

**CITY OF ALBANY
CITY COUNCIL AGENDA
STAFF REPORT**

Agenda Date: April 18, 2022
Reviewed by: NA

SUBJECT: Policy Direction on Potential Ballot Measure to Update the Business License Tax

REPORT BY: Heather Rowden, Finance & Administrative Services Director
Nicole Almaguer, City Manager

SUMMARY

Staff seeks policy direction on a potential update to the City’s existing business license tax.

STAFF RECOMMENDATION

That the Council provide policy direction and request a ballot measure be prepared for further City Council consideration, so that the tax measure may be submitted to voters at the November 8, 2022 election.

BACKGROUND

The Council is interested in considering an update to the City’s existing business license tax, to be considered at the November 2022 election. Accordingly, staff has prepared the subject staff report to receive policy direction to prepare the ballot measure in coordination with the City Attorney’s office.

DISCUSSION

Business License Tax

The City is considering an update to its business license tax. The item is also included within the City Council Strategic Plan – Goal 4, Objective 2. As part of the update the City has been working with NBS, a financial consultant to update the rate structure. Staff’s belief is that the current rate structure is old and outdated. The City Attorney’s office is also reviewing the technical collection and administration provisions of the business license tax to modernize it. Staff requests policy direction from the Council regarding preferred methodology approach as provided below in the options presented.

Albany Business License taxes are governed by Chapter 5 of the Albany Municipal Code (AMC). The current rate structure was adopted by City Council in the late 1980’s, prior to Proposition 218 requiring changes in taxes and rates to go before the voters. The AMC allows

for rates to be adjusted by the change in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) in the S.F. Bay Area each year.

For calendar year 2022, the basic rate structure is based on full time equivalent employees, charging \$331 for the first employee (or owner) and \$68 for each additional full time equivalent employee. There are exceptions to this for seasonal and temporary businesses. Apartment units are charged \$104 per unit. The full rate listing can be found in Attachment 1 – 2022 Business License Tax Rates. A reduced license fee is charged for businesses generating less than \$7,600 in revenues each year.

Updating the business license tax code could both modernize application of AMC taxes and provide for ease of administration. Additionally, switching to a tax based on gross receipts in Albany would more evenly spread the tax burden across businesses of all size. The way the current tax is structured, a larger tax burden is placed on small businesses and all businesses are disincentivized to hire multiple employees. The transition to a tax based on gross receipts is also advised within the City’s Economic Development Strategic Plan, adopted by the City Council in September 2017.

Switching to such a structure also allows for structuring tax rates based on level of gross receipts. For example, a smaller base rate could be charged to all businesses, with a percentage tax on gross receipts above a certain dollar threshold.

Business license tax structures vary across the Bay Area. While some still tax based on full time equivalent employee count (El Cerrito), others have switched to a tax on gross receipts (Alameda, Berkeley, Richmond, Hercules). In November 2020, Richmond successfully passed a measure to change its tax to a tax on gross receipts ranging from .075% to 1.395% depending on the industry. Rates vary from city to city. Some are tiered and applied like income taxes while others are based on the type of industry, often charging industries like grocery less than industries like autobody shops.

Staff contracted with NBS to provide a model for switching this tax to a gross receipts tax. As gross receipts are not collected for businesses city-wide, several assumptions were made to estimate the tax rate needed to provide specific revenue levels. Some of the assumptions were as follows:

- Sales tax information for the City’s top 100 sales tax generating businesses (97% of all sales taxes collected) was gathered. Industry standards for taxable versus exempt sales were used to estimate gross receipts for the listed businesses;
- Using current business license data, the number of rental properties was determined and an average rental rate of \$2,150 based on current listings was applied to that number;
- Estimates for professional services businesses were gathered by NBS using industry averages and applied to the number of this type of business currently registered.

Revenues from business license taxes have averaged \$700,000 a year since fiscal year 2017-18. With the update to the tax, staff is recommending increasing the revenue raised by the business license tax. The below examples show an increase to both \$800,000 and \$1 million, \$100,000 and \$300,000 higher than current collections, respectively. Additional scenarios can be provided, if requested. Below are two examples of how the tax could be applied.

