

Ordinance No. 183727

Amend the Business License Law to eliminate the exemption for residential solid waste, recycling and yard debris haulers and make other housekeeping changes. (Ordinance; amend Code Chapter 7.02)

The City of Portland ordains:

Section 1. The Council finds:

1. In August 2008, the City Council changed the Business License Law under Chapter 7.02 to become an after the fact tax by Ordinance No. 182137. This change simplified many previously confusing provisions as well as brought complete conformity between the Business License Law and the Multnomah County Business Income Tax.
2. Updates to certain sections of the Business License Law are required to clarify code provisions that either cause confusion for taxpayers or make administration of the code difficult.
3. The City of Portland wants to obtain owner and officer contact information for businesses to allow emergency and non-emergency notifications in the future. Administrative authority to require phone number and email addresses needs to be added to the Business License Law to allow the collection of this information.
4. A majority of businesses do not need to have a printed tax receipt for their records. The City issues a Certificate of Compliance as a receipt once a business has achieved tax compliance. To support both the City's sustainability and cost reduction efforts, the Certificates of Compliance requirements of the code need to allow for these certificates to be issued electronically and only if the taxpayer needs or wants an actual receipt of compliance for their records. The Revenue Bureau is in the process of allowing taxpayers to access and print their Certificates of Compliance online if needed.
5. The Bureau of Planning and Sustainability has requested that the exemption specific to residential solid waste, recycling and yard debris haulers that was added to the code 15 years ago at its request now be removed. The City Attorney's Office has determined that removing the exemption does not create a situation of double taxation.

NOW, THEREFORE, the Council directs:

- a. Portland City Code Subsection 7.02.110 A. is amended as follows:

7.02.110 Income Defined.

A. Partnerships, S corporations, limited liability companies, limited liability partnerships, family limited partnerships, estates, trusts and joint ventures (including tenants-in-common arrangements) are liable for the business license tax and not the individual partners, shareholders,

members, beneficiaries or owners. The income of these entities must include all incomes received by the entity, including ordinary income, interest and dividend incomes, income from sales of business assets and other incomes attributable to the entity. For income purposes, a limited liability company is deemed to be the tax entity that includes the income of the limited liability company in its federal tax return – if the limited liability company will be disregarded as a separate tax entity.

b. Portland City Code Subsection 7.02.260 C is added as follows:

C. The Bureau may require contact information, including but not limited to, business phone numbers and business email addresses for all officers and/or owners of businesses doing business in the City of Portland. This information may be used by the City for any lawful purpose.

c. Portland City Code Subsection 7.02.300 A. is amended as follows:

7.02.300 Certificates of Compliance.

A. Within 60 days of beginning business, the taxfiler must complete a registration form. The Bureau will may issue or otherwise provide access to either an electronic or printed a “Certificate of Compliance” upon registration to assist businesses in proving their compliance to regulatory agencies or to the public. Subsequently, after each year’s tax filing the Bureau may issue or otherwise provide access to either an electronic or printed a Certificate of Compliance indicating that the taxfiler is in compliance with the City’s Business License Tax Law ~~for that particular year as of a particular date.~~

d. Portland City Code Section 7.02.400 is amended as follows:

7.02.400 Exemptions.

The Bureau may require the filings of tax returns or other documentary verification of any exemption claimed under this section. To the extent set forth below, the following persons are exempt from payment of the business license tax, and/or the following incomes are exempt from calculation of the business license tax:

- A. Persons whom the City is prohibited from taxing under the Constitution or laws of the United States, the Constitution or laws of the State of Oregon, or the Charter of the City.
- B. Incomes arising from transactions which the City is prohibited from taxing under the Constitution or laws of the State of Oregon, or the Charter of the City.
- C. Persons whose gross receipts from all business, both within and without the City, amounts to less than \$50,000 (\$25,000 for tax years that begin prior to January 1, 2007). ~~The Bureau may demand a statement that the person’s gross receipts for the license tax year will be less than \$50,000. If such person was exempt hereunder during the prior tax year, an additional statement must be filed indicating the gross receipts for such year were less than \$50,000 and indicating the amount thereof.~~

- D.** Corporations exempt from the Oregon Corporation Excise Tax under ORS 317.080, provided that any such corporation subject to the tax on unrelated business income under ORS 317.920 to 317.930 must pay a business tax based solely upon such income.
- E.** Trusts exempt from Federal income tax under Internal Revenue Code Section 501, provided that any exempt trust subject to tax on unrelated business income and certain other activities under Internal Revenue Code Section 501 (b), must pay a business tax based solely on that income.
- F.** Any individual whose only business transactions are exclusively limited to the renting or leasing of residential real property dwelling units provided that the beneficial owner rents or leases less than ten total units, regardless of whether they are located inside or outside of the Portland City limits. For purposes of this subsection, payments to foster care and other service providers are considered payments for “services” and not for “rent.” If a building contains more than one residential living quarter, the term “dwelling unit” refers to each separate living quarter. This exemption does not apply if any income is recognized from the sale of residential rental property.
- G.** The following incomes of an individual:
1. Income from sales, exchanges or involuntary conversions of a primary ~~or secondary~~ residence;
 2. Income from the sale of personal property acquired for household or other personal use by the seller;
 3. Income from interest and dividend income earned from investments if the income is not created in the course of or related to the taxfiler’s business activities;
 4. Income from gains and losses incurred from the sale of investments (other than real property) that are not a part of a business.
- H.** Any person whose only business transactions are exclusively limited to the following activities:
1. Raising, harvesting and selling of the person’s own crops, or the feeding, breeding, management and sale of the person’s own livestock, poultry, furbearing animals or honeybees, or sale of the produce thereof, or any other agricultural, horticultural or animal husbandry activity carried on by any person on said person’s own behalf and not for others, or dairying and the sale of dairy products to processors. This exemption does not apply if, in addition to the farm activities described in this subsection, the person does any processing of the person’s own farm products which changes their character or form, or the person’s business includes the handling, preparation, storage, processing or marketing of farm products raised or produced by others; or the processing of milk or milk products whether produced by said person or by others for retail or wholesale distribution.
 2. Operating within a permanent structure a display space, booth or table for selling or displaying merchandise by an affiliated participant at any trade show, convention,

