

LEGISLATIVE DIGEST

[Business and Tax Regulations Code - Business Tax Installment Payments; Combined Reporting; Special Assessments]

Ordinance amending the Business and Tax Regulations Code to provide additional penalty relief for payroll expense tax and gross receipts tax payments; to require combined reporting of the payroll expense tax by related taxpayers; and to clarify that fees and special assessments are administered according to the common administrative provisions applicable to other business taxes.

Existing Law

Proposition E was enacted by the voters at the election on November 6, 2012, and becomes operative on January 1, 2014. Proposition E provides that as of January 1, 2014, the payroll expense tax is expected to be phased out, and the new gross receipts tax phased in. During the phase-in period (2014 through 2018), business taxpayers will be required to pay both the payroll expense tax and the gross receipts tax. The Treasurer-Tax Collector will administer the payroll expense tax while implementing the new gross receipts tax.

Commencing January 1, 2014, quarterly installment payments for the payroll expense tax and gross receipts tax must be computed by using the taxpayer's actual payroll expense and actual gross receipts for that quarter, multiplied by a percentage tax rate under each ordinance. Deficiencies in an installment payment amount are subject to penalties and interest.

Commencing January 1, 2014, receipts from the payroll expense and gross receipts taxes are treated on a "stand-alone" basis – an underpayment in one tax owed to the City is subject to penalties and interest even if the same taxpayer made an overpayment in the other tax to the City for the same business and the same period.

Commencing January 1, 2014, the gross receipts tax law requires that a combined group file a single tax return (a "combined return") for all members of the combined group. A "combined group" is a group comprised of related entities, as defined. However, under the existing payroll expense tax law, each taxpayer in a combined group files its own payroll expense tax return.

The Treasurer administers and collects various fees and special assessments levied by business improvement/community benefit districts pursuant to Article 6 of the Business and Tax Regulations Code.

Amendments to Current Law

This proposed ordinance provides that a taxpayer will not be subject to penalties or interest if the amount of the payroll expense tax or gross receipts tax installment is equal to or greater than the actual tax owed, or if the sum of the taxpayer's payroll expense tax and gross receipts tax installments is equal to or greater than 26 percent of the sum of the taxpayer's payroll expense tax and gross receipts tax liabilities from the immediately preceding tax year.

This ordinance specifies that a taxpayer's overpayment of gross receipts tax will be applied to any shortfall in that taxpayer's payroll expense tax, and vice-versa.

This ordinance provides that a combined group that is required to file a combined return for gross receipts tax purposes is also required to file a combined return for payroll expense tax purposes.

This ordinance clarifies that fees and special assessments are administered under the common administrative provisions of Article 6 that generally apply to all of the City's business taxes.

Background Information

This ordinance is intended to smooth the transition between the phasing out of the payroll expense tax and the phasing in of the gross receipts tax.

Providing penalty relief if a quarterly payment is equal to or greater than a preceding year liability, or if the overall amount of tax paid is correct, helps taxpayers transition to the methods of computing installment payments required under Proposition E, while ensuring that the City takes in tax revenue throughout the tax year. None of the changes will result in additional tax being imposed or collected.

Requiring a combined group of related business entities to file a single payroll expense tax return aligns the group's filing with the combined return requirement under the gross receipts tax. No additional tax is imposed or collected because the tax is calculated as if each member of the group was an individual payroll expense taxpayer.

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