from Ruling 15**

   If the 80-20 factor of Ruling 15 (80% exempt and 20% taxable) does not fairly reflect the activities performed in and out of the City, a deviation from Ruling 15 may be requested as follows:
a. If the taxable percentage should be higher than 20%, the City (such as Field Audit) should make a written recommendation to modify the taxable percentage. Such recommendation must be submitted to the Tax and Permit Division Chief who will approve or disapprove such recommendation.

b. If the taxable percentage should be lower, the taxpayer must initiate the request. The tax auditor, upon verification, may submit a recommendation to approve the taxpayer’s request for deviation. Such recommendation must be submitted to the Tax and Permit Division Chief who will approve or disapprove such recommendation.

c. If the reciprocal of Ruling 15 factors (80% taxable and 20% exempt) is the appropriate apportionment, we do not need to request for a deviation because we are not applying straight Ruling 15 formulae. However, in practice, we just cite:

   **Schedule B:** Out of City Firm with in-City Taxable Activity; D. DeBord; 09-16-75

5. *Discuss Schedule C:* Ruling 15 Worksheet

6. *Discuss Schedule D:* Guidelines when Requesting for Variation of Apportionment Percentages under City Clerk's Ruling No. 15; T. R. Thornhill; 02-23-73

7. *Discuss Schedule E:* Guidelines Re:City Clerk's Rulings - Deviations; J. Hickey & P. M. Inafuku; 06-16-89

8. *Discuss Schedule J:* Deviation Requests; Terrance Manocchio; 10-30-02
   
   **Schedule K:** Deviation Policy, (Principal Tax Auditors), 12-10-09

C. Emphasize that if there are no measurable gross receipts directly attributable to operations carried on from a place of business within the City, such operations shall be deemed to produce gross receipts in an amount at least equal to the cost of maintaining such operations, which include, but not limited to, rent and/or depreciation, salaries and wages, fixed charges and other expenses.
III. MODIFICATIONS OF RULING 15

The 80-20 factors of Ruling 15 do not always lead themselves to the operations of some particular business industries. Modifications of Ruling 15 have been made for various industries to fairly reflect the in and out-of-City activities.

A. *Discuss Schedule F:* Architects and Engineers

B. *Discuss Schedule G:* Stockbrokers / Commodity Brokers

C. *Discuss Schedule H:* Real Estate Brokers

IV. OTHER METHODS USED TO DEVIATE FROM RULING 15

Any method, as long as it is reasonable and fairly calculate the amount of gross receipts derived from or attributable to engaging in business in the City, can be used to deviate from Ruling 15. However, the most equitable method is cost allocation.

*Emphasize the following:*

A. The cost allocation method is used to arrive at an accurate percentage to apportion gross receipts.

B. The percentage should be reflective of the activities carried on by the taxpayer. Hence, when using cost analysis, we include only the following expenses:

1. Payroll
2. Property: lease, rent, or depreciation
3. Expenses related to payroll and property such as payroll taxes, and all kinds of benefits

C. The following expenses are to be excluded from the cost allocation formulae:

1. Intangible such as interest expense, amortization of rights, goodwill etc.
2. Expense paid to sub-contractors

D. *Discuss Schedule I:* Ruling 15 Deviation Methods. These deviation methods may also be used for non-service type of activities such as wholesale and retail
- TP is not an agent and LAMC Sec. 21.190 (c) (6) does not apply

- No apportionment required for out-of-state work carried on by TP’s independent contractors (at 291)

- TP is in position to demand that the contractual arrangements it created be disregarded because that arrangement has disadvantageous tax consequences. Tax consequences follow what is done irrespective of motivation. (at 292)

- no denial of equal protection of the laws
OPERATION BULLETIN
(a signed copy on file)

TO: All Senior Tax Auditors
FROM: D. J. DeBord
DATE: September 16, 1975
No. 16-75


Situation: Out-of-City firm with in-City taxable activity.

Section 21.190(d) “…gross receipts shall be allocated…

In the absence of substantial information to the contrary, 20% of the in-City gross receipts from activities performed in-City shall be deemed attributable to activities performed out-of-City in connection with such in-City activity and thereby excluded from the taxable gross receipts.

Any deviation from above must be approved before executing.

NOTE: Concurred to by A. Huegin via telephone this date.

Take 80% of city activity by TP
Quartered out of city under 190

D.J. Debord
Principal Tax Auditor
Tax and Permit Division

DJD:MP

CC: A. Huegin
J. Gottlieb
M. Furuya

Applies To Sec. 21. 193 as well

Debord 5-3-77
CITY CLERK’S RULING N0.15 WORKSHEET
IN AND OUT-OF-CITY PERFORMANCE FACTORS

Name of Taxpayer

Section: ____________

<table>
<thead>
<tr>
<th>DESCRIPTION OF ACTIVITIES</th>
<th>PERFORMANCE FACTORS</th>
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<tbody>
<tr>
<td>General Control (Sales &amp; Administration)</td>
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<tr>
<td>General Accounting</td>
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<td>Billing</td>
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<td>Collecting</td>
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<tr>
<th>PERFORMANCE FACTORS</th>
<th>In-City</th>
<th>Out-of-City</th>
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<td>On-site</td>
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BASED ON THE ABOVE FACTORS:

1. 20% of out-of-City gross receipts included in the measure of tax per City Clerk's Ruling No. 15.

2. 20% of in-City gross receipts excluded from the measure of tax per operation bulletin.

3. Approval requested for a specific allocation basis.
OFFICE MEMORANDUM

(Signed Copy on File)

TO: Senior Tax Auditor  
FROM: Thornton Thornhill  
DATE: February 23, 1973

SUBJECT: Request for variation of apportionment percentages under City Clerk’s Ruling No. 15.

In Order to secure a uniformed and understandable memorandum when requesting a variation in percentages please set up as follows:

1. Outline the contentions and request of the taxpayer in sufficient detail that Mr. Weiss will have all the facts contained in taxpayer’s letter without referring to the file.

2. Auditor’s comments on the information contained in item 1 plus all additional information in his possession which will have a bearing on the apportionment problem.

3. Make specific recommendation or recommendations as to the percentage to be approved for reporting purposes.

See sample memorandum.

Signed Thornton R. Thornhill  
Thornton R. Thornhill  
Principal Tax Auditor  
Tax and Permit Division

TRT:ic
OFFICE MEMORANDUM
TAX and PERMIT DIVISION

Date: June 16, 1989

To: All Sr. Tax Auditors & Tax Auditors

From: Jim Hickey

Subject: CITY CLERK RULINGS - DEVIATIONS

The attached memo is the result of a question raised during recent litigation.

When we request a higher percentage than shown in the Ruling, we need to make a request in the same manner as a request for a lower percentage.

It is not the intention of the attached memo to discourage the use of a higher percentage, if the circumstances warrant it.
OFFICE MEMORANDUM
TAX and PERMIT DIVISION

(Signed Copy on File)

Date:       June 15, 1989
To:         J. Hickey
From:       P. Inafuku
Subject:    City Clerk Ruling - Deviations

We should be following the procedures:

1. **If the senior or tax auditor believes that a higher percentage should**
   
   be used under City Clerk’s Rulings No. 13, 14 and 15, they should request in writing
   a higher percentage and the reasons why it should be used.

2. **We should notify the taxpayer in writing of the increase in the**
   
   percentage and the reasons why we believe it should be increased.

Signed by Paul M. Inafuku
Memo of June 26, 1961

ARCHITECTS AND ENGINEERS

The above taxpayers are architects and they have indicated that the cost of an architectural job is broken down approximately as follows:

- Schematics 15%
- Preliminary drawings 10%
- Working drawings 55% to 60%
- Supervision of Construction 15% to 20%

An analysis of the various jobs of a Corporation gives the following categories based on where the work was performed (In or Out of City).

1. Job location in or out of the City of Los Angeles – all work done in Los Angeles. 100%
2. Job location outside the City of Los Angeles – all work performed in the City of Los Angeles except supervision, which was performed at the job site. 85%
3. Job location outside the City – Schematics and some other work (part of working drawings) in Los Angeles, rest of work outside of Los Angeles. 60%
4. Job location outside the City – Schematics and preliminary drawings done in Los Angeles, rest of work done outside the City. 40%
5. Job location outside the City - Sketching and part of working drawings done in the City, rest of the work completed out of City. 60%
6. Job location outside the City – all actual work done outside of the City, top supervision, checking, bookkeeping, etc., only is done in the City of Los Angeles. 20%
7. Interior decorating job out of the City – considerable amount is done at job site. 60%
8. Job location outside of the City – Schematics, preliminaries, and most of working drawings done in Los Angeles – rest of work, including supervision, outside the City.  
   Percentage: 60%

9. Job location outside the City – combination of architectural fees and interior decoration. approximately 60% of work done in Los Angeles.  
   Percentage: 60%

10. Job location outside the City – Schematics done in Los Angeles, all other work outside Los Angeles.  
    Percentage: 20%

11. Job location outside the City – interior decoration schematics only done in Los Angeles.  
    Percentage: 20%

12. Job location outside the City – Schematics and Preliminary drawings done in Los Angeles, all other work outside Los Angeles, no supervision performed.  
    Percentage: 60%

In analyzing the above categories, it appears that the percentage of work performed in the City varies from ten percent or less up to 100 percent. The above percentages do not include expenses such as top supervision, accounting, and other general expenses, which would be performed by the Los Angeles office.

I, therefore, submit for your approval the following recommendations:

1. Categories 6, 10, and 11 be assessed at 20%
2. Categories 4 be assessed at 40%
3. Categories 3, 5, 7, 8, 9, and 12 be assessed at 60%
4. Category 2 be assessed at 85%
5. Category 1 be assessed at 100%
OFFICE MEMORANDUM

Date: March 23, 1982
To: Julian Gottlieb
From: D. J. DeBord
Subject: Stockbrokers/Commodity Brokers

The following allocations will be utilized to recognize in and out of city performance in reference to those commissions earned as the result of stock and/or commodity sales:

<table>
<thead>
<tr>
<th>Securities:</th>
<th>Allocation Rates</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Originating office</strong></td>
<td>60%</td>
</tr>
<tr>
<td>Executing and clearing office</td>
<td>40%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Commodities:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Originating office</strong></td>
<td>50%</td>
</tr>
<tr>
<td>Executing and clearing office</td>
<td>50%</td>
</tr>
</tbody>
</table>

While the above replaces the necessity of any other allocations in those areas, gross receipts derived from other activities will be examined separately by the auditor to determine allocations to recognize in and out of city performance.

cc: George Matthews
interoffice
MEMORANDUM

DATE: August 18, 1997

TO: All Public Counter/Field Enforcement Personnel

FROM: Sylvia Nesbit, Chief I
Tax and Permit Division

SUBJECT: REAL ESTATE BROKER'S REPORTING REQUIREMENTS

The following information is a restatement of the Tax and Permit Division policy regarding reporting requirements for real estate brokers.

Real estate brokers are subject to tax under Section 21.190, measured by their gross commissions earned or charged for providing services as brokers.

Real estate brokers employing other real estate brokers must include the entire gross commissions received by the brokers in the measure of the tax. It is immaterial whether the sub-broker is paid by the main broker or the escrow company. The sub-broker is not subject to tax. No deduction is allowed for the commissions paid to the sub-broker. However, if the sub-broker has sales which do not go through the principal broker's escrow, the sub-broker must secure a certificate under Section 21.190 in his own name.

In those situations where Real Estate Brokers located within the City of Los Angeles sell property located outside the City. 50% of commissions earned from such sales will be accepted as prima facie evidence of proper allocation in the absence of a formula approved by the City Clerk.

Real estate brokers who are located outside the City of Los Angeles are subject to tax under Section 21.190 if through his physical presence he carries on substantial sales activity within the City.

Illustrations of substantial activities are:

1. Soliciting or securing listings;
2. Showing the property;
3. Making physical inspection of the property;
4. Calling upon prospective customers;
5. Placing signs on the property;
6. Assisting the seller or buyer to obtain financing;
7. Assisting the seller or buyer by calling on escrow institution;
8. Any other activity performed in the City which can result in the earnings of real estate commissions.
In the absence of a formula, submitted by the taxpayer and approved by the City Clerk, 50% of the gross sales commissions earned from the sale of real property located within the City will be accepted as prima facia evidence of proper allocation of the gross commissions, etc.

Many real estate brokers buy, sell or hold trust deeds secured by real property. Items of income that must be reported in the measure of the tax due under Section 21.190 are as follows:

1. Interest on loans;
2. Loan fees of various kinds, such as fees for escrow, appraisal, drawing papers and other similar charges;
3. Bonuses received for prepayment of loans;
4. Penalties charged on delinquent loans;
5. Tax services fees;
6. Receipts over and above the recovery of principal from the sale of mortgages, or other evidences of money due from loans.

Business opportunity brokers are subject to tax under Section 21.190. Business opportunity brokers operate in the same manner as real estate brokers except that they deal in the sale of commercial businesses rather than real property. The same rules apply to business opportunity brokers as real estate brokers.

SN:la

cc: Donald J. DeBord, Chief II Tax and Permit Division
    Paul Inafuku, Chief I Tax and Permit Division
    Ken White, Senior Management Analyst I
    Robert Eustrom, Principal Tax and Permit Field Representative
    Sudie Rover, Principal Tax and Permit Field Representative
    Sylvia Smith, Principal Tax and Permit Field Representative
    Dedra True, Principal Tax and Permit Field Representative
RULING 15 DEVIATION METHODS

Where circumstances require a deviation from Ruling 15, or where there are no measurable gross receipts directly attributable to operations carried on from a place of business within the City, the following methods may be utilized to determine such gross receipts:

1. (Los Angeles Total Expenses ÷ Total Expenses) X Total Gross Receipts
2. (Los Angeles Payroll Expenses ÷ Total Payroll Expenses) X Total Gross Receipts
3. Total Los Angeles Cost of Maintaining

The Tax Auditor should try to determine the method which best reflects the proportion of activities that are conducted inside and outside the City. However, a balance between expediency and accuracy should be attained. The Tax Auditor should keep in mind the cost-benefit ratio and the materiality of the amounts involved.

TOTAL EXPENSE CONCEPT (METHOD #1)

Total Expense Concept is, theoretically, most accurate. It reflects the true gross receipts because the total costs incurred within the City are considered and the tax measure will include a proportionate share of the profit. In using this formula, total expenses should be defined as the aggregate of payroll expense, property expense, and all other expenses related to payroll and property. Excluded are the expenses incurred to pay outside contractors with the exception of those attributable to property, because the activities performed by them are their activities, not those of the taxpayer (Irvine Co. v. McColgan, 26C.2d 160 (1945); 157 P.2d 847). Examples of expenses that should be included in the formula are payroll, payroll taxes, rent, equipment lease, depreciation, utilities, insurance, repairs and maintenance, etc. If repairs and maintenance expenses represent payments to outside contractors, such expenses should still be included in the formula because they relate to property.

If the computed tax measure under this method is less than the cost of maintaining the office in the City, then the tax measure should be based on the cost of maintaining the in-City office as defined under method #3.

