



AGENDA REPORT

Finance Department

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| DATE: | March 5, 2024 |
| TO: | Mayor Martinez and Members of the City Council |
| FROM: | Nickie Mastay, Deputy City Manager, Internal Services Andrea Miller, Director of Finance Mubeen Qader, Deputy Director of Finance Antonio Banuelos, Accounting Manager |
| Subject: | Ordinance Creating New Business Activity Classification, Class P – Wholesale, and the Corresponding Rates |
| FINANCIAL IMPACT: | The financial impact of creating this new classification and rate structure will result in a decrease of approximately \$10,000 in Business Tax Revenue in the General Fund. |
| PREVIOUS COUNCIL ACTION: | |
| STATEMENT OF THE ISSUE: | The proposed Ordinance will create a new Business Activity, Class P – Wholesale, and the corresponding rates. |
| RECOMMENDED ACTION: | INTRODUCE an ordinance (first reading) amending Chapter 7.04.103 of the Richmond Municipal Code by creating a new Business Activity Classification, Class P – Wholesale, and the corresponding rates – Finance Department (Nickie Mastay/Andrea Miller/Mubeen Qader/Antonio Banuelos 510-620-6741). This item was continued from the February 27, 2024, meeting. |

DISCUSSION:

City Council placed Measure U on the November 3, 2020, ballot that was approved by the voters. The Measure changed the business tax calculation methodology to be based on gross receipts instead of the prior methodology that was based upon the number of employees employed by a business.

This item was originally scheduled on the December 19, 2023 City Council agenda but was removed and postponed pending more outreach to wholesalers in Richmond. Staff mailed and e-mailed 18 Richmond businesses who have listed wholesaling as their primary businesses and invited them to an online meeting held on January 25, 2024. Staff presented the situation and reasons behind the proposed changes to the Business Tax Ordinance. Participants understood the need for a new class for wholesalers, but also raised concerns about the rates postulating that they should be lower. Additionally, they inquired about possibly making any change retroactive, meaning some businesses would be due a refund.

Measure U (Richmond Municipal Code 7.04) contains fifteen (15) Business Activity Classifications but does not include wholesale as a business activity classification class. City staff is requesting to amend the Ordinance by adding, Wholesale, in section 7.04.130) of the Richmond Municipal Code as follows:

7.04.130 Business Activity Classifications Class

| Class | Industry |
|-------|---|
| A | Retail Sales |
| B | Grocers |
| C | Automobile Sales, Manufacturing |
| D | Recreation and Entertainment |
| E | Hotel/Motel |
| F | Construction contractor |
| G | Business and personal services |
| H | Professional/semi-professional service |
| I | Administrative headquarters (payroll based, not gross receipts) |
| J | Miscellaneous |
| K | Residential and Commercial Rentals |
| L | Cannabis |
| M | Firearms Ammunition |
| N | Taxi and limousine service |
| O | Transportation, trucking |
| P | Wholesale |

Additionally, this new Wholesale class will be assigned a new business tax at the rate provided below following an amendment of the ordinance to include this section after 7.04.205 (J):

7.04.205 Tax Rates for Class A through Class J, and Class P —Progressive Rates

K. Class P. Business engaged in Class P business activities shall pay a business tax as follows:

| If annual gross is: | Then the business tax is: |
|---|---|
| Not over \$1,000,000 | \$1.20 per \$1,000 of annual gross receipts |
| Over \$1,000,000 but not over \$2,500,000 | \$1,200, plus \$1.50 per \$1,000 of annual gross receipts over \$1,000,000 |
| Over \$2,500,000 but not over \$25,000,000 | \$3,450, plus \$1.90 per \$1,000 of annual gross receipts over \$2,500,000 |
| Over \$25,000,000 but not over \$50,000,000 | \$46,200, plus \$2.20 per \$1,000 of annual gross receipts over \$25,000,000 |
| Over \$50,000,000 | \$101,200, plus \$2.40 per \$1,000 of annual gross receipts over \$50,000,000 |

A wholesale classification was inadvertently omitted from the original voter approved ordinance. City staff attempted to correct this oversight via an Administrative Ruling placing Wholesale businesses in the same classification as Retail Sales businesses. The issue with this approach is that the definition of “Retail Sales” in the approved Ordinance excludes the resale of items such as with wholesalers:

*“Retail sales” means the sale of goods, wares, or merchandise for any purpose other **than resale in the regular course of business**, including restaurants and peddlers. (emphasis added)*

Other communities have a wholesale category in their ordinances and the City has businesses that could be classified as “wholesale.” The definitions in the ordinance excluding wholesale from retail and vice versa create legal confusion which could make the Ordinance subject to challenge.

The new classification clarifies both the Business Class and the respective Business Tax Rate structure for Wholesale businesses. Currently, staff classifies Wholesale businesses as part of “Class J – Miscellaneous” which has significantly higher rates than “Class A – Retail Sales”.

AMENDMENT PROCESS

While any amendment to Measure U that would increase the rate of taxation is subject to approval by a vote of the voters, the City Council has the authority to adopt modifications that decrease the rate of taxation, which applies to this action.

BUSINESS TAX UPDATE

City staff recently mailed out the 2024 renewal notices for both rental property businesses and non-rental businesses. The due date for the rental properties is March 1, 2024, while the due date for the non-rentals is April 1, 2024. The Finance Department is providing augmented business tax services to the Richmond business community in person, via phone calls, through our online payment portal, and through virtual online appointments.

The community can leave questions for City staff on the business tax hotline at 510-620-5555 or email to measure_u_info@ci.richmond.ca.us.

DOCUMENTS ATTACHED:

Attachment 1 – Administrative Ruling No. 1
Attachment 2 – Redline Ordinance
Attachment 3 – Final Ordinance
Attachment 4 – Presentation