festival, fair, circus, market, flea market, swap meet or similar event for less than 14 days in any tax year.

- I. Gross incomes subject to Chapters 7.12 or 7.14. Unless otherwise prohibited by law, income which is not otherwise subject to Chapters 7.12 or 7.14 is subject to the Business License Law.
- ~~J. Gross incomes subject to franchise fees under residential solid waste, recycling and yard debris collection franchises issued by the City of Portland. Income which is not otherwise subject to such franchise fees is subject to the Business License Law.~~

e. Portland City Code Subsection 7.02.510 A. is amended as follows:

7.02.510 Registration Form and Tax Return Due Dates.

A. All persons subject to the requirements of this Chapter must register with the Bureau on a form provided or approved by the Bureau. Thereafter, taxfilers must file tax returns with the Bureau. The following timing requirements apply:

1. Registration forms must be filed within 60 days of the person beginning business in the City.
2. Tax returns must be filed by the 15th day of the fourth (4th) month following the end of the tax year. For cooperatives and non-profit corporations that have later due dates under Oregon tax law, the due date for filing tax returns with the Bureau must conform to the due date under Oregon tax law.

f. Portland City Code Subsection 7.02.600 I. is amended as follows:

7.02.600 Income Determinations.

I. Net Operating Loss. In determining income, a deduction is allowed equal to the aggregate of the net operating losses incurred in prior years, not to exceed 75 percent of the income determined for the current license tax year before this deduction, but after all other deductions from income allowed by this Section and apportioned for business activity both within and without the City of Portland.

1. When the operations of the taxfiler from doing business both within and without the City result in a net operating loss, such loss will be apportioned in the same manner as the net income under Section 7.02.610. However, in no case may a net operating loss be carried forward from any license tax year during which the taxfiler conducted no business within the City or the taxfiler was otherwise exempt from payment of the business license tax license requirements.
2. In computing the net operating loss for any license year, the net operating loss of a prior year is not allowed as a deduction.
3. In computing the net operating loss for any license or tax year, no compensation allowance deduction is allowed to increase the net operating loss. "Compensation allowance deduction" is defined in Subsection 7.02.600 A.

4. The net operating loss of the earliest license tax year available must be exhausted before a net operating loss from a later year may be deducted.
 5. The net operating loss in any license tax year is allowed as a deduction in the five (5) succeeding license tax years until used or expired. Any partial license tax year will be treated the same as a full license tax year in determining the appropriate carry-forward period.
- g. The removal of PCC Subsection 7.02.400 J is effective for all tax years that begin on or after January 1, 2010. Otherwise, the remaining amendments to the Business License Law are effective for all open tax years under statute as of the effective date of this ordinance.

Passed by the Council: APR 28 2010

Mayor Sam Adams
Prepared by: Terri Williams
Date: April 1, 2010

LaVonne Griffin-Valade
Auditor of the City of Portland

By:

Susan Larsons
Deputy

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✓ 140

Agenda No.
ORDINANCE NO. 183727

Title

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INTRODUCED BY
Commissioner/Auditor:
Mayor Adams

COMMISSIONER APPROVAL

Mayor—Finance and Administration - Adams *[Signature]*

Position 1/Utilities - Fritz

Position 2/Works - Fish

Position 3/Affairs - Saltzman

Position 4/Safety - Leonard

BUREAU APPROVAL

Bureau: Revenue
Bureau Head: Sue Klobertanz *[Signature]*

Prepared by: Terri Williams
Date Prepared: 4/1/10

Financial Impact Statement
Completed Amends Budget
Not Required

Portland Policy Document
If "Yes" requires City Policy paragraph stated in document.
Yes No

Council Meeting Date
April 21, 2010

City Attorney Approval *[Signature]*

CLERK USE: DATE FILED APR 16 2010

LaVonne Griffin-Valade
Auditor of the City of Portland

By: *[Signature]*
Deputy

ACTION TAKEN:

APR 21 2010 PASSED TO SECOND READING APR 28 2010 9:30 A.M.

AGENDA

TIME CERTAIN
Start time: _____

Total amount of time needed: _____
(for presentation, testimony and discussion)

CONSENT

REGULAR
Total amount of time needed: **10 minutes**
(for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	✓	
2. Fish	✓	
3. Saltzman	_____	
4. Leonard	✓	
Adams	✓	