

CITY ATTORNEY DIGEST

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 2,
DIVISION 17 OF THE SAN DIEGO MUNICIPAL CODE BY
ADDING NEW SECTION 22.1708, RELATING TO TAX
APPEALS.

This ordinance amends Chapter 2, Article 2, Division 17, by adding section 22.1708 to the San Diego Municipal Code (SDMC) relating to tax appeals. Section 22.1708 confirms that claimants who wish to challenge the amount of a tax assessment, penalty, or charge must use the administrative procedure associated with the subject tax as set forth in the SDMC, if any. It also explains that a claimant may challenge the legality of a tax, penalty, or charge by presenting a claim for refund in accordance with the California Government Claims Act (Act) beginning at California Government Code section 900, and reiterates that claimants must use the claim form furnished by the City. SDMC section 22.1708 makes clear that a suit for a tax refund or for injunctive relief to prevent or enjoin the collection of taxes may not be brought against the City unless the claimant first pays the disputed tax, interest, and penalties owed the City; exhausts all administrative remedies applicable to the claim; and presents a properly executed claim for refund in accordance with the Act which is rejected by the City or deemed rejected by operation of law.

This ordinance contains a notice that a full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been available to the City Council and the public prior to the day of its passage.

This ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

A complete copy of the Ordinance is available for inspection in the Office of the City Clerk of the City of San Diego, 2nd Floor, City Administration Building, 202 C Street, San Diego, CA 92101.

MWE:als
02/21/2012
Or.Dept: City Treasurer
O-2012-63

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WHEREAS, the City Treasurer is responsible for the collection of special assessments, charges for permits for private use of public streets, and other miscellaneous taxes, fees, assessments, licenses and privilege charges; and

WHEREAS, the proposed addition of section 22.1708 to the San Diego Municipal Code will clarify the process if a person wishes to contest the amount or legality of any tax, interest, or penalties owed to the City; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 2, Article 2, Division 17 of the San Diego Municipal Code is amended by adding new section 22.1708, to read as follows:

§22.1708 Tax Appeals

(a) Challenging the Amount of a Tax, Penalty or Charge.

A claimant may challenge the amount of a tax assessment, penalty, or charge by using the administrative procedure associated with the subject tax as set forth in the San Diego Municipal Code, if any.

(b) Challenging the Legality of a Tax, Penalty, or Charge.

(1) A claimant may challenge the legality of a tax, penalty, or charge by presenting a claim for refund in accordance with the California

Government Claims Act beginning at California Government Code section 900.

- (2) A tax claim shall be filed on the claim form furnished by the City. A claim may be returned to the claimant if it is not presented using the proper form.

(c) Lawsuits for Tax Relief.

A claimant may not bring suit for a tax refund or for injunctive relief to prevent or enjoin the collection of taxes against the City or any officer, employee, board, commission, or authority of the City unless:

- (1) the claimant first pays the disputed tax, interest, and penalties owed the City;
- (2) the claimant has exhausted all administrative remedies applicable to the claim; and
- (3) the claimant has presented a claim for refund in accordance with the California Government Claims Act and the City has rejected the claim or the claim is deemed to have been rejected.

(d) Signature on a Claim.

A tax refund claim shall be signed by the taxpayer or, if applicable, the person obligated to remit the tax, or such person's guardian or conservator. No agent, including the taxpayer's attorney, may sign a tax refund claim.

(e) Class Action Claims for Tax Refunds.

A claimant may not bring a class action claim against the City or any officer, employee, board, commission, or authority of the City for a tax refund.

Section 2. That a full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been made available to the City Council and the public prior to the day of its passage.

Section 3. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: JAN I. GOLDSMITH, City Attorney

By _____
Mara W. Elliott
Deputy City Attorney

MWE:als
02/21/2012
Or.Dept:City Treasurer
Document No. 309110

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~STRIKEOUT~~
NEW LANGUAGE: UNDERLINE

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(a) Challenging the Amount of a Tax, Penalty or Charge.

A claimant may challenge the amount of a tax assessment, penalty, or charge by using the administrative procedure associated with the subject tax as set forth in the San Diego Municipal Code, if any.

(b) Challenging the Legality of a Tax, Penalty, or Charge.

(1) A claimant may challenge the legality of a tax, penalty, or charge by presenting a claim for refund in accordance with the California Government Claims Act beginning at California Government Code section 900.

(2) A tax claim shall be filed on the claim form furnished by the City. A claim may be returned to the claimant if it is not presented using the proper form.

(c) Lawsuits for Tax Relief.

A claimant may not bring suit for a tax refund or for injunctive relief to prevent or enjoin the collection of taxes against the City or any officer, employee, board, commission, or authority of the City unless:

- (1) the claimant first pays the disputed tax, interest, and penalties owed the City;
- (2) the claimant has exhausted all administrative remedies applicable to the claim; and
- (3) the claimant has presented a claim for refund in accordance with the California Government Claims Act and the City has rejected the claim or the claim is deemed to have been rejected.

(d) Signature on a Claim.

A tax refund claim shall be signed by the taxpayer or, if applicable, the person obligated to remit the tax, or such person's guardian or conservator. No agent, including the taxpayer's attorney, may sign a tax refund claim.

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MWE:als
02/21/2012
Or.Dept:City Treasurer
Doc. No. 247678