



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Scott P. Johnson  
Jennifer A. Maguire

**SUBJECT:** TEMPORARY BUSINESS TAX  
SUSPENSION PROGRAM

**DATE:** April 19, 2010

Approved

Date

4/21/10

**COUNCIL DISTRICT:** City-Wide

## RECOMMENDATION

1. Approve an Ordinance to provide for a temporary business tax suspension program targeted to the first 1,000 applications plus any additional eligible applications submitted by businesses with thirty-five (35) or fewer employees that enter into a new lease or renew an existing lease between January 1 - June 30, 2010 and pay past due obligations owed the City as described in the Ordinance.
2. Adoption of the following Funding Sources Resolution amendments in the General Fund:
  - a) Increase the revenue estimate for Transfers and Reimbursements in the amount of \$406,250 to recognize a transfer from the Low and Moderate Income Housing Fund; and
  - b) Decrease the revenue estimate for Licenses and Permits by \$406,250 to reflect the estimated loss of Business Tax revenue.
3. Adoption of the following Appropriation Ordinance amendments in the Low and Moderate Income Housing Fund:
  - a) Decrease the Reserve for the Loan Origination and Annual Monitoring Fee in the amount of \$406,250; and
  - b) Establish a Transfer to the General Fund in the amount of \$406,250.

## OUTCOME

Approval of the recommendations will assist in providing an economic development incentive to spur business attraction and retention efforts during the economic downturn.

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## **BACKGROUND**

On March 16, 2010, the City Council gave direction to staff to implement a suspension of business license taxes for the first 1,000 businesses that provide documentary evidence of a new lease or lease renewal (i.e. signed since January 1, 2010) by June 30, 2010, with the following requirements:

- Qualifying businesses must be current on all past due obligations to the City; and
- Qualifying businesses must have 35 employees or fewer.

## **ANALYSIS**

The proposed incentive focuses on attracting new businesses and incentivizing existing businesses to remain in San José. Most businesses in San José pay a business tax based on the number of employees. The suspension program is for businesses that pay a business tax that is calculated based on the number of employees. The business tax for a business with 8 employees or fewer is \$150 per year; there is an additional \$18 tax per employee over 8.<sup>1</sup>

The proposed suspension of the business tax requires the adoption of an ordinance by the City Council. The general terms of the suspension as outlined in the proposed ordinance are as follows:

- Qualifying business would be entitled to the suspension of the business tax, up to a maximum of \$636<sup>2</sup> ( $\$18 * 27 = 486 + 150$ ), in the billing cycle immediately following the successful submittal of satisfactory documents. The proposed suspension of business tax is intended to attract new businesses, retain existing businesses and achieve increased employment in San Jose businesses. As such, the suspension of business tax will not be in the form of issuing a refund of business tax paid prior to the adoption of the program; rather, it is to be in the form of issuing a credit towards a future business tax bill.
- In the case of a taxpayer who is delinquent on payment of any obligations due to the City, the suspension of business tax would only be permitted if the business paid its past due financial obligations to the City and satisfied the documentation requirement at the time of application.

In addition to the above, in order to qualify for the suspension of business tax, a business must

- Submit a written request on the form provided by the Finance Department during the application period of June 18, 2010 through September 30, 2010. The application period will end prior to September 30, 2010 in the event that the successful 1,000<sup>th</sup> application is received prior to September 30, 2010; and

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<sup>1</sup> For more information regarding calculating business tax, refer to Municipal Code 4.76

<sup>2</sup> Twenty-seven (27) represents the number of employees subject to the \$18 per employee charge ( $35 - 8 = 27$ ).

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- Provide a fully executed copy of the lease of space in San José executed between January 1, 2010 and June 30, 2010.

Council directed that the suspension be limited to the first 1,000 successful applicants. Staff recommends that the suspension be limited to the first 1,000 applicants who satisfy the requirements as specified in the ordinance plus any additional applicants whose qualifying application is received or postmarked on the same date as the successful 1,000<sup>th</sup> applicant's application. The recommended limitation, as set forth above, is meant to cap the potential fiscal impact as well as minimize the demand on staff resources since it is possible that the Finance Department could receive thousands of applications during the application period.