Flat rate for all businesses

Using the model created by NBS, it is estimated that a base rate of \$25 for all business with gross sales of \$50,000 or less, and a \$75 base rate with a tax on gross receipts of 0.18% on business exceeding \$50,000 would generate approximately \$800,000. The rate would need to increase to 0.25% of gross receipts to generate \$1,000,000 in revenue.

Using the information available, staff has drafted an estimate of the change as applied to local businesses: Restaurants in Albany report an average of \$55,000 in gross receipts. Under the proposed tax system, a license would cost \$84 at the 0.18% rate and \$87.50 at 0.25% (both including the \$75 base rate). Currently restaurants are reporting an average of 3.38 full time equivalent employees on their business licenses. Using the current rate structure, these businesses would be paying \$560.84 in business license taxes.

The difference is made up in professional services sectors that generally have less employees but bring in more in gross receipts. This would include business types like legal services, health care services, and accounting services, to name a few. It is difficult to provide an estimate of the cost difference for these businesses since the City does not collect gross receipt information for them at this time. However, NBS was able to get an industry average of \$500,000 annual gross receipts for health care offices. Currently, business licenses for health care offices report an average of 1 additional FTE, which is a tax of \$399. With the new gross receipts tax, the office would be charged \$885 at 0.18% and \$1,200 at 0.25%.

Graduated tax rate based on gross receipts

Another option is to implement a graduated tax rate system similar to the income tax bracket structure. In this type of structure, lower gross receipts brackets are taxed at lower rates, while receipts in higher brackets get taxed at a higher rate. This does not mean that all gross receipts are taxed at the higher rate once a threshold is met, it means that all receipts over that threshold are taxed at the higher rate. For example, to reach \$800,000 in revenue, the City could charge:

Gross Receipts	Tax Rate on Receipts	Total Tax
\$0 to \$50,000	0.00%	\$25
\$50,001 to \$250,000	0.05%	\$75 + 0.05% over \$50,000
\$250,001 to \$1,000,000	0.10%	\$175 + 0.1% over \$250,000
\$1,000,001 and above	0.15%	\$825 + 0.15% over \$1,000,000

For \$1 million in revenue, the City could charge:

Gross Receipts	Tax Rate	Total Tax
\$0 to \$50,000	0.00%	\$25
\$50,001 to \$500,000	0.1%	\$75 + 0.1% over \$50,000
\$500,001 to \$1,000,000	0.2%	\$525 + 0.2% over \$500,000
\$1,000,001 and above	0.3%	\$1,525 + 0.3% over \$1,000,000

Attachment

1. 2022 Albany Business License Tax Rates



2022 Business License Tax Rates

Administrative Fees set by City of Albany Master Fee Schedule:

Issuance of 1st License	\$ 16.21
Issuance-Planning & Building Reviews	\$ 39.72
<i>In town businesses except home occupation</i>	
Lost License Replacement	\$ 16.21
Transfer of License	\$ 39.72

Apartment Rental Property is disallowed from license transfer - must reapply

Rent Review Fee	\$ 15.00
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Master Fee Schedule available online at <https://www.albanyca.org/departments/finance/master-fee-schedule>

State Mandated Fee

Senate Bill 1186	\$ 4.00
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Business License Taxes

Business Type

Tax

Term

Businesses with a fixed location within Albany

Owner or sole employee	\$ 331.00	Annual
Each additional full time equivalent employee	\$ 68.00	Annual

Contractors and Trades

Owner or sole employee	\$ 331.00	Annual
	\$ 192.00	Semi-annual
	\$ 104.00	Quarterly
Each additional full time equivalent Employee	\$ 68.00	Annual
	\$ 34.00	Semi-annual
	\$ 7.00	Quarterly

Note: Contractors and Trades with a fixed place of business within Albany may purchase up to two (2) license per year (Albany Municipal Code § 5-2.3)

Businesses with less than \$7,200 annual gross receipts

Owner or sole employee	\$ 68.00	Annual
Each additional employee	\$ 44.00	Annual

Minors with less than \$500 in annual gross receipts within Albany
(Does not include Solicitors and Peddlers)

	\$ 17.00	Annual
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Apartment Rental Units-Residential

	\$ 104.00	Annual (per unit)
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An apartment rental unit as used herein is a room or suite of two (2) or more rooms which is occupied or which is intended or designed to be occupied by not more than one (1) family, providing complete independent living facilities for one (1) or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation and for which rent is asked, paid or received. This includes, but is not limited to, apartments, single-family houses, cottages, buildings having two (2) or more apartment units, condominiums, flats, or in-law units.