Since the use of this concept results in a tax measure based on gross receipts, the taxpayer is subject to tax under the classification of its actual business activity.
PAYROLL CONCEPT  (METHOD #2)

Although the Payroll Concept also accounts for profit, it may not be as accurate and reflective of the true gross receipts as the Total Expense Concept because only the payroll expense is included in the formula. However, it can be applied if a business is labor intensive and all the other expenses are proportionately incurred among all of the business locations.

Like the Total Expense Concept, the taxable gross receipts under this concept should not be less the cost of maintaining the in –City office. Also, the taxpayer is subject to tax under the classification of its actual business activity.

COST OF MAINTAINING CONCEPT  (METHOD #3)

The Cost of Maintaining Concept should be used only in limited situations. Its use must be justified because it is not an accurate and fair method as it fails to account for profit. Under this concept, the cost of maintaining pertains to all the costs incurred in the City including the expenses incurred to pay independent contractors because we are not trying to develop a percentage to apportion gross receipts. Instead, we are determining the minimum amount that must be reported as gross receipts. Therefore, even payments to independent contractors are included in the tax measure as it is assumed that a dollar for dollar gross receipts is obtained from all costs incurred in the City.
DATE: October 30, 2002
TO: Field Audit Sections I, II & III
FROM: Terrance Manocchio, Chief I, Tax & Permit Division
SUBJECT: DEVIATION REQUESTS

It has come to my attention that deviations from our office policy on apportionments of gross receipts of stockbrokers/commodity brokers, real estate brokers, architects and engineers are done without the approval of Chief I.

Please be reminded that any policy, rules or regulations promulgated by the Office of Finance or its deputies must be strictly complied with. A request for deviation must first be requested and approved by the Chief I prior to implementation.

Unlike the various rulings, the requests to deviate from our office policy originate from the Tax Auditors based on observations and analysis of the taxpayer’s activities in and out of Los Angeles. There is no need to attach any letter from the taxpayer.
INTEROFFICE MEMORANDUM

DATE: December 10, 2009

TO: Field Audit Sections I, II, III

FROM: Pete Galang, Tessie Diaz, and Josefina Sison
       Principal Tax Auditors

Subject: DEVIATION REQUEST POLICY

This is to reiterate our current policy on deviation requests. To ensure consistency with previously established guidelines, the following procedures should be strictly followed:

- As a general rule any deviation from the apportionment set forth under City Clerk’s ruling #13, 14, 15, and 17 requires a formal written request from the taxpayer.
- The written request for deviation by the taxpayer should specifically state the basis for their request and the percentage of deviation desired.
- This request by the taxpayer must be attached to the recommendations embodied in a memo submitted by the tax auditor and approved by the Senior Tax Auditor and the Principal Tax Auditor. This recommendation memo is then forwarded to the Chief for final approval.

Please note that a taxpayer’s written request for deviation is not sufficient for submitting a recommendation for approval of the request. The assertions made by the taxpayer must be verified as part of the audit process. For example, examination of a taxpayer’s customer billing statements could validate both location of billing and collection activity. The specific steps that were taken to verify the taxpayer’s assertions must be referenced in your audit comments included in the A section of the audit work papers.

DEVIATION ON EXISTING POLICY FOR STOCK BROKERS, REAL ESTATE BROKERS, ARCHITECTS AND ENGINEERS

Please note the difference in the case of deviations on apportionment of gross receipts from the internal office policy on stockbrokers, real estate brokers, architects and engineers. Unlike the above-mentioned rulings, the policy on these aforementioned industries and professions is that the request must originate from the Tax Auditor based on observations and analysis of the taxpayer’s activities in and out of the City of Los Angeles (please refer to Terry Manocchio’s memo dated October 30, 2002, herein attached).

The observation, analysis and verification of the tax auditor in a memo form with the recommended percentage, is sufficient. There is no need to attach a letter from the taxpayer. The memo with the recommendation, likewise needs to be submitted by the tax auditor, approval by the Senior Tax Auditor and the Principal Tax Auditor, and forwarded to the Chief for final approval.

If you have any questions, please speak with your supervisor.
Lesson 28

SEC. 21.189.1/21.48: MISCELLANEOUS SERVICES

OUTLINE

1. DEFINITION
   a. ADVERTISING AGENCY
   b. AIRCRAFT AND SUPPORT CONTRACTOR
   c. APPAREL SUBCONTRACTOR
   d. BOOKBINER
   e. CHECK CASHING SERVICE
   f. DRAPERY SUBCONTRACTOR
   g. HEAT TREATER
   h. MAILING SERVICE
   i. METAL PLATER
   j. MUSIC TEACHER
   k. PUBLIC RELATION AGENCY
   l. REFUSE CONTRACTOR
   m. SHOE SHINING STAND OR PARLOR OPERATOR
   n. SILK SCREEN APAREL SUBCONTRACTOR
   o. TEMPORARY-HELP AGENCY
   p. TICKET SELLER OR BROKERS
   q. TRAVEL AGENCY
   r. TYPSETTER, COMPOSITOR, TYPOGRAPHER, OR TYPE FOUNDER
   s. WIRE TERMINATOR

2. APPORTIONMENT OF GROSS RECEIPTS

(REV. 4-10)
Lesson 28

SEC. 21.189.1/21.48: MISCELLANEOUS SERVICE

1. DEFINITION

Briefly discuss each of the following:

A. Advertising Agency - any person who engages in the business of advertisement counseling including the writing, composing, designing and placement of advertisements for clients.

However, gross receipts from the promotion of advertisement using one's own media are taxable under Sec. 21.166(21.42 Wholesale), instead of Sec. 21.189.1/21.48 [see Sec. 21.166(f)/21.42 (d)].

Discuss Schedule A: Advertising Agency

B. Aircraft Support Contractor - any person who engages in the business of furnishing ground support services to airline carriers including ramp services, baggage, and freight handling service, ticket services, mechanical services, fueling service or other similar services normally performed at the airport.

Note: Ground support services must be furnished to AIRLINE CARRIERS.

C. Apparel Subcontractor - any person who engages in the business of cutting, sewing, or fabricating any clothing, wearing apparel, garment, or similar material belonging to an apparel manufacturer or pursuant to a contract with another apparel subcontractor.

D. Bookbinder - any person who engages in the business of binding books.

Discuss Schedule B: Definition of "Bookbinder"; P.Inafuku; 5-6- 83

E. Check Cashing Service - any person engaged in the business of cashing checks (including payroll checks) for a fee or charge.

In many large markets and gas stations, booths are set up for the purpose of cashing checks for a fee. The person operating the check cashing service whether he is the owner of the premises or an independent operator, is subject to tax under Section 21.189.1 if a fee is charged.

No tax is due under Section 21.189.1/21.48 for cashing checks if no specific charge is made for the check cashing service.

F. Drapery Subcontractor - any person engaged in the business of cutting, sewing, or fabricating any draperies, curtains or similar material belonging to a drapery manufacturer, drapery jobber or drapery seller or pursuant to a contract with another drapery subcontractor.
G. **Heat Treater** - any person who engages in the business of changing the hardness and/or strength of metal materials of another by controlled heat process methods.

H. **Mailing Service** - any person who engages in the business of preparing printed matter for mailing (such as by sorting, collating, tying, inserting addressing and metering), mailing such printed matter or providing (without selling), advising as to, compiling, or maintaining lists of persons, businesses, or locations for use in mailing printed matter.

A mailing list provided either by labels or magnetic tapes is taxable under this section.

I. **Metal Plater** - any person who engages in the business of plating, anodizing, or galvanizing metal articles of another by electrolysis or any other plating process.

J. **Music Teacher** - any person who engages in the business of teaching music.

K. **Public Relations Agency** - any person who engages in the business of promoting rapport and goodwill between a person and other persons, special publics or the community at large through the distribution of interpretative material, the development of neighborly interchange and the assessment of public reaction.

L. **Refuse Contractor** - any person who engages in the business of hauling refuse.

M. **Shoe Shining Stand or Parlor Operator** - any person who engages in the business of operating or maintaining a shoe shining stand or parlor.

N. **Silk Screen Apparel Subcontractor** - any person engaged in the business of performing silk screen printing work upon any clothing, garment, wearing apparel or similar material belonging to an apparel manufacturer or pursuant to a contract with another silk screen apparel subcontractor.

O. **Temporary-Help Agency** - any person engaged in the business of supplying his employees to others on a temporary basis.

Emphasize that to be a Temporary Help Agency, 2 conditions must exist:
1. The agency must supply his own employees, and
2. The service supplied must be on a temporary basis.

An employment agency for permanent placement is taxable under Sec. 21.190/21.49(c)

A person engaged in the brokerage of labor for a fee is not taxable under Sec. 21.189.1/21.48 as temporary help agency. Instead, it is taxable under Sec. 21.190/21.49(c) because the labor brokered is that of an independent contractor, not the employees of the broker.

A loan-out corporation providing services to a motion picture producer is taxed under this section. However, if said corporation provides services to a radio/TV broadcaster is taxed under Sec. 21.189.2/21.45(a)/21.43(g) (covered in Lesson 29).

If a sole proprietor provides services to a motion picture producer, then he or she is taxed under Sec. 21.190/21.49(c).

Discuss Schedule C: Loan-out Corp; P.M. Inafuku dated 915-93

P. Ticket Seller or Brokers - any person who engages in the business of selling rights, evidenced by tickets, on their own account and persons selling rights as broker or agent for another.

A. Must have the following conditions to be taxable as Ticket Broker:

1. must sell rights, evidenced by tickets, to view, hear, and/or attend a theatrical, cultural, sporting, or similar event, and
2. must not promote, sponsor, produce, or contribute to the event.

A person who sells rights to an event and at the same time promote, sponsor, produce or contribute to the event is not taxable under Sec. 21.189.1/21.48. Instead, such person may be taxable under Sec. 21.59/21.46(a)(Sporting Event) or 21.147/21.45(b)(Theater), depending upon the circumstances.

B. Two types of brokers taxable as Ticket Broker under Sec. 21.189.1/21.48:

a. a ticket broker who purchases the tickets in his own name and is responsible for any unsold tickets. Such a broker's tax measure should be the entire charge made to the customer for the tickets.
b. a ticket broker who merely acts as an agent or broker in selling tickets belonging to other persons. The tax measure is equal to the gross commissions or fees received for performing the service.

Q. **Travel Agency** - any person who engages in business as a broker of travel services.

Discuss **Schedule D**: Travel Agency; H. B. Engen; 1-16-74

Discuss **Schedule E**: Travel Agency and Tour Wholesalers; P. M. Inafuku; 3-10-83

R. **Typesetter, Compositor, Typographer or Type Founder** - a person engaged in the business of setting type for another by hand, cold type process, hot metal, photographic or any other similar mechanical or photochemical "type assembly" process.

S. **Wire Terminator** - any person who engages in the business of connecting components and circuits of electronic panels of another with configured wiring by means of fully automatic equipment.

2. **GROSS RECEIPTS**

A. Discuss Sec. 21.189.1(c)/21.48(b) last paragraph).

B. As a general rule, we tax the total gross receipts under Sec. 21.189.1/21.48 including any reimbursed expenses. The JT Gilfillan court case upheld that we should not fragment a business into its component activities and artificially deem them to be separately taxable business activities.

However, there may be situations where a person rendering a 21.189.1/21.48 service may also be subject to tax under Sec. 21.166/21.42/21.41(g) or 21.167/21.44(a)/21.43(e). This occurs when the agreement clearly shows that the sale of parts is separate from the 21.189.1 service. Usually, the charges for such sale of parts are separately stated. Hence, our current policy is to tax such separately charged gross receipts from sale of parts under Sec. 21.166/21.42/21.41(g) or 21.167/21.44(a)/21.43(f).

3. **DISCUSS APPORTIONMENT OF GROSS RECEIPTS**

Emphasize application of CC Ruling 15, deviation from CC Ruling No. 15 and other methods used to apportion gross receipts similar to Section 21.190/49 as discussed earlier. Discuss **Schedule F**: Apportionment of Gross Receipts; H. B. Engen; 3-5-74
SEC. 21.189.1: ADVERTISING AGENCIES

When advertising agencies, acting as agents for their clients purchase or place advertising in advertising media such as newspapers, magazines, publications, radio, television, billboards, etc., the gross commissions and/or fees received for those services are subject to tax under Sec. 21.189.1. Any costs incurred on behalf of their clients such as advertising media costs are deductible from the gross receipts.

If advertising agencies do not act as agents for their clients in purchasing or placing advertising in advertising media, the entire gross receipts received from the transaction are subject to tax under Section 21.189.1.

When advertising agencies, acting as agents and on behalf of their clients purchase tangible personal property such as pamphlets, booklets, artwork, radio and television transcriptions, engravings, etc., for their clients, the gross commissions from such sales are taxable under Sec. 21.189.1.

If advertising agencies produce or purchase tangible personal property and sell it, they are subject to tax under Section 21.167.

Advertising agencies having a local branch office, which is merely a “contract” office that produces no determinable gross receipts, is subject to tax under Sec. 21.189.1 measured by the cost of maintaining the local office.

Gross receipts from the promotion or placement of advertisement using one’s own media are taxable under Sec. 21.166, instead of Sec. 21.189.1 [cross-ref. Sec. 21.166 (f)].
Date: May 6, 1983

To: Julian Gottlieb/D. J. DeBord

From: Paul Inafuku

Subject: Definition of “Bookbinder”

It is recommended that the following definition of “bookbinder” be used.

A “bookbinder” shall mean any person who engages in the business of gathering pages, forms, folios and assembling them into pamphlets, magazines or books.

The bookbinder will do trimming, gluing, stapling, folding, sewing, and affixing end sheets, cover boards or cover material. They will also do compressing books to size, stiffening backs of book bodies with glue, forming joints or book covers and bodies, reinforcing backs of books with fabric strips and applying decorations and lettering to fabricate books by hand.

Approved: Paul Inafuku
OFFICE MEMORANDUM
TAX and PERMIT DIVISION

DATE: September 15, 1993

TO: All Tax & Permit Division Employees

FROM: Paul M. Inafuku, Chief I

SUBJECT: PRODUCERS – BROADCASTERS – POST PRODUCTION COMPANIES – LOAN-OUT CORPORATIONS

Recent amendments to Section 21.109 (Motion Picture, Television and Radio Producers) and Section 21.189.2 (Radio and Television Broadcaster) require a review and/or a modified policy regarding the application of these sections listed below are some activities with the applicable business tax classifications.

**MOTION PICTURE, TELEVISION AND RADIO PRODUCERS**

<table>
<thead>
<tr>
<th>Activity</th>
<th>Tax Classification</th>
</tr>
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<tbody>
<tr>
<td>A producer at risk is the person or entity that bears the financial responsibility in the production.</td>
<td>21.109</td>
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<td>In a situation where no person is at risk, a producer is the person that is responsible for the actual development or making of the program or advertisement. This is normally the person developing, filming and/or recording the material for release or viewing. Examples are producers of commercials and educational or training programs.</td>
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<td>A motion picture, television or radio producer that provides the services of his/her employees to one or more other producers is classified under Motion Picture, Television and Radio Producers. The gross receipts from this activity should be included in the producer’s taxable measure.</td>
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<td>A motion picture, television or radio producer that furnishes studio facilities to other media producers where the facilities include, in addition to physical equipment, the services of technicians such as cameramen, soundmen, carpenters, electricians and set decorators is classified under Motion Picture, Television and Radio Producers. The gross receipts from this activity should be included in the Producer’s taxable measure.</td>
<td>21.109</td>
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<td>A person that synchronizes pictures with sound, or makes the produces sound scores is classified under Motion Picture, Television and Radio Producers.</td>
<td>21.109</td>
</tr>
</tbody>
</table>
CITY OF LOS ANGELES
INTRA-DEPARTMENTAL CORRESPONDENCE
OFFICE OF FINANCE

(Signed Copy on File)

DATE: January 16, 1974

TO: Tax and Permit Personnel

FROM: Harold B. Engen, Communications Officer

SUBJECT: Travel Agency

Effective January 1, 1974, every person engaged in business in Los Angeles as a travel agency is subject to tax under Section 21.189.1 Los Angeles Municipal Code. Prior to that date, such persons were taxable under Section 21.190 L.A.M.C.

