

Article 1: Business Taxes**Division 3: Taxing Provisions**

(“Licensing Provisions” retitled to “Taxing Provisions” on 2-23-87 by O-16815 N.S.)

§31.0301 Taxes Imposed

- (a) Except as otherwise provided in this Section 31.0301, every person engaged in any business, trade, calling, occupation, operation, franchise, vocation, profession or other means of livelihood, as an independent contractor and not as an employee of another and not specifically taxed by any other business tax code of The City of San Diego, shall pay annually a business tax of one hundred twenty-five dollars (\$125), plus a sum of money equal to five dollars (\$5) per employee. For a business with a certificate, the number of persons employed in a business shall be the average of all employees over a twelve(12) month period, excluding any employee working less than ten(10) hours per week. For a new business, the number of persons employed may be estimated, and is subject to verification by the City Treasurer or duly authorized City employee. However, in no case shall the owner or owners of a business be considered as employees for purposes of the per capita charge.
- (b) Except as otherwise provided in this Section 31.0301, any company which is not located in The City of San Diego but which hires agents, representatives or independent contractors in San Diego may elect to pay the business tax for their independent contractors at the rate of one hundred twenty-five dollars (\$125) flat fee plus five dollars (\$5) for each independent contractor or representative working in San Diego. A Declaration of Business Tax shall accompany the tax payment. The number of agents, independent contractors or representatives shall be the number working under contract with the company in San Diego on the date which falls exactly one calendar month prior to the certificate expiration date. For companies without current certificates, the number of independent contractors or representatives shall be the number under contract with the company in San Diego on the date on which the Declaration of Business Tax is filed. Those agents, representatives and independent contractors of companies which make the election described in Section 31.0301(b) are not required to pay a business tax for purposes of that business.

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- (c) A person subject to the refuse collector business tax under Section 31.0306 is not eligible to exercise the election in Section 31.0301(b).
- (d) Effective July 1, 1994, every business with twelve (12) or fewer employees who would be required to pay the business tax described in section 31.0301(a) shall pay seventy dollars (\$70), plus a sum of money equal to three dollars (\$3) per employee.
- (e) Effective July 1, 1995, every business with twelve (12) or fewer employees who would be required to pay the business tax described in section 31.0301(a) shall pay a business tax of thirty-four dollars (\$34).
- (f) In addition to the penalties for delinquent payment established in section 31.0131 all businesses who do not register or pay their taxes shall pay a surcharge of sixty-eight dollars (\$68) for businesses with fewer than thirteen (13) employees and two hundred and fifty dollars (\$250) for businesses with thirteen employees or more.

(Amended 4-14-1997 by O-18400 N.S.)

(Amended 7-12-2004 by O-19297 N.S.)

§31.0302 Taxes — Two or More Businesses or Activities at Same Location

Except as otherwise provided in this Article, whenever any person is engaged in two or more activities at the same location, under a single business name, such as manufacturing and retailing, then such person shall not be required to pay a separate business tax for each type of activity, but the total number of employees of all types of activities combined shall be used as the basis for computing the amount of tax to be paid for the conduct of all such types of activities under a single certificate.

(Amended 9-27-1993 by O-17986 N.S.)

§31.0305 Business Tax — Apartment Houses, Flat Dwellings, Motels, Hotels, Rental Units, and Other Residential Real Estate

- (a) Definitions. For the purposes of Section 31.0305, the following definitions apply:

“Apartment house” means a building arranged in separate units, each unit containing a kitchen and a bathroom, designed to house several families living independently of one another.

“Condominium” means a building or part of a building designed to house not more than one family including all necessary employees of such family.

“Costs of the premises” means those payments related to mortgage, taxes, insurance, and condominium or homeowners association fees.

“Duplex” means a detached building, containing not more than two kitchens, designed to house two families living independently of each other.

“Flat dwelling” means a building arranged in separate units, each unit containing a kitchen and a bathroom, designed to house several families living independently of one another.

“Hotel” means any structure or any portion of any structure which is occupied or intended or designed for occupancy by transients for dwelling, lodging, or sleeping purposes and is held out as such to the public. “Hotel” does not mean any hospital, convalescent home, or sanitarium.

“Immediate family member” means a husband, wife, parent, child, brother, sister, stepchild, adopted child, grandchild, great-grandchild, son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, sister-in-law, half-brother, or half-sister, or if related by blood, any uncle, aunt, niece, or nephew, or spouse of any of those persons.