Amusement & Entertainment

Permanent Premises: includes fewer than 100 admissions

5 or more days per week	\$ 1,326.00	Annual
Up to 4 days per week	\$ 1,054.00	Annual
Up to 3 days per week	\$ 789.00	Annual
Up to 2 days per week	\$ 531.00	Annual
1 day or less per week	\$ 395.00	Annual
Occasional	\$ 68.00	Day

Theaters, Occasional: Per 100 admissions sold or fractions thereof

Less than \$10 per ticket	\$ 44.00
\$10 or more per ticket	\$ 68.00



2022 Business License Tax Rates

Business Type	Tax	Term
Special Events: Temporary event held for the benefit or enjoyment of public (carnivals, fairs, circuses, auto shows, boat shows and recreational vehicle shows)	\$ 3,960.00	Week
	\$ 1,186.00	Day

Sponsored Events

0 - 10 businesses	\$ 52.00	Per Event
11 - 25 businesses	\$ 117.00	Per Event
26+ businesses	\$ 218.00	Per Event

License is obtained by the event sponsor (who already has an Albany Business License) and must be paid prior to the event

Other Business Types

Advertising Material Distribution	\$ 1,109.00	Annual (per person)
	\$ 275.00	Quarter (per person)
	\$ 92.00	Month (per person)
Advertising Vehicle	\$ 959.00	Annual
	\$ 233.00	Quarter
	\$ 80.00	Month
Amusements, Concessions	\$ 264.00	Day
Auctioneers, Real Property	\$ 395.00	Day
Auctioneers, Personal Property	\$ 921.00	Quarter
	\$ 195.00	Day
Automobiles for hire	\$ 92.00	Annual (per vehicle)
Bail Bond Brokers	\$ 395.00	Annual
Billboards	\$ 789.00	Annual
Boxer-Wrestling	\$ 3,960.00	Day
Christmas Tree or Seasonal Decorations not connected with another business operating from a fixed location in Albany	\$ 192.00	Quarter
Pawnbrokers	\$ 4,617.00	Annual
Peddlers and Solicitors	\$ 264.00	Quarter (per person)
	\$ 68.00	Day (per person)
Peddlers and Solicitors, personally manufactured articles and produce (Food Trucks, etc.)	\$ 135.00	Quarter (per person)
	\$ 31.00	Day (per truck)
Public Dance (Temporary)	\$ 658.00	Day
Pony Rides & Childrens' Amusements	\$ 92.00	Day
Skating Rink	\$ 5,274.00	Annual
Vendor of racing forms	\$ 2,634.00	Meet
	\$ 191.00	Meet

Utility Service

Per \$1,000 of gross receipts	\$ 1.00	Annual
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ALL BUSINESSES LOCATED WITHHIN ALBANY MAY PURCHASE UP TO TWO (2) LICENSES PER YEAR FOR ONE (1) BUSINESS. ALL OTHERS ARE BASED ON LISTED TERMS.

I certify that the foregoing rates are true and correct based on a 4.29% increase in the CPI for Urban Wage Earners and Clerical Workers (CPI-W) in the S.F. Bay Area from June 2020 to June 2021, pursuant to Albany Municipal Code § 5-2.2.

DATED: November 8, 2021

Heather Rowden

Heather Rowden
City Treasurer



Business License Tax Updates

Current Structure

Costs

- General business:
 - \$331 for one employee/owner
 - \$68 for each additional employee
- Rentals:
 - \$104 per unit
- Low income:
 - Generate less than \$7,200 in revenue each year (not adjusted for inflation)
 - \$68 for one employee/owner
 - \$44 for each additional employee

Current Structure Continued

Business Type

- Amusements & Entertainment:
 - Permanent locations
 - Theaters
- Special events:
 - Sponsored by in-town business
 - Not sponsored
- Advertising material distribution
- Advertising vehicle
- Amusements/Concessions
- Auctioneers:
 - Real property
 - Personal property
- Automobiles for hire
- Bail bond brokers
- Billboards
- Boxer/Wrestling
- Christmas tree/Seasonal Decorations
- Pawnbrokers
- Peddlers and solicitors:
 - General
 - Personally manufactures articles and produce
- Public Dance
- Pony rides/Children's amusements
- Skating Rink
- Vendor of racing forms
- Utility Service

Gross Receipts Tax

Why?