Section 21.189.1 L.A.M.C. provides that the term “gross receipts” does not include receipts of persons acting as travel agents or brokers, other than receipts received as commissions or fees earned, or charges of any character made or compensation of any character received for the performance of any service as agent or broker.

In arriving at the measure of tax, a travel agent may exclude that portion of his total receipts which represents costs for services or facilities provided to his clients by independent contractors during the course of the clients travel. Examples of such services or facilities are air travel or other transportation, lodging accommodations, meals, entertainment, side tours, independent guides, tour insurance, tips, airport taxes, etc. The difference between the costs of such services or facilities to the travel agent and the amount charged to or received from his client is deemed to be the travel agent’s compensation for the performance of his service.

The exclusion for the above mentioned costs will be allowable irrespective of whether the travel agent makes individual arrangements for such services or facilities for his client, or whether the services or facilities are furnished through a “package tour” sold by the travel agent to his client.

If a travel agent uses his own employee as a tour guide, he may apportion the cost of using the employee in that capacity, and exclude from gross receipts that portion of the cost attributable to the employee’s activities outside the city.
No deduction from gross receipts will be allowed for the travel agent’s expenses in making travel arrangements for his client, and any reimbursements by the client will be includable in the measure of tax.

Travel agents who sell travel bags, passport cases, or other items are also subject to tax under Section 21.167 L.A.M.C.

Signed by Harold B. Engen
Harold B. Engen
Chief Tax Auditor
Tax and Permit Division
Date: March 10, 1983 (Signed Copy On File)

To: All Field Audit personnel

From: Paul M. Inafuku

SUBJECT: TRAVEL AGENCY AND TOUR WHOLESALERS

An audit problem has been created by trying to draw the distinction between a travel agency and a tour wholesaler.

It is felt that a travel agency should be classified under Section 21.189.1 and that a tour wholesaler should be classified under Section 21.190 and also under Section 21.189.1.

The following example is given:

1. Tour wholesaler
   (Package Tours for Agents to Europe costing $2,000.00)

<table>
<thead>
<tr>
<th>Section 21.190</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Price to client</td>
<td>$2,000.00</td>
</tr>
<tr>
<td>Cost of air fare</td>
<td>900.00</td>
</tr>
<tr>
<td>Cost of hotel</td>
<td>700.00</td>
</tr>
<tr>
<td>Cost of bus tour</td>
<td>300.00</td>
</tr>
<tr>
<td>Total cost</td>
<td>$1,900.00</td>
</tr>
<tr>
<td>Net profit</td>
<td>$100.00</td>
</tr>
<tr>
<td></td>
<td>$100.00</td>
</tr>
</tbody>
</table>

   Package tour

   Commission paid to tour wholesaler

   By airlines at 10% of cost | $90.00
   By hotels at 7% of cost    | 49.00
   By bus tour at 5%          | 15.00
   Total                      | $154.00

   It is therefore possible that a tour wholesale could receive $100.00 for putting the tour together paid by the client and also receive a commission from the airlines, hotels, bus tours, etc.

   Therefore a split activity has been created by the tour wholesaler subject to tax for the $100.00 under Section 21.190 and subject to tax under Section 21.189.1 for $154.00 on the commissions earned.

   PMI:amf
OFFICE MEMORANDUM

(Signed Copy on File)

DATE: MARCH 5, 1974

TO: Tax and Permit Personnel

From: Harold L. Engen, Communications officer

Re: Apportionment of Gross Receipts
   (Section 21.189.1 L.A.M.C.)

We have been asked several questions regarding the Apportionment of gross receipts for those persons who are subject to tax under Section 21.189.1 L.A.M.C. and who are engaged in business activities both within and outside the City of Los Angeles.

Inasmuch as these taxpayers who are now subject to tax under Section 21.189.1 were previously taxed under Section 21.190, it will be the administrative practice of this office to allow apportionment of gross receipts using as guidelines the provisions of City Clerk’s Ruling No. 15 (New Series).

This practice will apply to gross receipts, which are reportable as a measure of tax for 1974 and will continue in effect until Ruling No. 15 is amended or by the addition of specific ruling or regulation, which provides for a method of apportioning gross receipts under Section 21.189.1.

Signed by Harold B. Engen
Harold B. Engen
Chief Tax Auditor
Lesson 29

SEC. 21.189.2/21.45 (a) : RADIO & TELEVISION BROADCASTER

OUTLINE

1. WHO ARE SUBJECT TO SEC. 21.189.2/21.45 (a)/21.43(g)?

2. TAXATION OF RADIO AND TV PRODUCER

3. TAXATION OF RADIO AND TV BROADCASTERS

4. TAXABLE GROSS RECEIPTS

5. APPORTIONMENT OF GROSS RECEIPTS

6. EXEMPTION
Lesson 29

SEC. 21.189.2/21.45(a): RADIO AND TELEVISION BROADCASTER

1. WHO ARE SUBJECT TO SEC. 21.189.2/21.45(a)/21.43(g)?
(Reference: Sec. 21.189.2(a) & (b)/21.45(a,1 and 2)/21.43(g) 1 & 2)

A. Broadcaster
B. Producer and Broadcaster
C. Person furnishing
   a. services
   b. program elements, or
   c. facilities

   which are furnished in connection with:
   a. production
   b. production and broadcasting
   c. broadcasting

2. EMPHASIZE THAT A RADIO OR T.V. PRODUCER IS TAXABLE UNDER SEC. 21.109

   Clearly differentiate this from a person who is both the producer and broadcaster. Such person is taxable under Sec. 21.189.2/21.45(a)/21.43(g).

   However, a person furnishing services to a radio or T.V. producer is taxable under Sec. 21.189.2/21.45(a)/21.43(g).

   Discuss Schedule A: Reclassification of Radio and T.V. Producers; P. M. Inafuku; 12-10-91.

3. DISCUSS SCHEDULE B: PRODUCERS, BROADCASTERS, ETC.; P. M. INAFUKU; 9-15-93

4. WHAT ARE THE GROSS RECEIPTS TAXABLE?

   Gross receipts used in the measurement of tax are limited to receipts that are generated, produced, or attributable to local activities in the State of California.
5. APPORTIONMENT OF GROSS RECEIPTS

A. Discuss Sec. 21.189.2(c)/21.45(a 3)/21.43(g)(3)

B. Emphasize that gross receipts are apportioned based on the activities carried on by the taxpayer (through employees and property).

C. Often taxpayers request an apportionment based on viewership (where viewers are located), this is NOT an acceptable method of apportionment.

D. The usual method used is something similar to Ruling 15 (80-20 factor) if applicable. If not applicable, use cost allocation method (as discussed in Lesson 27).

6. EXEMPTION

A. Discuss Sec. 21.189.2(d)/21.45(a 4)/21.43(g)(4)

B. Emphasize that Sec. 21.189.2(d)/21.45(a-4)/21.43(g)(4) exemption is similar to Sec. 21.168.1.

C. Examples of exemptions:

a. Broadcasters:

   (i) National Sales

   The taxpayer's books and records reflect advertising income as national or local sales. We exempt the national sales.

   National Sales is defined to be the gross receipts from advertisements that are broadcasted nationally.

   Local Sales are gross receipts from local advertising, such as Worthington Ford.

b. Program element providers

   (i) Service type such as director, scriptwriter

   Income derived from out-of-state clients is exempt even though all the work is performed in the City. Not necessarily where billed, but where the client you're dealing with is.

   Clearly explain that the current policy is to exempt those gross receipts from clients located out of California.

   (ii) Post production

   Gross Receipts shipments of videotapes out of California are exempt.
DATE: December 10, 1991

TO: Tax & Permit Division Personnel

FROM: Paul Inafuku, Chief I
Communications Officer

SUBJECT: RECLASSIFICATION OF RADIO AND TELEVISION PRODUCERS

The City Council amended Ordinance Section 21.109 L.A.M.C. (Motion Picture Producer) and Section 21.189.2 L.A.M.C. (Radio and Television Broadcaster) by Ordinance Numbers 167415 and 167416, effective December 27, 1991 (copies enclosed).

The definition of Section 21.109 has been expanded to include Television and Radio Producers.

Every person who only engages in producing radio programs, television programs or advertising material for such media is now classified under Section 21.109 (Motion Picture, Television and Radio Producers) instead of Section 21.189.2 (Radio and Television Broadcaster).

Any questions regarding classification should be directed to James Hickey, Principal Tax Auditor at (213) 368-7178.

PMI: rc
rcoratp
OFFICE MEMORANDUM  
TAX and PERMIT DIVISION

DATE: September 15, 1993

TO: All Tax & Permit Division Employees

FROM: Paul M. Inafuku, Chief I

SUBJECT: PRODUCERS -- BROADCASTERS -- POST PRODUCTION COMPANIES -- LOAN-OUT CORPORATIONS

Recent amendments to Section 21.109 (Motion Picture, Television and Radio Producers) and Section 21.189.2 (Radio and Television Broadcaster) required a review and/or a modified policy regarding the application of these sections. Listed below are some activities with the applicable business tax classifications.

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PRODUCERS -- BROADCASTERS -- POST PRODUCTION COMPANIES --
LOAN-OUT CORPORATIONS
PAGE 2

RADIO AND TELEVISION BROADCASTER

Activity

A radio or television broadcaster is the person that engages in producing and broadcasting or broadcasting local or network programs or advertising material.

A person that furnishes services, program elements or facilities in connection with production, production and broadcasting, or broadcasting is included in the definition of Radio and Television Broadcaster.

Tax Classification

21.189.2

POST PRODUCTION

Activity

Post production activity which involves reconstruction of motion pictures, television programs or commercials by synchronizing pictures with sound, or making or producing sound scores is classified under Motion Picture, Television and Radio Producers.

Post production activity for motion pictures, training or educational programs, theater commercials, etc., which does not involve reconstruction of the motion pictures, programs or commercials by synchronizing pictures with sound or making or producing sound scores and where there is a transfer of new personal property is classified under Retail Sales.

21.109

Post production activity for television which does not include reconstruction of the television programs or commercials by synchronizing pictures with sound, or making or producing a sound score is classified under Radio and Television Broadcaster.

21.167

TRANSFER OF FILM TO VIDEOTAPE

Activity

Film transfer which involves the process of transferring a motion picture film to a master videotape, without any post production activity, for sale to the ultimate user is classified under Retail Sales.

21.167
OFFICE MEMORANDUM
TAX and PERMIT DIVISION

TO: All Senior Tax Auditors/Tax Auditors

FROM: Terrance Manocchio

DATE: May 5, 1995

SUBJECT: SEPTEMBER 15, 1993 MEMO ON "LOAN OUT" COMPANIES

I have attached a revised copy of the above memo clarifying the proper tax classifications to be used in audits involving "Loan-out" companies.

Attachment

NOTED

SIGNED

Form 522.1

L-29, SCHED B, PAGE 3 OF 4
FILM OR VIDEOTAPE DUPLICATION

<table>
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<td>Duplication of films/ videotapes that are sold for resale is classified under Wholesale Sales.</td>
<td>21.166</td>
</tr>
<tr>
<td>Duplication of films/ videotapes that are sold to the ultimate user is classified under Retail Sales.</td>
<td>21.167</td>
</tr>
</tbody>
</table>

LOAN-OUT COMPANIES

<table>
<thead>
<tr>
<th>Activity</th>
<th>Tax Classification</th>
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</thead>
<tbody>
<tr>
<td>Current loan-out activities are subject to tax based upon what the activities are and the organizational structure of the loan-out company (sole proprietor/partnership/corporation) as follows:</td>
<td></td>
</tr>
<tr>
<td>A. Loan-Out companies (sole proprietor/partnership/corporations) providing services for Radio &amp; Television Broadcasters and/or Producers:</td>
<td></td>
</tr>
<tr>
<td><strong>Prior to 1/1/84:</strong> Misc. Svc - &quot;Temp-Help Agency&quot;</td>
<td>21.189.1</td>
</tr>
<tr>
<td><strong>After 1/1/84:</strong> Radio &amp; Television Broadcaster</td>
<td>21.189.2</td>
</tr>
<tr>
<td>B. Loan-Out companies providing services for Motion Picture Producers:</td>
<td></td>
</tr>
<tr>
<td>(1) Loan-Out corporations/partnerships providing services to Motion Picture Producers</td>
<td>21.189.1</td>
</tr>
<tr>
<td>(2) Loan-Out sole proprietors providing services to Motion Picture Producers</td>
<td>21.190</td>
</tr>
<tr>
<td>C. Motion Picture, Television and Radio Producers who loan out their employees to other producers include those receipts with their taxable computations.</td>
<td>21.109</td>
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<tr>
<td>D. Radio and Television Producers who loan out their employees to other producers include those receipts with their taxable computations.</td>
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/a:sec109.rev
Lesson 30

SECTION 21.56/21.49(a) : AUTO PARK

OUTLINE

1. DEFINITION
   A. Sec. 21.56/21.49(a)
   B. Taxability of lessor and lessee under Sec. 21.98/21.43(d)
   C. Taxability of management companies under Sec. 21.56/21.49(a)

2. TAX MEASURE AND TAX LIABILITY
   A. Owner who rents parking structure to a parking lot operator
   B. Parking lot operator
   C. Management company that provides management services to parking facilities
   D. Management of hotels
   E. Management company that provides administrative service to others

3. SEPARATE REGISTRATION CERTIFICATE REQUIRED FOR EACH LOCATION

4. EXEMPTIONS

/L30-O
Lesson 30

SECTION 21.56/21.49(a): AUTO PARK

1. DEFINITION

A. Ask a student to read Sec. 21.56/21.49(a). Emphasize that a tax liability exists only if a fee is charged directly or indirectly from the use of a parking facility.

Give examples.

A. Public parking lot
B. Commercial buildings providing public parking
C. Valet parking
D. Residential parking used for coliseum/sports arena overflow

B. Explain the taxability of a lessor and a lessee under Sec. 21.98/21.43(d) and 21.56/21.49(a) in accordance with the terms and conditions of the lease agreement. The lease agreement should be reviewed thoroughly in order to determine who is the parking lot operator, the lessee or lessor, who would be subject to tax under Sec. 21.56/21.49(a).

C. Explain the taxability of management companies under Sec.21.56/21.49(a) and Sec. 21.190/21.49(c). Management companies taxable under Sec. 21.56/21.49(a) should include the following items as part of their gross receipts:

(i) Management fees

(ii) Total reimbursement for services performed by employees of the management company including parking attendant

(iii) Charges for record keeping and related services performed by the management company.