“Lessor” means one who grants a lease.

“Mobile home” means a large house trailer, designed for year-round living in one place.

“Motel” means any structure or any portion of any structure which is occupied or intended or designed for occupancy by transients for dwelling, lodging, or sleeping purposes and is held out as such to the public. “Motel” does not mean any hospital, convalescent home, or sanitarium.

“Multiple family dwelling” means one or more related dwelling units situated on one and the same lot or parcel of land that has been zoned for multiple family dwellings, designed to house three or more families living independently of each other.

“Owner” means a person who holds legal title to property.

“Owner-lessor” means an owner who grants a lease.

“Rent” means consideration exchanged for use, occupation, or enjoyment of property.

“Rental complex” means two or more related dwelling units, designed to house two or more families living independently of one another, which units are owned and operated under one and the same ownership and which cannot be bought, sold, transferred, exchanged, traded, quitclaimed, deeded, willed, or in any way released independently of one another.

“Single family dwelling” means a building or part of a building designed to house not more than one family including all necessary employees of such family.

“Transient” means any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license, or other agreement for a period of less than one month.

“Two family dwelling” means a detached building, containing not more than two kitchens, designed to house two families living independently of each other.

- (b) Every person conducting, operating, managing or renting any residential real estate, including an apartment house, flat dwelling, single or multiple family dwelling, duplex, or any other dwelling, except a motel or hotel which shall be subject to Section 31.0305(c), shall pay a business tax of fifty dollars (\$50) per property plus five dollars (\$5) per unit annually on all residential real estate containing at least one dwelling unit but no more than ten dwelling units, fifty-seven dollars (\$57) per property plus nine dollars (\$9) per unit annually on all residential real estate containing at least eleven dwelling units but no more than one hundred dwelling units, and one hundred fifty dollars (\$150) per property plus eight dollars (\$8) per unit on all residential real estate containing more than one hundred dwelling units.
- (c) Every person conducting, operating, managing or renting any motel or hotel shall pay a business tax of fifty dollars (\$50) per property plus five dollars (\$5) per unit annually on all motels and hotels containing at least one dwelling unit but no more than two hundred fifty units and fifty-seven dollars (\$57) per property plus nine dollars (\$9) per unit annually on all motels and hotels containing more than two hundred fifty units.
- (d) (1) The business tax for the rental of residential real estate shall be assessed per property and the liability for such tax shall be determined by the owner-lessor’s ownership or leasehold interest in each property.

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- (2) Upon submission of documentary proof acceptable to the City Treasurer, the owner–lessor may obtain a single consolidated business tax:
- (A) if one single family dwelling or one duplex is situated upon two or more contiguous properties comprising two or more tax assessor parcel numbers; or,
 - (B) if one or more apartment houses, flat dwellings, multiple family dwellings, motels or hotels wholly operated under one ownership as a single rental complex is situated on two or more contiguous tax assessor parcel numbers.
- (3) Upon submission of documentary proof acceptable to the City Treasurer, owners of eight (8) or more separate parcels of property, having separate tax assessor parcel numbers, the same legal owner, and otherwise subject to separate business tax assessments, may obtain a single consolidated business tax assessment for those properties in excess of the first seven (7) properties only. The first seven (7) properties will remain subject to separate business tax assessments.
- (e) Residential real estate shall include the rental of a single family dwelling, including a mobile home, by an owner– lessor.
- (f) The business tax imposed by Section 31.0305 shall constitute a lien on the real property upon which the business is conducted and shall be collected by the City Treasurer.
- (g) A business tax shall not be required of any person who owns and resides in a single family dwelling but participates with one or more other residents in the shared costs of the premises, or who rents to an immediate family member at a rent that is less than the costs of the premises.
- (h) It shall be presumptive evidence that a single family dwelling is considered rented if the owner fails to claim the property tax exemption annually applicable according to the San Diego County Tax Assessor’s records. Whenever an owner fails to claim such exemption for any calendar year, it shall be presumed that the properties were rented and therefore subject to the business tax, unless the owner establishes to the satisfaction of the City Treasurer that the premises were not rented. Proof may include copies of any

state or federal tax returns showing that there was no rental income received by the owner for the calendar year in which the City Treasurer makes the determination, provided that the owner had not advertised or otherwise held out property as being available for lease or rent during that calendar year.

- (i) For purposes of Section 31.0305 the City Manager shall be the final judge of what constitutes acceptable documentary proof in support of requests for exemption or consolidation of tax assessments.

