



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Scott P. Johnson

SUBJECT: SEE BELOW

DATE: October 6, 2008

Approved

Christine F. Shuppley

Date

10/14/08

COUNCIL DISTRICT: City-Wide
SNI AREA: NA

SUBJECT: APPROVE BUSINESS TAX BILLING PROCESS CHANGES AND MUNICIPAL CODE AMENDMENTS IN ORDER TO IMPLEMENT THE NEW BUSINESS TAX BILLING SYSTEM

RECOMMENDATION

It is recommended that the City Council:

Approve an Ordinance amending Chapter 4.76 of Title 4 of the San José Municipal Code by 1) amending Sections 4.76.240 and 4.76.270 to clarify the due date for the initial payment of the business tax and to revise the due date for subsequent payments of the business tax to correspond with the City's new business tax billing system; 2) by amending Section 4.76.290 to clarify the penalty provisions for late payment; 3) by adding a new Section 4.76.295 to authorize the Director of Finance to waive penalties under certain circumstances; and 4) providing the current renewal tax payment due dates will apply until such time as the new business tax billing system is successfully implemented.

OUTCOME

Approval of staff's recommendations will enhance the City's ability to deliver more efficient business tax billing and improve customer service effort to the San Jose Business Community.

BACKGROUND

On August 14, 2007, the City Council adopted Resolution 73952 authorizing the Director of Finance to negotiate and execute an agreement for the development and implementation of a Business Tax application migration from the existing legacy VAX system into the City's new Integrated Billing System (IBS). In order to implement the new Business Tax System (BTS), changes to the City's current business tax billing practices are required.

ANALYSIS

One of the key goals of implementing the new BTS is to fully utilize the capabilities of the new billing system. Approving an ordinance amending Chapter 4.76, as discussed herein, allows the City to move from quarterly to monthly billing cycles and will facilitate more efficient billing of the annual business tax payment to business owners.

Business tax is paid on an annual basis by persons engaged in business in the City. Payment of the business tax is required upon starting or conducting business in the City.¹ Currently, the business tax renewal due date is the first day of the calendar quarter in which the person first engaged in business in the City. For example, a person who started business in the City on May 1, 2008, currently has a business tax renewal due date of April 1, 2009 (which reflects the first day of the calendar quarter in which the person first engaged in business in the City). Prior to the quarterly due date, the City sends reminder notices of the business tax renewal date to the businesses whose payment are due.

Staff is recommending approval of an Ordinance amending Sections 4.76.240, and 4.76.270 of Chapter 4.76 of Title 4 of the San Jose Municipal Code to clarify that upon starting or conducting business in the City of San Jose, the first business tax payment is due and payable on the first date on which the person engaged in business in the City, and to specify that each subsequent annual business tax payment is due and payable on the fifteenth day of the calendar month in which the business began. In the example above, the change to the Code will result in the business having a business tax renewal due date of May 15, 2009 (which reflects the fifteenth day of the calendar month in which the person first engaged in business in the City), rather than April 1, 2009.

The current Business Tax billing program has approximately 3,000 business tax accounts that were assigned to a calendar quarter billing cycle which was not the calendar quarter in which these businesses first started business in the City. For these business tax accounts, staff recommends that the renewal due date move from the first day of the calendar quarter to which they were assigned to the fifteenth day of the first month of the calendar quarter in which they are currently paying their business tax renewal.

As noted above, the new BTS allows the City to send notices of the business tax renewal due date on a monthly basis instead of a quarterly basis. The exhibit below compares the current

¹ Section 4.76.290 of Chapter 4.76 of Title 4 of the San Jose Municipal Code allows a new business owner a waiver of penalties and interest if the business tax is paid within 45 days of the start of business.

quarterly billing cycle to the proposed monthly billing cycle, which distributes the quarterly billings over each of the three months for each quarter.

**Exhibit 1
Current Quarterly to Proposed Monthly Billing Cycle Analysis**

Current Quarterly Billing Cycle (VAX)	Current Payment Due Date	Number of Accounts*	Proposed Monthly Billing Cycle (BTS)	Proposed Payment Due Date	Number of Accounts*
December-08	1/10/2009	18,068	January-09	1/15/2009	9,511
			February-09	2/15/2009	4,142
			March-09	3/15/2009	4,415
March-09	4/1/2009	14,570	April-09	4/15/2009	5,638
			May-09	5/15/2009	4,475
			June-09	6/15/2009	4,457
June-09	7/1/2009	16,966	July-09	7/15/2009	7,864
			August-09	8/15/2009	4,931
			September-09	9/15/2009	4,171
September-09	10/1/2009	11,639	October-09	10/15/2009	5,055
			November-09	11/15/2009	3,699
			December-09	12/15/2009	2,885
Total		61,243			61,243

* Represents the number of business tax accounts registered with the City as of September 10, 2008.

The proposed change in the billing cycle will be a benefit to both the City and its business community by smoothing the renewal payment process while providing additional time for the business owners to pay their business tax to the City. Therefore, as a result of this new billing cycle process, businesses will have between 5 and 75 more days to pay their business tax renewal. In addition, it should be noted that during the first year of implementing the new system, the City will forgo a minimal amount of interest due to the extended payment period in exchange for better customer service and a streamlined billing process.

The current VAX system does not have the ability to apply interest to unpaid penalties, even though the language in the current Code can be construed to allow the City to apply interest to penalties. Since the new BTS does have the ability to apply interest to unpaid penalties the current Code is being revised to clearly state that interest will be applied to unpaid penalties as part of the new billing system.

Under our current Code, any person who fails to pay the business tax on time will incur a first penalty of twenty five percent (25%) of the unpaid tax and, if left unpaid for more than a calendar month, a second penalty of twenty five percent (25%) of the unpaid tax.

Staff recommends Council approve adding a new Section 4.76.295 to the Code which authorizes the Director of Finance to waive the first and second penalties if the person provides evidence satisfactory to the Director that failure to pay timely was due to circumstances beyond the control of the person and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect. The person is required to pay the delinquent tax and accrued interest on the delinquent tax owed the City prior to applying to the Director for a waiver, and a waiver may be granted only once during any twenty-four month period.

Lastly, the proposed Ordinance provides that in the event the changes to the new Business Tax Billing System are not successfully implemented, as determined by the Director of Finance, then the current business tax renewal due dates will apply until such time that the Director of Finance issues a renewal notice to the business taxpayer specifying the new business tax renewal due dates.

EVALUATION AND FOLLOW-UP

NA

PUBLIC OUTREACH/INTEREST

Staff will utilize the bill message component of the new BTS to inform customers of the change from a quarterly to monthly billing cycle on the customer's next renewal notice. In addition, staff will post a notice of the billing changes on the City's Business Tax website and outgoing customer information on the City's customer service phone system.

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**

- Criterion 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)**

- Criterion 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)**

COORDINATION

This memorandum has been coordinated with the Department of Information Technology and the Office of the City Attorney.

HONORABLE MAYOR AND CITY COUNCIL

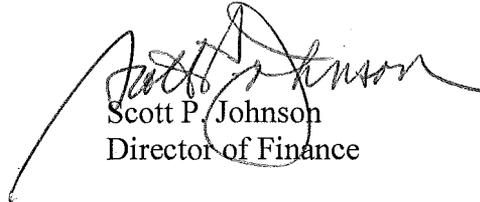
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Subject: Approval of an Ordinance related to the Business Tax Program

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CEQA

Not a project.



Scott P. Johnson
Director of Finance

For questions please contact David McPherson, Deputy Director of Finance, at (408) 535-7091.