The following items are types of reimbursements, which may or may not be taxable gross receipts depending upon the contract between the owner of the parking lot or the management company:

a. printing of parking tickets, etc.
b. maintenance of the parking lot if done by a third party
c. utility bills and other expenses.

Emphasize that any reimbursements for costs or expenses incurred by the management company in the performance of their services should be included in the taxable gross receipts. See court case: City of L. A. vs. Meyers Bros. Parking Systems Inc.
Reimbursements of advances made by the management company on behalf of the owner/operator are not taxable. Such reimbursements are for expenses that are actually the legal obligation of the owner/operator.

Remind the students that gross receipts derived from management services performed outside the City are taxable subject to apportionment similar to City Clerk's Ruling #15.

D. Explain that where the property owner hires a management company to run the parking facility on his behalf, the owner is subject to tax under Sec. 21.56/21.49(a). The management company is also required to pay the tax under Sec. 21.56/21.49(a) for his own gross receipts such as management fees and reimbursements of payroll and other costs.

2. **TAX MEASURE AND TAX LIABILITY**

<table>
<thead>
<tr>
<th>Tax Measure</th>
<th>Code Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Owner who rents parking structure to a parking lot operator</td>
<td>gross receipts from rentals 21.98/ 21.43(d)</td>
</tr>
<tr>
<td>B. Parking lot operator</td>
<td>gross receipts from parking fees plus reimbursed expenses 21.56/ 21.49(a)</td>
</tr>
<tr>
<td>C. Management company that provides management services to parking facilities</td>
<td>gross receipts from management fees and reimbursed expenses 21.56 21.49(a)</td>
</tr>
<tr>
<td>D. Management of hotels</td>
<td>gross receipts from management fees and reimbursed expenses 21.99*/ 21.43(c)</td>
</tr>
<tr>
<td>E. Management company that provides administrative service to others (other than parking facilities)</td>
<td>gross receipts from management fees and reimbursed expense 21.190/ 21.49(c)</td>
</tr>
</tbody>
</table>

*Current policy because of wording of Sec. 21.99/21.43 (c 1)
3. **SEPARATE REGISTRATION CERTIFICATE REQUIRED FOR EACH LOCATION**

Explain that every person engaged in auto parking should obtain a separate business tax registration certificate for each location. This applies both to the auto park operator and the auto park management company. In addition to the business tax, a police permit is required for each parking location. The certificate and the police permit should be obtained prior to commencing the activity.

4. **EXEMPTION**

In addition to the constitutional exemptions mentioned under Section 21.02 in Lesson #1, no tax should be imposed on the following:

a. owners of a commercial or apartment buildings which has a parking facility for their tenants or customers of their tenants if such customers are not charged for parking, even though a charge is made directly or indirectly to the tenant of the building for such parking.

The parking charges to the tenants are taxable under 21.98/21.43 (d) or 21.99/21.43(c)

However, the operator of a parking facility is subject to Sec. 21.56/21.49(a) if the public or customers of the tenants of the building are charged for parking.

b. any parking facilities, which are paid by deposit of coins in parking meters, owned or operated by the City and located adjacent to said parking space.
Lesson 31

ARTICLE 1.15: PARKING OCCUPANCY TAX

OUTLINE

1. DEFINITION
   A. Sec. 21.15.1(a): Motor Vehicle
   B. Sec. 21.15.1(b): Occupancy
   C. Sec. 21.15.1(c): Occupant
   D. Sec. 21.15.1(d): Operator
   E. Sec. 21.15.1(h): Parking Fee

2. IMPOSITION
   Sec. 21.15.2: Tax Imposed

3. OPERATOR'S DUTIES
   A. Sec. 21.15.4: Duty to Collect
   B. Sec. 21.15.6: Duty to Register
   C. Sec. 21.15.7: Duty to Report and Remit
      a. Delinquency
      b. Refunds
   D. Sec. 21.15.11: Duty to Keep Records

4. DUTIES OF THE CITY CLERK
   Sec. 21.15.9

5. ASSESSMENT OF TAXES
   Sec. 21.15.10: Assessment - Administrative Remedy

6. EXEMPTIONS
   Sec. 21.15.5: Exemption

/L31-O
Lesson 31

ARTICLE 1.15: PARKING OCCUPANCY TAX

1. DEFINITION

A. Briefly discuss Sec. 21.15.1(a): Motor Vehicle

"Motor Vehicle" means every self-propelled vehicle operated or suitable for operation on the highway.

B. Briefly discuss Sec. 21.15.1(b): Occupancy

"Occupancy" means the use or possession or the right to use or possession of any space for the parking of a motor vehicle or any other purpose in a parking facility.

C. Briefly discuss Sec. 21.15.1(c): Occupant

"Occupant" means a person who, for consideration, used, possess, or has the right to use or possess any space for the parking of a motor vehicle in a parking facility under lease, concession, permit, right of access, license to use or other agreement otherwise, whether voluntarily or involuntarily.

D. Briefly discuss Sec. 21.15.1(d): Operator

"Operator" means the person who conducts a parking facility whether in the capacity of owner, lessee, mortgage in possession, licensee, valet, management company, or other service supplier or any other capacity.

E. Briefly discuss Sec. 21.15.1(h): Parking Fee

"Parking Fee" means the consideration charged to the occupants of a parking facility, whether or not received, for the occupancy or use of space in a parking facility whether received in money, goods, labor or otherwise, including all receipts, cash, credits, and property and services of any kind of nature, without any deduction there from.

2. IMPOSITION

Discuss Section 21.15.2: Tax Imposed

Unless otherwise exempt (see exemptions stated below), every occupant of a parking facility is subject to tax in the amount of 10% of the parking fee. Parking occupancy tax is imposed for the privilege of occupying space in any parking facility in the City. Emphasize that the tax under Sec. 21.56 is imposed on the owner/operator and the tax under Article 1.15 is
imposed on the user/occupant. Explain that this relationship is similar to Sec. 21.99/21.43(c), hotel and Article 1.7 (Transient Occupancy Tax.)

3. **OPERATOR'S DUTIES**

A. Discuss **Sec. 21.15.4: Duty to Collect**

Each operator must collect the tax as the parking fee is collected from every occupant. In all cases if the tax is not collected, the operator must be liable to the City for the amount of tax due including interest and penalties.

B. Discuss **Sec. 21.15.6: Duty to Register**

Within 15 days after commencing business, each operator must register each parking facility and obtain a "Parking Occupancy Registration Certificate" which states the name of the operator, the address of the parking facility, date upon which the certificate was issued and that the operator's named on the certificate has fulfilled the requirements of Article 1.15 of Chapter II of the Los Angeles Municipal Code.

C. Discuss **Sec. 21.15.7: Duty to Report and Remit**

Each operator shall, on or before the 25th day of each calendar month, file a statement of the total fees charged and received, and the amount of tax collected for parking occupancies during the preceding calendar month (per Ordinance No. 176004).

a. Delinquency:

   Failure to report and remit the parking occupancy taxes on or before the due dates mentioned above are considered delinquent as provided under Sec. 21.15.8(a). Interest and penalties for delinquency or any deficiency determination will be paid by the operator at the rates and in the same manner as provided under Sec. 21.05 discussed earlier in Lessons 4 and 5.

b. Refunds:

   Whenever the amount of parking occupancy tax has been overpaid or paid more than once or has been erroneously or illegally collected or received by the City, the tax must be refunded as provided under Sec. 21.15.12. Such refund must be made in the same manner as provided under Sec. 21.07 LAMC discussed earlier in Lesson 6.

D. Discuss **Sec. 21.15.11: Duty to Keep Records**

Each operator must keep and preserve all records for a period of four years.
4. **DUTIES OF THE Office of Finance**

Discuss **Sec. 21.15.9:**

a. Duty to enforce
b. Duty to collect in the same manner as provided under Sec. 21.15 discussed earlier in Lesson 5.
c. Duty to administer and collect the taxes in the same manner as Sections 21.17, 21.20, and 21.21 discussed earlier in Lesson 5 and 10.

5. **ASSESSMENT OF TAXES**

Discuss **Sec. 21.15.10:** *Assessment - Administrative Remedy*

The manner of making notice of assessments, the right to a hearing, filing, etc. must be the same as provided under Sec. 21.16 discussed earlier in Lesson 9.

6. **EXEMPTIONS**

Discussed **Sec. 21.15.5:** *Exemption*

No tax must be imposed upon the following:

a. Any person as to whom or any occupancy as to which it is beyond the power of the City to impose the tax.

Examples:

1. Financial Institutions
2. Insurance companies and their agents
3. Government entities, their districts, and political subdivisions, but not their employees

Exception: City of Los Angeles is not exempt.

4. Foreign Consular offices

Note: For items 1, 2, and 3:

a. The one who is renting the space is exempt, regardless of who is using the parking space.
b. Employees are not exempt.
b. The parking fee for any occupancy of parking space in a parking facility which is paid by the deposit of coins in a parking meter owned or operated by the City and located adjacent to said parking space.

c. The parking fee for any occupancy of parking space in a parking facility which is part of residential or hotel premises if the occupant is a resident of the said premises for a period of at least a full calendar month or 30 or more consecutive calendar days.

d. Pursuant to Ordinance No. 174373 amending Article 1.15, starting January 26, 2002, the storage of new, unregistered motor vehicles within the City of Los Angeles, subsequent to importation processes or prior to exportation, shall not be subject to the parking occupancy tax. See Schedule A: Memo on Amendment to Parking Occupancy Tax; D. True; January 14, 2002.
DATE: January 14, 2002

TO: All Tax & Permit Division and Revenue Management Division Employees

FROM: Dedra True, Chief I, Communications Officer Tax and Permit Division

SUBJECT: AMENDMENT TO PARKING OCCUPANCY TAX

Ordinance No. 174373 (attached) amends Article 1.15 (Parking Occupancy Tax). Starting January 26, 2002, the storage of new, unregistered motor vehicles within the City of Los Angeles, subsequent to importation processes or prior to exportation, shall not be subject to the parking occupancy tax. Therefore, business entities in the City of Los Angeles will no longer be charged a tax in the amount of ten percent (10%) of their parking fees on any such vehicles stored in their facilities.

The provisions of this ordinance shall apply as if they were effective on August 1, 1990. However, refund requests for any taxes paid prior to 2002, under this new exemption, will not be approved.

If you have any questions, please discuss them with your immediate supervisor. Thank you.

Attachment (see side 2)
ORDINANCE NO. 174373
An Ordinance amending Sections 21.15.5 of the Los Angeles Municipal Code by adding subsection (e) thereto, to exempt from parking occupancy tax the storage of new unregistered motor vehicles subsequent to importation or prior to exportation.

THE PEOPLE OF THE CITY OF LOS ANGELES DO ORDAIN AS FOLLOWS:
Section 1. Subsection (e) is hereby added to Section 21.15.5 of the Los Angeles Municipal Code to read:
(e) The parking fee for the occupancy of parking space in a parking facility by any new unregistered motor vehicle subsequent to its importation into the United States or prior to its exportation from the United States. No person shall be entitled to a refund for any tax period prior to 2002 due to the application of the exemption set forth herein.

Section 2. Except as otherwise provided herein, the provisions of this Ordinance shall apply and the Director of Finance is directed to enforce them as though they were in effect on August 1, 1990.

Section 3. The City Clerk shall certify to the passage of this ordinance and cause the same to be published in some daily newspaper printed and published in the City of Los Angeles.

I hereby certify that the foregoing ordinance was passed by the Council of the City of Los Angeles at its meeting of December 11, 2001.
J. MICHAEL CAREY, City Clerk
By KONRAD CARTER, Deputy
Approved as to Form and Legality
October 1, 2001
ROCKARD J. DELGADILLO, City Attorney
By MIGUELA DAGER
Deputy City Attorney
C F 99-1163
CN634823 174373 Dec 26, 2001
Lesson 32

SEC. 21.78/21.46 (c): COLLECTION AGENCY

OUTLINE

1. DEFINITION

2. TAX MEASURE
   Sec. 21.78(b)/21.46 (c)2

3. EXEMPTION
   Sec. 21.78(c)/21.46 (c)1

4. APPORTIONMENT

/L32-O
Lesson 32

SECTION 21.78/21.46(c)
COLLECTION AGENCY

1. DEFINITION

Emphasize the conditions necessary in order to be taxed under Sec. 21.78(a)/21.46(c,1):

a. Any person engaged directly or indirectly and as a primary or secondary object, business or pursuit, in soliciting claims for collection, the collection of claims owed or due or asserted to be owed or due to another, and any person, when engaged in collecting accounts for another, where employment is for one or more persons, or

Example:

"A" company hires "X" company to collect its own accounts receivable for a fee. "A" agrees to pay "X" 10% of the total receivables collected by "X" from their debtors. "X" is considered a collection agency.

b. Any person using a fictitious name in collecting his own accounts receivable with the intention of conveying to the debtor that a third party has been employed.

Example:

JC Penney has set-up a unit within the organization by using ABC Company as fictitious name and informed their debtors that they have been hired by JC Penney to collect their receivables.

c. A collection agency should not include attorneys-at-law, individuals regularly employed on a regular wage or salary, in the capacity of credit men or in other similar capacity upon the staff of employees of any person not engaged in the business of a collection agency, banks, abstract companies doing an escrow business, duly licensed real estate brokers or agents doing a real estate business, nor a merchant-owned non-profit credit association unless they are conducting a collection agency.

Note: Collection agencies are no longer regulated by the State of California.
2. **TAX MEASURE**

Discuss [Sec. 21.78(b)/21.46(c)]

The gross receipts consist of fees or commissions retained by the collection agency.

3. **EXEMPTION**

Discuss [Sec. 21.78(c)/21.46(c,2)]

Explain that amounts received as a result of collections that are *physically made* outside the State of California are not reportable.

4. **APPORTIONMENT**

Gross receipts derived from activities performed within and outside the City may be subject to apportionment using a formula similar to City Clerk's Ruling #15.
Lesson 33

SEC. 21.79/21.47(a) / CITY CLERK'S RULING #3

OUTLINE

1. DEFINITION
   Sec. 21.79.6/21.47 (a): Commission Merchant or Broker

2. TAX MEASURE
   Sec. 21.7(b): Gross Receipts

3. APPORTIONMENT

4. CITY CLERK'S RULING #3

/L33-O
Lesson 33

SEC. 21.79/21.47(a): COMMISSION MERCHANT BROKER
AND
CITY CLERK'S RULING #3

1. DEFINITION

A. Discuss Sec. 21.79.b/21.47(a): Commission Merchant or Broker

Emphasize that a commission merchant or broker is an independent contractor, not an employee of a buyer or seller, who engages in the business of bringing the buyer and seller together in the sale of goods. However, the following conditions must be met in order to be classified as a commission merchant or broker:

a. does not engage in the business of manufacturing, refining, fabricating, milling, treating or other processing of the goods, wares or merchandise bought and sold and does not cause the goods, wares, or merchandise to be refined, fabricated, milled, treated or otherwise processed.

b. does not obtain or retain title to said goods, wares, or merchandise

c. does not store or warehouse such goods, wares, or merchandise.

Exceptions to condition b and c:

(i) while such goods, wares or merchandise are actually in transit and/or

(ii) for short periods of time before transportation commences or after it cease (the time period will be discussed in City Clerk's Ruling #3).