In order to determine the date of the applications, the postmark of mailed applications will be used and hand delivered applications will be date stamped upon receipt. Since it is not possible to determine from a postmark the time of day it was mailed, staff will be unable to determine the order of priority of the postmarked applications and the hand delivered applications that were delivered on the same date that the mailed applications were postmarked. Accordingly, staff recommends that all successful applications date stamped or postmarked on the same date as the successful 1,000<sup>th</sup> applicant's application was date stamped or postmarked be included in this temporary Business Tax Suspension Program thus possibly resulting in more than 1,000 successful applications receiving the temporary business tax suspension.

In order for the Finance Department to implement the Temporary Business Tax Suspension Program without jeopardizing other programs and revenue collection efforts, a temporary part-time Office Specialist position is required to assist the Finance Department revenue collection staff from June 1, 2010 through October 15, 2010 to process the suspension requests, including review of the lease terms. It is anticipated that 2009-2010 Finance Department personal services savings of \$30,000 will be recommended to be rebudgeted as part of the 2010-2011 budget process to address this need in 2010-2011.

The Finance Department, in coordination with the San José Downtown Association, will publicize the program in the Downtown Dimensions newsletter, a monthly publication published by the San José Downtown Association along with coordination with the various business districts in the City.

#### **EVALUATION AND FOLLOW-UP**

This memorandum presents the set of recommendations for the City Council's approval of the temporary suspension of business taxes. To provide temporary staffing to implement this program, it is anticipated that savings in the Finance Department generated in 2009-2010 will be recommended to be rebudgeted to 2010-2011 as part of the 2010-2011 budget process.

### **PUBLIC OUTREACH/INTEREST**

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council, or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Although this item does not meet any of the above criteria, this memorandum will be posted on the City's website for the May 11, 2010 City Council agenda.

### **COORDINATION**

This memorandum has been coordinated with the City Attorney's Office.

### **FISCAL/POLICY ALIGNMENT**

This action is consistent with the Economic Development Strategy of supporting retaining jobs and revenue including supporting small and local businesses.

### **COST SUMMARY/IMPLICATIONS**

The estimated reduction in Business Tax revenue as a result of this incentive program is projected at approximately \$400,000. However, this amount could range between \$150,000 and \$636,000 for the 1,000 businesses depending on the number of employees per business. A budget action is recommended in this memorandum to reduce the Business Tax revenue estimate by \$406,250 in 2009-2010 to account for this potential loss in revenue. Any positive or negative variance will be reconciled in 2010-2011. To offset this reduction, actions are recommended in the Low and Moderate Income Housing Fund to recognize a transfer to the General Fund in the amount of \$406,250 along with a corresponding reduction to the Reserve for Loan Origination and Annual Monitoring Fee appropriation that is expected to be established on April 27, 2010.

A budget action to establish the Reserve for Loan Origination and Annual Monitoring Fee is recommended for City Council approval on the April 27, 2010 Joint Meeting of City Council/City of San José Financing Authority Agenda (Item 3) as part of the budget actions to meet the State mandated payment of \$62 million by the San Jose Redevelopment Agency to the

Supplemental Educational Revenue Augmentation Fund (SERAF), due on May 10, 2010. As discussed in the SERAF memorandum, this Reserve accounts for loan fees of \$406,250 to cover General Fund staffing costs in 2009-2010 associated with the loan origination, administration and monitoring of the SERAF loan. Because the existing Finance Department personal services appropriation is tracking within the current year appropriation, no additional funding is necessary to cover these staffing costs. Instead, the loan fee revenue is proposed to offset the lower Business Tax receipts.

**BUDGET REFERENCE**

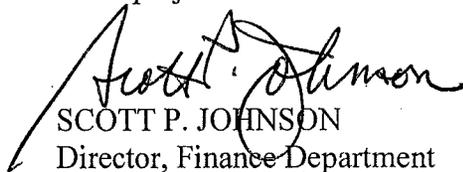
The table below identifies the funds and appropriations proposed to fund the actions recommended as part of this memo.

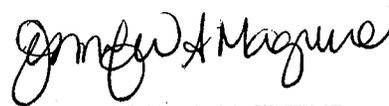
Fund #	Appn #	Appn. Name	Total Appn	2009-2010 Adopted Budget	Last Budget Action (Date, Ord. No.)
443	TBD*	Reserve for Loan Origination and Annual Monitoring Fee	\$406,250	N/A	04/27/10*

\* A budget action to establish this Reserve recommended for City Council approval on the April 27, 2010 City Council//City of San Jose Financing Authority Board Joint Meeting Agenda.

**CEQA**

Not a project.

  
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For questions, please contact Wendy Sollazzi, Division Manager, at (408) 535-7005.