- Suggested in the Albany Economic Development Strategic Plan
- Spread the tax burden based on ability to pay instead of employee count or type of business
- Modernize Albany Municipal Code
- Ease administration

Comparables

- Alameda, Berkeley, Richmond, Hercules use gross receipts
- El Cerrito uses employee count
- Tax structures vary from city to city
 - Rates (flat or tiered)
 - Industry

Gross Receipts Tax Calculations

- Sales tax information
- Current business license data
 - Number of professional services offices
 - Number of current rental units
- Other assumptions
 - Professional services assumptions were made by NAICS codes
 - Gross receipts data was pulled from known area averages

Flat Rate

\$800,000

- Less than \$50,000: \$25 flat rate
- \$50,000 or more: \$75 flat rate with gross receipts of 0.18% applied to \$50,000 and up
- Comparison:
 - Restaurants average \$55,000 in gross receipts:
 - New structure: \$84
 - Current structure: \$560.84 assuming 3.38 full time equivalent employees
 - Health Care averages \$500,000 in gross receipts:
 - New structure: \$885
 - Current structure: \$399 with 1 full time equivalent employee

Flat Rate

\$1,000,000

- Less than \$50,000: \$25 flat rate
- \$50,000 or more: \$75 flat rate with gross receipts of 0.25% applied to \$50,000 and up
- Comparison:
 - Restaurants average \$55,000 in gross receipts:
 - New structure: \$87.50
 - Current structure: \$560.84 assuming 3.38 full time equivalent employees
 - Health care services averages \$500,000 in gross receipts:
 - New structure: \$1,200
 - Current structure: \$399 with 1 full time equivalent employee

Graduated Tax Rate

\$800,000

Gross Receipts	Tax Rate on Receipts	Total Tax
\$0 to \$50,000	0.00%	\$25
\$50,001 to \$250,000	0.05%	\$75 + 0.05% over \$50,000
\$250,001 to \$1,000,000	0.10%	\$175 + 0.1% over \$250,000
\$1,000,001 and above	0.15%	\$825 + 0.15% over \$1,000,000

- Comparison:
 - Restaurants average \$55,000 in gross receipts:
 - New structure: \$77.50
 - Current structure: \$560.84 assuming 3.38 full time equivalent employees
 - Health care services averages \$500,000 in gross receipts:
 - New structure: \$425
 - Current structure: \$399 with 1 full time equivalent employee

Graduated Tax Rate

\$1,000,000

Gross Receipts	Tax Rate on Receipts	Total Tax
\$0 to \$50,000	0.00%	\$25
\$50,001 to \$500,000	0.1%	\$75 + 0.1% over \$50,000
\$500,001 to \$1,000,000	0.2%	\$525 + 0.2% over \$500,000
\$1,000,001 and above	0.3%	\$1,525 + 0.3% over \$1,000,000

- Comparison:
 - Restaurants average \$55,000 in gross receipts:
 - New structure: \$80
 - Current structure: \$560.84 assuming 3.38 full time equivalent employees
 - Health care services averages \$500,000 in gross receipts:
 - New structure: \$525
 - Current structure: \$399 with 1 full time equivalent employee

Summary

Flat Rate

\$800,000

\$1,000,000

- Less than \$50,000: \$25 flat rate
 - \$50,000 or more: \$75 flat rate with gross receipts of 0.18% applied to \$50,000 and up
- Less than \$50,000: \$25 flat rate
 - \$50,000 or more: \$75 flat rate with gross receipts of 0.25% applied to \$50,000 and up

Graduated Tax Rate

\$800,000

\$1,000,000

- Less than \$50,000: \$25 flat rate
 - \$50,001 to \$250,000: \$75 plus 0.05% over \$50,000
 - \$250,001 to \$1,000,000: \$175 plus 0.1% over \$250,000
 - \$1,000,001 and above: \$825 plus 0.15% over \$1,000,000
- Less than \$50,000: \$25 flat rate
 - \$50,001 to \$500,000: \$75 plus 0.1% over \$50,000
 - \$500,001 to \$1,000,000: \$525 plus 0.2% over \$500,000
 - \$1,000,001 and above: \$1,525 plus 0.3% over \$1,000,000