B. Explain the difference between commission broker and other brokers such as real estate brokers.

C. Explain that commission brokers usually represent several companies, however, in some cases, some brokers are bound by contract to represent one company exclusively. For example: If the broker falls within the scope and meaning of Sec. 21.168.3 (discussed earlier in Lesson 14) and the broker is deemed to be employees of ABC Company, is he still subject to Sec. 21.79/21.47(a)?

The answer is No, if ABC Company has a valid BTRC under Sec. 21.166/21.42/21.41(g) or 21.167/21.44(a)/21.43(e) or both and includes the sales made by the broker in the measure of tax or taxes.
2. **TAX MEASURE**

Discuss **Sec. 21.79(c)/21.47(a): Gross Receipts**

Explain that gross receipts include all commissions or fees charged or received, all receipts, cash credits and property of any kind or nature received and all trading profits without any deduction there from on account of trading losses, labor or service costs or other costs.

Discuss P. Inafuku's memo dated 4-16-81 regarding basis of apportionment of gross receipts for commission merchant or broker.

3. **APPORTIONMENT**

Gross receipts can be apportioned using a formula similar to Ruling 15.

Discuss **Schedule A: Basis of Apportionment for Commission Broker; P. M. Inafuku; 4-16-81.**

4. **CITY CLERK'S RULING #3**

   A. Explain that the Ruling defines three types of commission merchant or broker or agent namely as follows:

      a. commission broker who never take title of the goods, wares, or merchandise

      b. commission broker who takes the title and/or store or warehouse such goods, wares or merchandise within 48 hours

      c. commission broker who takes title and/or store warehouse such goods, wares, or merchandise and therefore not subject to tax under Sec. 21.79 but under Sec.21.166/21.42/21.41(g),or 21.167/21.44(a)/21.43(e) or both.

   B. Explain that commission broker may not obtain or retain title and/or store or warehouse such goods, wares, or merchandise for a period longer than 48 hours. Otherwise, separate tax or taxes under Sec. 21.166/21.42/21.41(g) and/or 21.167/21.44(a)/21.43(e) according to whether the sales are made at wholesale or retail or both will be paid with the tax or taxes measured by the gross receipts of sales.

   C. Explain that a commission broker who has no fixed place of business in the City but solicits or engages in transactions within the City is subject to tax under Sec. 21.79/21.47(a)
DATE: April 16, 1981

TO: All Senior Tax Auditors

FROM: Paul M. Inafuku, Principal Tax Auditor

SUBJECT: Basis of Apportionment for Commission Merchant or Broker
Section 21.79 and CCR #3

Gross receipts derived from activities carried on in Los Angeles, regardless of whether carried on in intrastate, or foreign commerce, are includable in the measure of the tax due under Section 21.79 to the extent that they result from activities engaged in within the city by “persons” having a place of business physically located within the City of Los Angeles. It is immaterial where the actual seller (principal) may be located or how/where the goods may be delivered.

In the absence of substantial formation to the contrary, 20% of the gross amount of fees, commissions or other compensation received for work performed outside the city shall be deemed to be that portion subject to tax as attributable to business engaged in within the city.

The basis for allocation of these receipts will be predicated upon but not limited to, such in-city activities as:

1. General business headquarters, administration and sales control.
2. Billing, collecting, accounting and personnel control.

Then a commission merchant or broker, whose office is located outside of the City, regularly solicits business in Los Angeles, the gross receipts attributable to orders procured by that solicitation are subject to allocation and included in the measure of the tax.

In this context, regularly is defined as:

a. Solicits within the City once for a protracted period of time (over two weeks 0 10 working days) or
b. Solicits within the City at least once each quarter.
   c. In this context solicits is defined as per CCR 3

Apportionment is a form of exemption and must be reasonable, supportable and done in a manner as to fairly calculate the attributable taxable gross receipts.

Approved:

PMI:rc
Lesson 34

SEC. 21.141/21.46 (d): STORAGE, FREIGHT FORWARDING

OUTLINE

1. DEFINITION
   A. Sec. 21.141(a)/21.46(d)1: Freight Forwarding
   B. Sec. 21.141(b)/21.46(d)2: Steamship Agency
   C. Sec. 21.141(c)/21.46(d)3: Storage

2. TAX MEASURES

3. APPORTIONMENT

/L34-O
Lesson 34

SEC. 21.141/21.46(d): STORAGE, FREIGHT FORWARDING

1. DEFINITION

A. Discuss Sec. 21.141(a)/21.46(d,1): Freight Forwarding

Prepares and arranges goods, wares and merchandise for importing and exporting as an agent or bailee for any person. This includes completing paperwork, packaging, and consolidating.

Freight Forwarding also includes a custom house broker who prepares and arranges tangible personal properties for importing into the country. It commonly completes documentation and custom requirements, and pays duty fees.

B. Discuss Sec. 21.141(b)/21.46(d,2): Steamship Agency

Provides support services to shipping companies, attends to operational requirements of vessels while they are entering, within, and departing from a port and performing husbanding services.

a. soliciting, receiving, or handling outbound or inbound freight aboard vessels

b. attending to operational requirements of vessels while they are entering within and departing from a part

c. performing husbanding services, such as arranging for ships' stores, bunker fuel, crew change, vessel repairs, and delivery or redelivery of vessels pursuant to charter.

C. Discuss Sec. 21.141(c)/21.46(d,3): Storage

Warehousing is taxed under Sec. 21.141/21.46(d,3) except for the following:

a. Storage of motor vehicles - taxed under 21.56/21.49(a)

b. Public storage where the occupant has control of his own goods

For example:

(i) Storage of motor vehicle is taxed under Sec. 21.56/21.49(a)(Auto Park)

(ii) Public storage of tangible personal properties not for shipping is taxed under Sec. 21.98/21.43(d) (Commercial Rentals)
2. **TAX MEASURES**

The reportable gross receipts include fees or any charges for reimbursements of costs or expenses incurred in the performance of their services.

3. **APPORTIONMENT**

There is no specific ruling applicable to this section. However, gross receipts may be apportioned using a formula similar to City Clerk's Ruling #15.
Lesson 35

SEC. 21.188 AND CITY CLERK'S RULING #2
CONTRACTOR

OUTLINE

1. DEFINITION
   Sec. 21.188(b) and Ruling #2

2. TAX MEASURE

3. APPORTIONMENT

4. CITY CLERK'S RULING NO. 2
Lesson 35

SEC. 21.188: CONTRACTOR

AND

CITY CLERK'S RULING NO. 2

1. DEFINITION

A. Sec. 21.188 and Ruling #2:

Contractor: any person who undertakes any job or project upon land.

Mention that "contractors" are generally licensed by the State of California. However, if not licensed they still will be taxed under this section.

B. The following are deemed to be contractors:

(i) subcontractors

(ii) State Licensed Contractors such as:

- those who sell and install venetian blinds, draperies, curtains on real property and even though the price of materials and labor are separately charged to the customers

C. The following are not deemed contractors:

(i) an employee undertaking a project or job upon land, but whose sole compensation is wages

(ii) owner of land who contracts for a job or project hereon with state licensed contractor, architect, or civil engineer

D. Examples of Contractors:

a. Building contractors (carpenters, electrician, plumbers)
b. Painters
c. Fixed sign installers
d. Heating/air conditioning contractors
e. Alarm system installers
f. Carpet installers
g. Landscape contractors
Examples of persons not taxable under Sec. 21.188

a. Street number curb painters - Taxable under Sec. 21.190/21.49(c) (Ref. PMI Memo; 3-04-81)

b. Person who undertakes to supervise a construction job, does not apply any materials or labor and does not act as a general or subcontractor in his own name - Taxable under Section 21.190/21.49(c).

c. Drapery sales and installation is taxed under Sec. 21.188. However, if there is a separate charge for installation, such charge should be taxed under 21.190/21.49(c).

2. TAX MEASURE

There are two types of tax measures

A. Based on Gross receipts

a. This applies to persons who have jobs in the City regardless of whether such persons have a fixed place of business in the City or not.

b. Discuss: **Sec. 21.188(2)**

   Emphasize: Gross receipts must be from jobs in the City only and must not be reduced by payments to subcontractors.

B. Based on office payroll expenses and fees paid to consultants except independent accountants and lawyers in connection with jobs or projects located outside the City.

   This applies to contractors who have jobs out of the City and have a fixed place of business in the City.

   Note: A contractor who has a fixed place of business in the City may be subject to both taxes - measured by gross receipts and payroll and consultants fees.

3. APPORTIONMENT

4. Discuss City Clerk’s Ruling No. 2 and sample illustrations
Lesson 36

SEC. 21.197/21. 41 (c): TELEPHONE SERVICES

OUTLINE

1. DEFINITION
   A. Sec. 21.197(b) and (c) /21.41 (e) 1 and 2
   B. Telephone Company
   C. Resellers of Telephone Services
   D. Providing Services but No Physical Presence
   E. Examples of Persons Under Section 21.197/ 21.41 (e)

2. TAX MEASURE

3. APPORTIONMENT
LESSON 36

SEC. 21.197/21.41 (e) : TELEPHONE SERVICES

1. DEFINITION

A. Ask a student to read Sec. 21.197 (b) and (c)./21.41 (e, 2)

Taxable gross receipts:

1. Intra-state* receipts within the City of Los Angeles derived only from providing telephone services.

2. Receipts from the selling of advertising or advertising space in any directory, other printed matter or any other media for business tax periods commencing on or after January 1, 1984.

*Intra-state telephone services are defined as having both the originating and terminating locations within California. For Los Angeles business tax purposes, the taxable intra-state telephone services provided by traditional telephone companies are based on the Los Angeles service address while the intra-state telephone services provided by cellular companies are based on the Los Angeles billing address.

Examples of providers of telephone services:

1. Verizon
2. Sprint
3. AT & T
4. Cellular phone companies

B. Pursuant to Sec. 21.197(c)/ 21.41(e,1) “person engaged in the business of providing telephone services” shall mean a “telephone company” as the term is used in Article XIII Section 14 of the Constitution of California. This reference is no longer valid. Instead, Sec. 234 of Public Utilities Code is used as our current reference.

Schedule A: Section 234 Public Utilities Code : Telephone Corporation

(a) “Telephone corporation” includes every corporation or person owning, controlling, operating, or managing any telephone line for compensation within this state.

(b) “Telephone corporation” does not include any of the following:
(1) Any hospital, hotel, motel, or similar place of temporary accommodation owning or operating message switching or billing equipment solely for the purpose of reselling services provided by a telephone corporation to its patients or guests.

(2) Any one-way paging service utilizing facilities that are licensed by the Federal Communications Commission, including, but not limited to, narrowband personal communications services described in Subpart D (commencing with Section 24.100) of Part 24 of Title 47 of the Code of Federal Regulations, as in effect on June 13, 1995.

C. **Resellers** of telephone services providing intra-state telephone service within the City of Los Angeles fall within the definition of Section 234 of the California Public Utilities Code because they operate telephone line, hence, are taxable under this section.

D. Persons providing telephone services in the City of Los Angeles but do not have fixed place of business, physical presence in the and do not lease or own their own equipment are not subject to Section 21.197/21.41(e) are not required to obtain a business tax registration certificate.

E. **Exemptions- Any coin-operated machine or device used in the operation** of any automatic telephone which is merely incidental to the conduct of business operating under any franchise or specifically taxed by other provisions of the ordinance.

F. Examples of Persons Taxable Under Sec. 21.190/21.49 (c):

   1. Telephone billing service companies
   2. Information service providers (i.e. 900 #s)

G. Explain that there are telephone companies that are required to collect from its customers the utility users tax under Article 1.1 Section 21.1.3 (to be covered in Lesson 45).

2. **TAX MEASURE**

   Gross receipts include all intrastate revenue directly or indirectly related to telephone or communication services.

   **Examples:**

   A. Sales of telephone or communication equipment or supplies
B. Lease payment for lines, channels in relation to the use of telephone services, telephone or communication equipment
C. Telephone usage charges such as: monthly fees, airtime usage, toll charges (intrastate), cellular fees, local NPA
D. Other charges (telephone services related such as: late charges, billing/accounting charges, switching charges, changing telephone numbers

3. APPORTIONMENT

A. Intra-state telephone usage and other charges: 100 per cent of the gross receipts of traditional telephones from customers whose service addresses are within the City of Los Angeles and/or 100 per cent of the gross receipts of cellular phone companies from customers whose billing addresses are within the City of Los Angeles.

B. Sales of telephone or communication equipment or supplies: use Ruling 13 or 14, if taxpayer maintains a store or location in addition to its switch facility.

C. Lease of equipment: use City Clerk’s Ruling 17
§ 234. “Telephone corporation”

(a) “Telephone corporation” includes every corporation or person owning, controlling, operating, or managing any telephone line for compensation within this state.

(b) “Telephone corporation” does not include any of the following:

(1) Any hospital, hotel, motel, or similar place of temporary accommodation owning or operating message switching or billing equipment solely for the purpose of reselling services provided by a telephone corporation to its patients or guests.

(2) Any one-way paging service utilizing facilities that are licensed by the Federal Communications Commission, including, but not limited to, narrowband personal communications services described in Subpart D (commencing with Section 24.100) of Part 24 of Title 47 of the Code of Federal Regulations, as in effect on June 13, 1995.

HISTORY:
Amended Stats 1995 ch. 357 § 2 (AB 202)

NOTES:
AMENDMENTS:
1982 Amendment:
Added the second paragraph
1995 Amendment:
(1) Designated the former first and second paragraphs to be subds (a) and (b); (2) amended subd (b) by (a) adding “of the following:” in the introductory clause; (b) (1); and (c) adding subd (b) (2).
HISTORICAL DERIVATION:

(a) Stats 1915 ch 91 § 2 subd (t) p 115. as amended by Stats 1917 ch 707 § 1 p 1329. Stats 1919 ch 304 § 1 p 489. Stats 1927 ch 130 § 1 p 244. Stats 1933 ch 784 § 1 p 2084, Stats 1937 ch 896 § 1 p 2473.
(b) Stats 1st Ex Sess 1911 ch 14 §2 subd (t) p 18, as amended by Stats 1913 ch 553 § 1 p 934

NOTE:
Stats 1996 ch 574 provides:
§  SECTION 1. The Legislature finds and declares that:
(a) The Omnibus Budget Reconciliation Act of 1993, enacted August 10, 1993, amends Section 332 (c) (3) of the Communications Act of 1934, and generally preempts the states from regulating the entry of or the rates charged by any commercial mobile radio service.
(b) The Omnibus Budget Reconciliation Act of 1993 does not affect the states authority to regulate the other terms and conditions of commercial mobile radio service.
(c) The Public Utilities Code currently authorizes the Public Utilities Commission to regulate, among other things, the entry, rates, and service, except for those carriers exempt from commission jurisdiction pursuant to paragraph (2) of subdivision (b) of Section 234 of the Public Utilities Code.

CROSS REFERENCES:
Reimbursement fees: Pub Util C §§ 431 et seq.
Holding companies: Pub Util C §§ 587, 797.
Eminent domain: Pub Util C §§ 616, 617
Pledging assets or credit on behalf of subsidiary or affiliate: Pub Util C § 701.5.
Identification cards for employees of telephone corporations: Pub Util C § 708.
Franchises: Pub Util C § 7902

COLLATERAL REFERENCES:
Cal Jur 3d Telegraphs and Telephones § 1.