(Amended 9-9-1996 by O-18334 N.S.)

§31.0306 Refuse Collector Business Tax Proposed Amendment

- (a) Commencing on November 1, 1993, it is unlawful for any person to collect refuse in the City, transport refuse in the City, or dispose of refuse at any landfill or refuse transfer station operated by The City of San Diego without first paying a refuse collector business tax.
- (b) The business tax to be paid by a refuse collector shall be at a rate established periodically by Council resolution, not to exceed a maximum of \$8 for each ton of refuse deposited by any vehicle owned or operated by that refuse collector at any landfill or refuse transfer station operated by The City of San Diego.
- (c) Any and all money collected under this section shall be segregated from any money collected under Section 66.0129 and shall be separately accounted for.
- (d) Pursuant to Section 31.0133, and taking into account the nature of the business being taxed by this section, the City Treasure shall promulgate a regulation for the issuance of certificates by January 1, 1994. The City Treasurer's failure to promulgate this regulation by January 1, 1994 shall not affect the validity of Section 31.0306.
- (e) Persons other than refuse collectors who dispose of less than two (2) tons of refuse per vehicle per trip at a landfill or refuse transfer station, or persons who deposit refuse generated from a City-approved community cleanup campaign, shall not be required to pay the business tax imposed by Section 31.0306, but shall transport the refuse in the manner set forth in Section 66.0104.
- (f) Municipal corporations, the City's nonexclusive franchise waste haulers, and other governmental agencies engaged in the collection, transportation, or

disposal of refuse within The City of San Diego shall be exempt from the business tax.

- (g) Notwithstanding Section 31.0302, a person who is subject to the business tax imposed by Section 31.0306 may also be required to pay other business taxes imposed by provisions of Chapter III, Article I of the San Diego Municipal Code.

(Retitled to "Refuse Collector Business Tax Proposed Amendment" and amended 10-18-1999 by O-18699 N.S.)

§31.0307 Business Tax — Trailer Parks or Mobile Home Parks

Every person conducting, operating or managing any trailer park or mobile home park shall pay annually a business tax of forty dollars (\$40) plus three dollars (\$3) per trailer unit or rental space. The business tax imposed by this section shall constitute a lien on the real property upon which the trailer park or mobile home park is operated and shall be collectable in the same manner as ordinary property taxes by the San Diego County Tax Assessor, to be remitted to the City Treasurer.

("Business Tax— Trailer Parks or Mobile Home Parks" renumbered from Sec. 31.0305.1 and amended 7-30-1990 by O-17506 N.S.)

§31.0308 Swap Meets, Trade Shows, and Other Groups of Sellers Halls

Every person conducting, operating or managing a swap meet, or any person conducting, operating or managing a trade show, home show, fair or any other group of two or more sellers and/or exhibitors at one location shall pay a business tax of one hundred twenty-five dollars (\$125) plus five dollars (\$5) per space annually. A space is the minimum unit area available for sale or lease by the operator to a seller or exhibitor. The number of taxable spaces shall be the maximum number of spaces which will be available for sale or lease by the operator to individual sellers or exhibitors during the period of the certificate of payment.

("Swap Meets, Trade Shows, and Other Groups of Sellers Halls" renumbered from Sec. 31.0305.3 and amended 7-30-1990 by O-17505 N.S.)

§31.0309 Transition Rules

During the first year of their applicability, the business taxes imposed by Sections 31.0305 and 31.0307 may be collected by the City Treasurer at such times and using such procedures as shall be necessary and appropriate to provide for orderly administrative transition and collection.

("Transition Rules" added 7-30-1990 by O-17506 N.S.)

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§31.0310 Utilization of Revenues

The taxes imposed under Sections 31.0301 through 31.0308 shall be collected by or remitted to the City Treasurer and deposited to the General Fund of the City (Fund No. 100), to be used for general governmental purposes as the City Council may from time to time provide in accordance with the City Charter of The City of San Diego and its appropriation ordinances and resolutions.

(“Utilization of Revenues” added 7-30-1990 by O-17506 N.S.)

§31.0311 Penalties

Notwithstanding the provisions of Section 31.0301, at such time as the taxes imposed by Sections 31.0305 and 31.0307 are collected by the County Tax Assessor by placement upon the Assessor’s Rolls, the penalties for unpaid taxes shall conform to those charges imposed for delinquent taxes.

(“Penalties” added 7-30-1990 by O-17506 N.S.)