NOTES OF DECISIONS

This statute has no application to a private organization engaged in delivering telephone service to its members only: People v Orange County Farmers’ § & Merchants; Assn. (1922) 56 CA 205, 204 P 873.
Telephone company is public service corporation. California Fire Proof Storage Co. v Brundige (1926) 199 C 185, 248 P 669, 47 ALR 811.
Mere fact that telephone corporations are not prevented by law from using their lines for transmission of television broadcasts does not make any corporation that uses poles, wires, etc., to transmit such broadcasts, a telephone corporation; it is not enough that there be a transmission by use of poles, wires, etc.; transmission must be “in connection with or to facilitate
communication by telephone.” Television Transmission, inc. v Public Utilities Com. (1956) 47 C2d 82, 301 P2d 862.

Community television antenna is not telephone corporation or within any other class enumerated in subd (a) of § 216 subd (a), and Public Utilities Commission has no jurisdiction to issue orders requiring it to make detailed survey of its facilities, to submit written report within designated time setting forth criteria for establishing reasonable standards of service, and directing that further proceedings be had to receive evidence relating to adequacy of such service. Television Transmission, inc. v Public Utilities Com. (1956) 47 C2d 32, 301 P2d 362

To be a telephone corporation a community television antenna would have to operate telephone line, and though it may control, operate, or manage “conduits, ducta, poles, wires, cables, instruments, and appliances. . . real estate, fixtures and personal property” and do so “in connection with or to facilitate communication.” It does not operate a telephone line and is therefore, not a telephone corporation unless such control, operation or management are in connection with or to facilitate communication “by telephone.” Television Transmission, Inc. v Public Utilities com. (1956) 47 C2d §2, 301 P2d §62.

Community television antenna is not operated “in connection with or to facilitate communication by telephone” or “in connection with or to facilitate communication by telegraph,” as those words are commonly understood, where it simply enables its subscribers to receive television broadcasts that might otherwise be inaccessible to them. Television Transmission, Inc. v Public Utilities Com. (1956) 47 C2d §2, 301 P2d §62.

It was intended that ownership of any plant or equipment would be sufficient, that operation and control would not be prerequisites to commission jurisdiction, and that such ownership could be of “any part” of such plant or equipment. Commercial Communications, Inc. v Public Utilities Com. (1958) 50 C2d 512, 327 P2d S13.

It is immaterial that telephone corporation does not remain in control of equipment of mobile communications system or that it does not furnish radio channel over which equipment is operated, these being matters of limitation imposed by federal communications commission. Commercial Communications, Inc. v Public Utilities Com. (1958) 50 C2d 512, 127 P2d 513.
Lesson 37

SEC. 21.102/21.44 (b)/21.43(f) : LAUNDRY, CLEANING AND DYEING AGENT, COLLECTOR, LINEN SUPPLY, SHOE REPAIR

OUTLINE

I. DEFINITION

II. NO SEPARATE BTRC IS REQUIRED FOR CERTAIN SECONDARY BUSINESSES AT ONE LOCATION

III. APPORTIONMENT OF GROSS RECEIPTS
LESSON 37

SEC. 21.102/21.44(b)/21.43(f): LAUNDRY, CLEANING AND DYEING AGENT, COLLECTOR, LINEN SUPPLY, SHOE REPAIR

I. DEFINITION

A. Discuss Sec. 21.102/21.44(b)/21.43(f). Read "for every person engaged...up to repairing or rebuilding shoes.

Give examples:

1. Coin-operated Laundromat
2. Dry Cleaners
3. A linen service which picks up dirty table cloths and napkins from a restaurant, hospital, hotel, etc., then cleans and returns
4. Shoe repair shop
5. Carpet, drapery, and furniture cleaning
   (See D. DeBord memo dated 3-23-82)

II. NO SEPARATE BTRC IS REQUIRED FOR CERTAIN SECONDARY BUSINESSES AT ONE LOCATION

A person who is subject to tax under Sec. 21.102/21.44(b)/21.43(f) and at the same time, in the same location, is also engaged in the following activities may include the gross receipts from such activities under Sec. 21.102/21.44(b)/21.43(f) instead of paying a separate tax and obtaining a separate BTRC.

1. any business subject to tax under Sec. 21.167/21.44(a)/21.43(e)
2. minor repairs or alterations

III. APPORTIONMENT

Gross receipts are subject to apportionment provided under City Clerk's Ruling #13 or 14 based on the activities conducted within and outside the City. This is our current policy.
Lesson 38

SEC. 21.59/21.46 (a): BASEBALL FOOTBALL

OUTLINE

1. DEFINITION
2. TAX MEASURE
3. EXEMPTION
4. APPORTIONMENT
LESSON 38

SEC. 21.59/21.46(a): BASEBALL, FOOTBALL

1. DEFINITION

A. DISCUSS SEC. 21.59/21.46(a)

Explain that persons engaged in the business of promoting or staging any baseball, football, or other similar exhibition, event, or contest should be taxed under this section.

Emphasize that tax is imposed on the promoter (the person who bears the financial risk).

Give examples:

1. Dodgers, Lakers, Clippers, Kings
2. Tennis, golf tournaments
3. Rodeos
4. Horse and dog shows

B. ADDITIONAL RECEIPTS DERIVED FROM OTHER ACTIVITIES OTHER THAN THOSE ACTIVITIES DISCUSSED ABOVE SHOULD BE TAXED UNDER DIFFERENT SECTIONS OR CLASSIFICATIONS.

Give examples:

1. Receipts from radio, television, and cable TV broadcasting are taxable under Sec. 21.189/21.45(a)/21.43(g) (Radio and Television Broadcaster).
2. Receipts from rentals of the stadium for other events and concession of grandstand areas are taxable under Sec. 21.98/21.43(d) (office, commercial building, etc. rentals).
3. Receipts from the sale of novelty items, score cards and yearbook are taxable under Sec. 21.166/21.42/21.41(g) (Wholesale Sales) or Sec. 21.167/21.44(a)/21.43(e) (Retail Sales) or both.
4. Receipts from operating a parking lot surrounding the stadium are taxable under Sec. 21.56/21.49 (a) (Auto Park).
5. Receipts from membership fees for the stadium club, reimbursed expenses and miscellaneous income are taxable under Sec. 21.190/21.49(c) (Professions and Occupations).

II. TAX MEASURE

Gross receipts include ticket sales, share of gate receipts from out of City events, exhibitions or contests, advertising in game or event-related printed items, and other promotion revenue.

III. EXEMPTION

No tax should be imposed upon the following:

1. those who we are prohibited from taxing pursuant to US and State constitution
2. non-profit religious, hospital or charitable organization
3. non-profit educational institution
4. community service organizations

IV. APPORTIONMENT

Gross receipts may be apportioned using an equitable formulae. Ruling 15 may be applied if the facts warrant its use.
Lesson 39

SEC. 21.108: MONEY LENDERS AND CITY CLERK'S RULING #19

OUTLINE

1. DEFINITION

2. EXEMPTIONS
   A. Constitutional
   B. Statutory
      a. Sec. 21.108(b)
      b. Sec. 21.108(c)

3. TAX RATE

4. APPORTIONMENT

5. CITY CLERK'S RULING #19

/L39-O (Rev. 4-10)
LESSON 39

SEC. 21.108: MONEY LENDERS

1. DEFINITION

   A. Discuss Sec. 21.108(a): Money Lenders

      Ask a student to read Sec. 21.108(a).

      Give examples:

      a. Pawn shops/brokers

      b. Factors and persons who purchase discounted loans, accounts receivables, or any obligation of debts.

      c. Persons engaged in lending money secured by personal properties unless otherwise exempt as discussed later

      d. money brokers

2. EXEMPTIONS

   A. Constitutional

      Discuss Schedule A: Memo on Financial Institution; P.M. Inafuku; 7-7-92.

   B. Statutory

      a. Discuss Sec. 21.108(b)

      The tax imposed upon persons under Sec. 21.108(a) does not apply to the business of lending money or advancing credit secured by real property. All persons engaged in the businesses such as described in this subsection should be taxed under Sec. 21.190/21.49(c)

      b. Discuss Sec. 21.108(c)

         • If a person who is engaged in another business also engages in Sec. 21.108(a) activities, all interest and other charges received from the following:

            (i) customers of that other business

            (ii) suppliers of that other business
(iii) his employees
(iv) his parent company
(v) his subsidiary
(vi) persons who have substantially common ownership with him
    (substantially is defined to be over 50%)
(vii) employees of his parent, subsidiary or of persons with substantially
    common ownership with him

as a result of 21.108 (a) activity should be included in the gross receipts of
the other business activity provided that the other business is subject to tax
measured by gross receipts. If two or more activities generate interest income,
spread to each activity on a prorated basis.

If the other business is not subject to tax measured by gross receipts, the
21.108(a) gross receipts are taxable under Sec. 21.190/21.49(c).

• If a person is subject to tax under Sec. 21.108(a), then the exemption under
  Sec. 21.108(c) will not apply. This means that the gross receipts from the
  lending of money, etc. to the persons described under 21.108(c), items (i)
  to (vii) above, are no longer taxable under the other business activity because
  they are already covered by the 21.108(a) flat tax.

• Discuss **Schedule B**: Memo on Sec. 21.108(c); D. DeBord; 5-3-56.

3. **TAX RATE**

The tax is a flat rate $2,660.63 per year. The first year is prorated.

Illustrate how to prorate the tax for the first year.

4. **APPORTIONMENT**

The flat tax conceivably may be apportioned. But in practice, this has yet to happen.
Taxpayers have not bothered because of the materiality of the amount of tax.
CITY OF LOS ANGELES
INTER-DEPARTMENTAL CORRESPONDENCE
OFFICE OF FINANCE

DATE: July 7, 1992
TO: All Tax & Permit Division Employees
FROM: Paul Inafuku, Chief I Communication Officer

SUBJECT: Financial Institutions

The City of Los Angeles is precluded from taxing banks and financial institutions. This memo is intended to assist you in this area.

A. A bank is a corporation with a license or certificate from the state Superintendent of Banks or the Comptroller of the Currency (Federal) to operate as a bank.

B. A financial institution has no specific definition for Federal or State purposes. The State of California has promulgated a regulation defining “financial corporation” under 18 Cal. Code of Regs. Sec. 23182. Examples of financial corporations are saving and loans/savings associations, thrift and loans, consumer finance lenders, personal property brokers, commercial finance lenders, industrial loan companies and pawnbrokers.

Four elements must be met in order to be classified as a financial corporation:

1. More than 50% of the company’s gross income must come from dealing in money or moneymed capital in substantial competition with the business of national banks.
2. The company must be conducting business on its own account and not as an agent for another.
3. Money includes cash and most credit documents: i.e. – accounts receivable, installment notes, and credit cards. The taxpayer must be dealing in this or similar items.
4. “In competition” does not include all activities of a national bank or the affiliates and subsidiaries of the bank. The regulation states that competition exists when there is investment in business transactions of the same class as a national bank. This will predominantly be in the form of loans or commercial paper such as mortgages or conditional sales contracts. The qualifying activity must involve dealing in money or financing in direct competition with national banks.

PMI:rc
OPERATION BULLETIN

DATE: May 3, 1976

To: All Senior Tax Auditors

From: D. J. DeBord

No. 4-76

Subject: Section 21.108(C)

Such interest income shall be included in the tax measure under the activity that generated it.

<table>
<thead>
<tr>
<th>Generating Activity:</th>
<th>Includable under:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wholesale</td>
<td>Section 21.166</td>
</tr>
<tr>
<td>Retail</td>
<td>Section 21.167</td>
</tr>
<tr>
<td>Rentals (Real Property)</td>
<td>Section 21.98</td>
</tr>
<tr>
<td>Rentals (Personal Property)</td>
<td>Section 21.192</td>
</tr>
<tr>
<td>Service, etc...</td>
<td>Section 21.190</td>
</tr>
<tr>
<td>Any other taxable gross receipts</td>
<td>Applicable</td>
</tr>
</tbody>
</table>

If two (2) or more activities generate interest income, spread to each activity on a prorated basis.

Use the one taxpayer concept, ignoring multiple locations, attempt to include interest income at the main headquarters location. The exception (S) to this will be the result of the requirement to spread to various activities and therefore possible various locations.

Signed by DeBord
D.J. DeBord
Principal Tax Auditor
Tax and Permit Division

DJD:mp
Cc: A. Huegin
L. Chaney
J. Gottlieb
Lesson 40

SEC. 21.191/21.49 (b): HEALTH MAINTENANCE ORGANIZATIONS

OUTLINE

1. DEFINITION
   A. Section 21.191(b)/21.49(b)1
   B. Analysis of Section 21.191(b)/21.49(b)1

2. BASIS OF TAX

3. COMPUTATION OF TAX

4. APPLICABILITY OF APPORTIONMENT FORMULA

5. REFUND

6. DELINQUENCY
LESSON 40

SEC. 21.191/21.49 (b) HEALTH MAINTENANCE ORGANIZATIONS

1. DEFINITION
   A. Ask a student to read Sec. 21.191(b)/21.49(b,1): Health Maintenance organizations
   B. Analyze Sec. 21.191(b)/21.49(b),
      a. Who is subject to Sec. 21.191/21.49(b)?
         (i) Any person who undertakes to arrange for the provision of health care services to subscribers or enrollees, or
         (ii) Any person who undertakes to pay for or to reimburse any part of the cost for those services
      b. Conditions to be taxable under Sec. 21.191/21.49(b):
         (i) The person collects prepaid or periodic charge paid by subscribers or enrollees, or
         (ii) The person collects prepaid or periodic charge on behalf of the subscribers or enrollees
         (iii) The person under either (i) or (ii) must have a place of business within the City.

      Emphasize that a person must have a fixed location in the City to be subject to business tax under Sec. 21.191/21.49(b).
      Reason: HMO health care providers are usually independent contractors. If the independent contractors are the only ones in the City, the HMO is considered to have no nexus in the City, hence, is not liable for the City business tax.

2. BASIS OF TAX
   a. Gross receipts as defined under Section 21.00 (a) attributable to a place of business within the City.
   b. Exclusion to the HMO taxable gross receipts: Receipts from the Employees Health Benefits Fund held in the US Treasury.
3. **COMPUTATION OF TAX MEASURE**

   a. **Definition of Total Cost**

   Emphasize that this section has narrowly defined total costs and that contract health provider costs are only the direct payments to independent providers of medical services such as doctors, hospitals. Unlike payroll and property costs, no related costs are included in the health provider costs.

   Note that this is the only cost formula that allow the independent contractors’ performance in the apportionment.

   References: **Schedule A**: Memo on Section 21.191 L.A.M.C./21/49( b)-Health Maintenance Organizations (HMO); S. Nesbit; 03-17-99.  
   **Schedule B**: CareAmerica of Southern California (Blue Shield of California; V. Dinu, 04-03-00.

   b. **Apportionment Formula**

   \[
   \frac{A}{A + B} = \% \text{ of in-City Costs to Total Costs} 
   \]

   \[
   A = \text{Total in-City Costs} \quad B = \text{Total out-of-City Costs} 
   \]

   c. **Tax Measure**  

   \% \text{ of in-City Costs to Total Costs} \times \text{Total Gross Receipts}

4. **APPLICABILITY OF APPORTIONMENT FORMULA**

   January 1, 1998 and all tax years not barred by the statute of limitation on January 1, 1998

   **Note:** Prior to January 1, 1998, HMO was taxable under Section 21.190/21.49 (c), Professions and Occupations. Although the ordinance setting up Section 21.191 was effective on January 1, 1998, the apportionment formula was applied retroactively under Section 21.190/21.49(c) (Professions and Occupations) on tax years still in statute as of January 1, 1998.

   Note: Nos 5 and 6 were deleted since refunds are always applied using the rule under Section 21.07. Besides this was just included because of the application of a formula that was in effect since 1998(10 years ago), which is now irrelevant.
6. **DELINQUENCY**

A. **Interest:**

   a. Rate equal to the annualized rate of return on the general pool earned by the City Treasurer for the calendar year prior to the tax year involved.

   The rate is an exception to Section 21.05(e).

   Reference: **Schedule C**: Annualized Rates of Return Based on Calendar Year

b. **Special Provision:**

   No interest accrual during the period January 1, 1997 to June 30, 1998.

c. **After Tax Year 1998**

   Interest at the rate specified in (a) applies in accordance with the delinquency dates pursuant to Section 21.05.

B. **Penalty:**

a. **Special Provisions:**

   No penalty on underpayment on any tax year prior to 1998.

   Tax year 1998 is not delinquent until July 1, 1998.

b. **After Tax Year 1998:**

   Penalty applies in accordance with Section 21.05
DATE: March 17, 1999
TO: All Tax and Permit Division Staff
FROM: Sylvia Nesbit, Chief I
Communications Officer

SUBJECT: SECTION 21.191 L.A.M.C – HEALTH MAINTENANCE
ORGANIZATIONS (HMO)

Below is a clarification of what constitutes “total costs” as defined in Section 21.191 L.A.M.C. Health Maintenance Organizations.

Total costs consist of the HMO’s payroll and related costs, property and related costs, and contract health care provider costs incurred within and without the City.

The payroll and related costs are the costs of the HMO’s own payroll. This would include the HMO’s total compensation paid employees and the employer’s costs related to the payroll, such as workers compensation and the employer’s share of social security and fringe benefits. Excluded are the costs incurred to pay for outside services since these costs do not constitute the payroll related costs of the HMO. Examples of excluded costs for outside services are those of selling, consulting, accounting, advertising, and legal. The above application is consistent with the court case of Programming Enterprises Inc. v. City of Los Angeles, 215 Cal. App. 3d 281 (1989).

The property and related costs are the costs of the HMO’s own real and personal property. These include the rent, interest expense, depreciation, building repairs, maintenance, insurance (fire, theft, liability, etc.), property taxes, furniture, supplies related to the property equipment (such as desk top computers), utilities, etc.

The contract health care provider costs are the charges made to the HMO by those providing health care services contract. These are included in the formula in the same manner as the HMO’s own payroll and property costs.

SN:la
C. Donald J. DeBord, Chief II Tax and Permit Division
   James Hickey, Chief I Tax and Permit Division
   Ken White, Senior Management Analyst I
Office of the City Attorney
Los Angeles, California

April 3, 2000

Teresa L. Sharp
ARThUR ANDERSEN
633 West Fifth Street
Los Angeles, CA 90071-2008

Dear Miss Sharp:

At our March 23, 2000 meeting I agreed to review the City Council file for the ordinance which adopted Los Angeles Municipal Code section 21.191. The issue was whether the term “total costs,” as used in subsection (c) of said code section, includes only the three items enumerated in this subsection (payroll, property and health care provider costs), or it includes all of your client’s costs. After reviewing the Council file and discussing this matter with Ron Tuller, my supervisor and drafter of this ordinance, it became apparent that the Los Angeles City Council intended to limit the “total costs,” as used in the above mentioned subsection, to the three items specifically enumerated in this subsection: payroll, property and health care provider costs. Therefore, the City Clerk’s current method of computing your client’s tax liability is accurate.

James K. Hahn, City Attorney

By: Signed Copy on File

VALENTIN DINU
Deputy City Attorney

VFD:dp
cc: Lerma Tioseco
CITY OF LOS ANGELES
GENERAL POOL INVESTMENT PROGRAM
EARNING YIELD

FOR THE CALENDAR YEARS

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<td>5.90%</td>
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</table>

|      | 4.81%| 4.53%| 5.90%| 5.99%| 5.87%| 5.70%| 5.39%| 4.73%| 4.73%| 6.06%| 5.95%| 5.92%| 5.75%| 5.41%| 4.51%| 4.98%| 5.93%| 6.05%| 5.94%| 5.86%| 5.40%| 4.33%| 5.11%| 5.96%| 5.97%| 5.95%| 5.61%| 5.52%| 4.42%| 5.25%| 5.90%| 5.96%| 5.90%| 5.57%| 5.46%|

| 59.56%| 54.79%| 70.24%| 71.25%| 70.98%| 69.23%| 65.49%|
| 4.96%| 4.57%| 5.85%| 5.94%| 5.92%| 5.77%| 5.46%|
Lesson 41

SEC. 21.80/21.47(b): INDEPENDENT TELEMARKETING AGENCY

OUTLINE

1. DEFINITION
   A. Sec. 21.80/21.47 (b)
   B. Who is an Independent Telemarketing Agency
   C. What is a Call Center

2. EFFECTIVE DATE

3. ADDITIONAL TAX

4. QUIZ
LESSON 41

SEC. 21.80/21.47 (b): INDEPENDENT TELEMARKETING AGENCY

1. DEFINITION

A. Ask a student to read Sec. 21.80/21.47(b): Independent Telemarketing Agency

B. Who is an Independent Telemarketing Agency?
   a. Any person
   b. marketing services or goods, wares or merchandise (not his or her own services, goods, wares or merchandise)
   c. for 3 clients or more, none has any ownership interest in said person
   d. marketing on a continuous basis
   e. by use of telecommunications device
   f. activity performed at a call center

C. What is a call center?
   a. a location
   b. with minimum of 25 persons continuously employed or utilized
   c. to make and/or receive telephone calls
   d. by means of a centralized telecommunications system

2. Effective Date:

   January 10, 1997. Prior to this date, this activity was taxed under Section 21.190 (for marketing intangible properties) or Section 21.79 (for marketing tangible properties).
3. **ADDITIONAL TAX**

A telemarketing agency is also subject to 5% telephone users tax.

**Note:** Regular Telephone Users Tax Rate is 10%.  
Reference: Article 1.1 Sec. 21.1.3(a)  
Counter reference: Lesson 45: Telephone, Electricity and Gas Users Tax

A. Conditions to be met for the 5% telephone users tax:

a. Call center must be in the City

b. Calls must be **solely and exclusively** used for telemarketing activities.

   Emphasize that the charges on telephone communication services for all other business activities are subject to regular 10% telephone users tax.

   c. Application for rate adjustment need to be filed on prescribed forms provided by the Office of Finance

B. Tax Measure:

Charges for local, toll, teletypewriter exchange and private communication services on the intrastate, interstate and international calls based on in-City service address of users.
Lesson 42

SEC. 21.189.4/21.41 (b) MULTIMEDIA BUSINESSES

OUTLINE

1. DEFINITION
   A. Sec. 21.189.4(b)/21.41 (b)
   B. Analysis of Section 21.189.4(b)/21.41 (b)

2. EXEMPTIONS
   A. Section 21.109 Motion Picture, Television or Radio producer
   B. Section 21.189.2/21.45(a)/21.43(g): Radio or Television Broadcaster
   C. Adult Entertainment Business

3. BUSINESS TAX LIMITATION
   A. Qualifications
   B. Business Tax Computation
LESSON 42

SEC. 21.189.4/21.41(b)  MULTIMEDIA BUSINESSES

1. DEFINITION

A. Ask a student to read Section 21.189.4(b)/21.41 (b,1): Multimedia Business B.

Analyze Section 21.189.4(b)/21.41 (b, 1)

a. Who is subject to Sec. 21.189.4/21.41 (b )

(i) Producers of: films, disks, tapes, software or other recording devices

(ii) Providers of computer programming services

(iii) Developers of online and internet services, including the design of WEB sites, for clients

b. What kind of a producer?

(i) Visual or Audio, and

(ii) One who integrates two or more media, which media include, without limitation

• Computer generated graphics and video

• Film

• Slides

• Video tapes

• Audio tapes and photographs

c. Conditions for providers of computer programming services that must be met to be classified under this section:

(i) must be on a contract or fee basis

(ii) computer programming services are made to the producers described in (b) above
(iii) services include

- computer software design and analysis
- modification of custom software
- digital imaging
- other related programming services

2. EXCEPTIONS

Activities defined under Section 21.109: Motion picture, television or radio producer

Radio or television broadcaster as defined under Section 21.189.2/21.45 (a, 1 and 2)/21.43(g)(1 & 2)

Adult entertainment business

Reference: Schedule A: L.A.M.C. Chapter I, Article 2, Section 12.70

3. BUSINESS TAX LIMITATION

Counter reference: Section 21.27, Lesson 10 (Discussed in detail)

A. Qualifications:


b. Must generate more than 50% of gross receipts from multimedia business activities

B. Business Tax Computation:

a. Compute regular business tax. If more than one activity, compute tax under each tax classification specified under Section 21.17 (a) and total.

b. If total business tax computed in item (a) is $25,000 or less, the actual total business tax is the business tax limitation.

c. If total business tax computed in item (a) is more than $25,000, compute the business tax limitation as follows:

(i) Total tax less $25,000
(ii) Multiply excess above $25,000 by 10%
(iii) Add product of (ii) and $25,000. Sum is the business tax limitation.

d. Care must be exercised if the taxpayer is also engaged in an activity other than what are specified under Section 21.27(a). Determine first if the gross receipts from the activities specified under Section 21.27(a) comprise more than 50% of the total gross receipts. Any additional tax due from the gross receipts of an activity other than what has been enumerated in Section 21.27(a) is merely added to the lower of the actual total business tax computed in item (b) or the business tax limitation computed under item (c).

For example, a taxpayer’s gross receipts under Section 21.189.4 21.41(b)/and 21.190/21.49(c) comprise more than 50% of the total gross receipts. Additionally, the taxpayer has taxable gross receipts under Section 21.56/21.49(a) (Auto Park). The tax due under Section 21.56/21.49(a) is not included in computing the business tax limitation but is merely added to the answer obtained from computing the business tax limitation.
SEC. 12.70. ADULT ENTERTAINMENT ZONING.
(Added by Ord. No. 151.294, Eff. 9/1/78.)

B. Purpose. It is the purpose and object of this section to establish reasonable and uniform regulations to prevent the continued concentration of adult entertainment businesses, as defined herein, within the City of Los Angeles.

C. Definitions. For the purpose of this section, certain terms and words are defined as follows:

1. “Adult Arcade” – An establishment where, for any form of consideration, one or more motion picture projectors, slide projectors or similar machines, for viewing by five or fewer persons each, are used to show films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by an emphasis upon the depiction or description of “specified sexual activities” or “specified anatomical areas.”

2. “Adult Bookstores” – An establishment which has as a substantial portion of its stock-in-trade and offers for sale for any form of consideration any one or more of the following:

   (a) Books, magazines, periodicals or other printed mater, or photographs, films, motion pictures, video cassettes, slides or other visual representations which are characterized by an emphasis upon the depiction or description of “specified sexual activities” or “specified anatomical areas” or
   (b) Instruments, devices or paraphernalia which are designed for use in connection with “specified sexual activities.”

3. “Adult Cabaret” – A nightclub, bar, restaurant or similar establishment which regularly features live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities.” Or films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by an emphasis upon the depiction or description of “specified sexual activities: or specified anatomical areas.”

4. “Adult Motel” – A motel or similar establishment offering public accommodations for any form of consideration which provides patrons with closed circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by an emphasis upon the depiction or description of “specified sexual activities” or “specified anatomical areas.”

5. “Adult Motion Picture Theater” – An establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material which is characterized by an emphasis upon the depiction or description of “specified sexual activities” or “specified anatomical areas”

(Rev No. 61-1996)
6. “Adult Theater” – A theater concert hall, auditorium or similar establishment which, for any form or consideration, regularly features live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities.”

7. “Establishment” (Amended by Ord. No 157,538, Eff. 5/13/83.) – As used in Subsection C hereof, the “establishment” of an adult entertainment business shall mean and include any of the following:

   (a) The opening or commencement of any such business as a new business;
   (b) The conversion of an existing business, whether or not an adult entertainment business, to any of the adult entertainment businesses defined herein; or
   (c) The relocation of any such business.

8. “Massage Parlor” - An establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist of similar professional person licensed by the State of California. This definition does not include an athletic club, health club, school, gymnasium, state licensed cosmetology or barber establishment, reducing salon, spa or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service. (Amended by Ord. No. 155,718, Eff. 8/6/81.)

9. “Public Park” - A park, playground, swimming pool, beach, pier, reservoir, golf course or similar athletic field within the City of Los Angeles which is under the control, operation or management of the City Board of Recreation and Park Commissioners or the County Department of Beaches.

10. “Religious Institution” - A building which is used primarily for religious worship and related religious activities.

11. “School” - An institution of learning for minors, whether public or private which offers instruction in those courses of study required by the California Education Code or which is maintained pursuant to standards set by the State Board of Education. This definition includes a nursery school, kindergarten, elementary school, junior high school, senior high school or any special institution of learning under the jurisdiction of the State Department of Education, but it does not include a vocational or professional institution or an institution of higher education, including a community or junior college, college or university.

(Rev No.61-1996)
12. **“Sexual Encounter Establishment”** - An establishment, other than a hotel, motel or similar establishment offering public accommodations, which, for any form of consideration, provides a place where two or more persons may congregate, associate or consort in connection with “specified sexual activities” or the exposure of “specified anatomical areas.” This definition does not include an establishment where a medical practitioner, psychologist, psychiatrist or similar professional person licensed by the State of California engages in sexual therapy.

13. **“Specified Anatomical Areas”** - As used herein, “specified anatomical areas” shall mean and include any of the following:

   (a) Less than completely and opaquely covered human genitals, public region, buttocks, anus or female breasts below a point immediately above the top of the areolas, or
   (b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

14. **“Specified Sexual Activities”** - As used herein, “specified sexual activities, shall mean an include any of the following:

   (a) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;
   (b) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy;
   (c) Masturbation, actual or simulated; or
   (d) Excretory functions as part of or in connection with any of the activities set forth in (a) through (c) above.

15. **“Substantial Enlargement”** - As used in Subsection C hereof, the “substantial enlargement” of an adult entertainment business shall mean the increase in floor area occupied by the business by more than fifty percent (50%), as such floor area exists on the effective date of this section.

16. **“Transfer of ownership or Control”** - As used in Subsections C and E hereof, the “transfer of ownership or control” of an adult entertainment business shall mean and include any of the following:

   (a) The sale, lease or sublease of such business;
   (b) The transfer of securities which constitute a controlling interest in such business, whether by sale, exchange or similar means; or
   (c) The establishment of a trust, gift or other similar legal device which transfers the ownership or control of such business, except for transfer by bequest or other operation of law upon the death of the person possessing such ownership or control.

(Rev No.61-1996)
17. “Adult Entertainment Business” - Adult Arcade, Adult Book store, Adult Cabaret, Adult Motel, Adult Motion Picture Theatre, Adult Theatre, Massage Parlor, or Sexual Encounter Establishment, as defined herein, and each shall constitute a separate adult entertainment business even if operated in conjunction with another adult entertainment business at the same establishment. (Added by Ord. No. 157,38, Eff.5/13/82.)

D. Prohibition. (Amended by Ord. No 158,579, Eff. 1/23/84.) No person shall cause or permit the establishment enlargement or transfer of ownership or control of an adult entertainment business within 1,000 feet of another adult entertainment business, or within 500 feet of a religious institution, school, or public park within the City of Los Angeles. No person shall cause or permit the establishment or maintenance of more than one adult entertainment business in the same building, structure or portion thereof, or the increase of floor area of any adult entertainment business in any building, structure or portion thereof containing another adult entertainment business.

No person shall cause or permit the establishment, or substantial enlargement of an adult entertainment business within 500 feet of any lot in an “A” or “R” zone, or within the “CR”, “CI”, or “C1.5” zones in the City of Los Angeles.

After March 6, 1988, no person shall cause or permit the continued operation, maintenance, of use of a lot, building or structure, or any portion thereof as an Adult Arcade, Adult Bookstore, Adult Cabaret, Adult Motel, Adult Motion Picture Theater, Adult Theater, Massage Parlor or Sexual Encounter Establishment, within 500 feet of any lot in an “A” zone or “R” zone, or within the “CR”, or “C1” Zones in the City of Los Angeles. (Added by Ord. No. 161, 111, Eff. 5/17/86.)

E. Measurement Of Distance. The distance between any two adult entertainment businesses shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of each business. The distance between any adult entertainment business and any religious institution, school or public park shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of the adult entertainment business to the closest property line of the religious institution, school or public park.

F. Exceptions.

1. A person possessing ownership or control of an adult entertainment business which is within 1,000 feet of another such business or within 500 feet of any religious institution, school or public park on the effective date of this ordinance shall be permitted to transfer such ownership or control within two (2) years of said effective date. The person acquiring such ownership or control, however, shall be required to discontinue said adult entertainment business within five (5) years from the date of said transfer of ownership or control, if such business continues to be within 1,000 feet of another such business or within 500 feet of any religious institution, school or public park.

(Rev No.61-1996)
§ 12.70  MUNICIPAL CODE

2. A person possessing ownership or control of an adult entertainment business shall be permitted to transfer such ownership or control if such business is not within 500 feet of any religious institution, school or public park and the only other adult entertainment business or businesses within 1,000 feet of such business have been established under a variance from the requirements of this section, pursuant to the variance provisions set forth in Section 12.27 of the Code. This exception shall not, however, apply to an adult entertainment business which has been established under such a variance.

3. Except for an adult entertainment business required to be discontinued pursuant to Subdivision 1 of this subsection, if more than one adult entertainment businesses exists in the same building, structure or portion thereof, then all may be continued until March 10, 1985. At that time all shall be discontinued except those established prior to September 1, 1978; but if none of the adult entertainment businesses were established prior to September 1, 1978, then all shall be discontinued except for one, and in case of a dispute the adult entertainment business established first shall have the priority right to continue.

4. An adult entertainment business may be continued, or established and maintained, pursuant to Section 12.22A20. (Amended by Ord. No. 161,111, Eff. 5/18/86.)

G. Severability. If any provisions or clause of this section or the application thereof to any Person or circumstance is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other section provisions, clauses or applications thereof which can be implemented without the invalid provision, clause or application thereof, and to this end the provisions and clauses of this section are declared to be severable.

(Rev No.61-1996)
Lesson 43

OUTLINE

I. BACKGROUND

II. DEFINITIONS

A. SEC. 21.41(c) INTERNET BASED APPLICATION SERVICE

1. Definition

2. What it does not include

3. Examples of businesses qualified as Internet Based Service Providers

4. Examples of businesses not qualified as Internet Based Service Providers

B. Section 21.41(d) INTERNET BASED DATA MANIPULATION

1. Definition

2. What it does not include

3. Examples of businesses qualified as Internet Based Data Manipulation

4. Examples of businesses not qualified as Internet Based Data Manipulation

III. APPORTIONMENT/APPLICATION

IV. ELIGIBILITY QUESTIONNAIRE
LESSON 43

SEC. 21.41(c) Internet-Based Application Service Provider and SEC. 21.41 (d) Internet Based Data Manipulation

I. BACKGROUND
Ordinance 181127 took effect on May 3, 2010 and extending through 2014 tax year. It amended Section 21.41, Gross Receipts Fund Class 1 to include businesses that use the internet as its primary means of providing services. It adds subsections (c) Internet – Based Application Service Providers and (d) Internet-based data Manipulation to Section 21.41 to clarify the definition of a multimedia business from internet based businesses.

II. DEFINITION

A. SECTION 21.41 (c) INTERNET BASED APPLICATION SERVICE PROVIDERS (ASP)

1. Definition
A business that provides its customer access, exclusively through the internet, to electronic application that are available exclusively on computer devices operated by or on behalf of the ASP. Its internet based application should provide information to the user directly without any substantial intervention by any person except for technical support related to the use of electronic application.

2. What does it not include?

   a. A business that utilizes an application to sell goods or further its business;

   b. Motion picture, television or radio producers, telephone companies, radio or television broadcasters, or an adult entertainment business, as defined in Section 21.70 B of the LAMC

   c. A business that provides electronic applications, including but not limited to computer software, for customers to download through the internet

   d. A business that sells electronic application through the internet, or any business that obtains its income from the use of its electronic application by itself, on its behalf, or by any related entity as defined in Section 21.00(a)

3. Examples of businesses qualified as Internet-Based Application Service Providers

   a. A business that offers its customers access to an on-line income tax preparation application
c. A business that offers customer access to on-line accounting, word processing or spreadsheet applications.

Note:
Each of these particular business activities would be classified as an Internet-Based ASP provided that the customers could accomplish a specific task through usage of the on-line electronic application and the task was accomplished without any direct or indirect assistance from any person other than technical support related to the use of the electronic applications.

4. **Examples of businesses not qualified as an Internet-Based Application Service Providers**

a. A business that provides access to an on-line electronic application to facilitate income tax return preparation and also provides personnel to review the customer’s completed tax return, or to offer tax advice, would not be covered by this Internet classification and would be subject to tax pursuant to Section 21.49(c) Professions and Occupations.

b. A business that sells electronic applications through the Internet, or any business that obtains its income from the use of its electronic applications by itself or on its behalf or by a related entity is not covered under this ordinance.

**B. SECTION 21.41 (d) INTERNET BASED DATA MANIPULATION (DM)**

1. **Definition**

   A business that exclusively provides access to internet based applications that allow a user to search, compile and otherwise manipulate data, including but not limited to a business that operates or provides access to one or several “search engines”. A “search engine” is an internet-based application that retrieves documents or files or data from the internet, a computer network, a database, or other data sources. “Data” includes visual, numerical, and written information.

2. **What it does not include?**

   a. A business does not qualify as Internet-Based DM unless its internet-based application provides information to the user directly without any substantial intermediation by any person except for technical support related solely to the use of internet-based application.

   b. A business that utilizes an internet based data manipulation to sell goods or further its business;
c. Motion picture, television or radio producers, telephone companies, radio or television broadcasters, or an adult entertainment business, as defined in Section 21.70 B of the LAMC

3. **Examples of a business qualified as an Internet-Based DM**

   a. A business that offers its customers access to an on-line search engine that allows the user to comparison shop for high definition television sets, or businesses that allow users to access an on-line search engine to compile and view Internet video clips or news articles on a particular topic.

   b. A business that offers its customers on-line access, via web-page banners, to merchant advertising over the Internet. In this regard, the gross receipts that the referenced businesses receive directly from the stated activities would be subject to taxation at the proposed Internet business tax rate provided that the customer or user received the data or information directly from the Internet-based application without any substantial intermediation by any person other than technical support staff.

4. **Example of a business not qualified as a Internet Based DM**

   A business that provides personnel to review a user’s list of shopping interests and to make purchase recommendations or provide other shopping services to the user would not be taxed in the Internet business classification, but rather taxable under Section 21.49© (Professions and Occupations).

III. **Apportionment**

   CCR# 15 or other methods of apportionment which would fairly reflect the gross receipts attributable to activities performed in the City.

III. **Application**

   Both classifications should be applied only for tax years 2010, 2011, 2012, 2013 and 2014

IV. Attached Eligibility Questionnaire for Internet Based Business Classification (L-43 [Schedule A](#))
Office of Finance  
City of Los Angeles  

Eligibility Questionnaire for New or Existing Businesses  
Internet-Based Business Classification(s)  

The City Council and the Mayor approved ordinance No. 181127 on March 5, 2010, amending LAMC Section 21.41 to create two new business classifications that provide for the taxation of qualifying Internet-based businesses with an ordinance effective date of May 3, 2010. The Internet-based Business classifications are applicable for tax periods commencing with Tax Year 2010 and extending through the 2014 Tax Year, absent Council action to amend this section and extend the length of time for which the classification shall apply.

The activities of a Motion Picture, Television or Radio Producer as defined in Section 21.109, Telephone Company as defined in Section 21.41(e), Radio & Television Broadcaster as defined in LAMC Section 21.45(a), or an Adult Entertainment Business as defined in Section 12.70 B are not eligible for taxation under this Section.

### Section #1:
Does your business activity rely on utilization of the Internet as a point of service delivery contact with your clients or customers?  
Yes____ No____

Does your Internet-based application or Internet-based electronic application provide information to the user directly without any substantial intermediation by any person except for technical support related solely to the use of the Internet-based application or the use of the Internet-based electronic application?  
Yes____ No____

If you answered no to either item above, stop here and do not proceed to Section #2. Your business activity does not qualify for the Internet Business classification(s) under Section 21.41(c) or Section 21.41(d).

### Section #2:
Does your business activity utilize Internet-based data manipulation or an Internet-based electronic application to either sell goods or to further your business?  
Yes____ No____

Is your business activity considered to be an “Adult Entertainment Business” as defined in Los Angeles Municipal Code (LAMC) Section 12.70 B?  
Yes____ No____

Is your business activity considered to be any of the following: Motion Picture, Television, or Radio Producer as defined by LAMC Section 21.109, Telephone Company as defined by LAMC Sec. 21.41(e), or Radio and Television Producer as defined by LAMC Sec. 21.45(a)?  
Yes____ No____

If you answered yes to any of the items above, stop here and do not proceed to Section #3 or Section #4. Your business activity does not qualify for the Internet Business classification(s) under Section 21.41(c) or Section 21.41(d).

### Internet-Based Application Service Providers - LAMC Section 21.41(c)

Does your business provide electronic applications, including but not limited to computer software, for customers to download through the Internet?  
Yes__ No__

Does your business sell electronic applications through the Internet or obtain its income from the use of its electronic applications by itself, on its behalf, or by any related entity as defined in LAMC Section 21.00(a)?  
Yes__ No__

If you answered yes to either item above, your business activity does not qualify for the Internet-based Application Service Provider classification under LAMC Sec. 21.41(c).
Internet-Based Data Manipulation – LAMC Section 21.41(d)

Section #4:
Does your business provide your customers access, exclusively through the Internet, to electronic applications that are available exclusively on computer devices operated by you or on your behalf? Yes__No__

Does your business exclusively provide access to Internet-based applications that allow a user to search, compile, and otherwise manipulate data? Yes__No__

If you answered no to either item above, your business activity does not qualify for the Internet-Based Data Manipulation classification(s) under LAMC Section 21.41(d). You do not need to turn this form in.

If you answered no to all items in Section #3 or yes to all items in Section #4, your business activity may qualify for the Internet Business classification(s) under Section 21.41(c) or 21.41(d). Please provide a description of your Internet Business operations in the area below. Also, if you are engaged in business activities in addition to the Internet Business classification(s), please describe those activities and state the percentage of each separate business activity engaged in. Use additional sheets if necessary. You will be notified of the final determination.

I DECLARE, UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT TO THE BEST OF MY KNOWLEDGE THE FOREGOING IS TRUE AND CORRECT.

ACCOUNT NO. ___________________ DATE: ___________________

LEGAL NAME: ___________________ DAYTIME PHONE: ___________________

MAIL ADDRESS: ___________________ TITLE: ___________________

SIGNATURE: ___________________ WEB ADDR: ___________________

Mail to the following address: City of Los Angeles, Office of Finance, P.O. Box 53320, Los Angeles, CA 90053-0320 or you may email the form to the following address: Finance.CustomerService @ lacity.org

FOR OFFICIAL USE ONLY:
Processed by: ___________________
Date: ___________________
Lesson 44

MISCELLANEOUS

OUTLINE


2. SEC. 21.147/21.45(b)/21.43(h): THEATRE

3. SEC. 21.170: CHRISTMAS TREE LOT CLEAN-UP DEPOSIT

4. SEC. 21.187: COMMON CARRIER BUS

5. SEC. 21.189.3/21.41 (a): CHILD CARE PROVIDERS
LESSON 44

MISCELLANEOUS


   A. Explain the meaning of a tugboat or barge operator.
      
      Engaged in towing or pushing ships by a small, sturdy boat.

   B. The tax rate is $1.05 per $1,000 per thousand or fractional part thereof for tax year 2008 and $1.01 for tax years 2009-2010

2. **SEC. 21.147/21.45(b)/21.43(h): THEATRE**

   A. Ask a student to read Sec. 21.147/21.45(b)/21.43(h) from “For every person to…character are solicited or accepted.

      Give examples:

      a. Mann, Pacific and other Motion Picture Theatres
      b. Live stage shows
      c. Concerts

   B. Exemptions:

      a. Persons mentioned under Sec. 21.190(c) subdivision 4/21.49 (c,3,iv)

      b. Strolling musician who perform on sidewalks, parks and public places

3. **SEC. 21.170: CHRISTMAS TREE LOT CLEAN-UP DEPOSIT**

   • A clean-up deposit is only required when a taxpayer is subject to Sec. 21.169 (Christmas Tree).

   • To be refunded after the inspection of Building and Safety Department has been done.

4. **SEC. 21.187: COMMON CARRIER BUS**

   • Imposed upon persons engaged in business of transporting persons as a common carrier for hire, by bus, upon or over dry street in the City.

   Example: Greyhound
• Explain the difference between persons taxable under 21.187 and 21.194.

• Exemption:
  
  a. any municipal corporation or other public entity
     
     For example: RTD, DASH
  
  b. any persons subject to tax under any other section such as under
     Sec. 21.194
  
  c. any person operating buses in the City pursuant to a franchise granted by
     ordinance of the City.

5. **SEC. 21.189.3: CHILD CARE PROVIDERS**

• Ask a student to read Sec. 21.189.3(b)/21.41/(a, 1)

  Give example:

  a. Baby sitting agency
  
  b. Day care centers
  
  c. Companies which provide extended care services to their employees.

• Exemption:

  a. In home providers caring for 6 or less children

  b. Persons exempt under the provision of Sec. 21.189.3 (c) 1,2, and 3./21.41(a,2)
     i,ii, &iii