

CITY OF OAKLAND
OFFICE OF FINANCE
REVENUE DIVISION

DIRECTOR OF FINANCE RULING NO. 6

GROSS RECEIPTS REPORTING AND
TAXATION OF REAL ESTATE BROKERAGE FIRMS/OFFICES

Reference: Section 5-1.02(d) and 5-1.29 of the Oakland Municipal Code.

Purpose

Defines “gross receipts” and classifies “real estate salespersons/agents” as they pertain to taxation of real estate brokerage firms/offices under the provisions of the Oakland Municipal Code Sections referenced above. This ruling clarifies the original intent of the Ordinance in reference to taxation of real estate firms/offices.

BACKGROUND

As a result of an audit of local real estate firms/offices, staff determined that certain firms had been deducting commissions paid to their real estate agents prior to reporting gross receipts for the City of Oakland business tax purposes. These real estate firms/offices contended that said real estate agents were “Independent Contractors” and, therefore, commissions paid were deductible and not reportable to the City of Oakland and also stated that this was an industry-wide practice as it pertained to said real estate agents. The matter was appealed to the Board of Review for its consideration. The Board held a general hearing and invited local Realtors, as well as members of the Oakland Board of Realtors to attend, in order to gather information on their reporting practices and the rationale. Therefore, as a result of the information gathered, both at the hearing and furnished by Staff prior to the hearing, the following ruling is set forth herein:

RULING OF THE DIRECTOR OF FINANCE

Every person engaged in business as a real estate broker shall be taxed as provided by in Sections 5-1.29 and 5-1.02(d) of the Oakland Municipal Code without any deductions for commissions paid or payable to their real estate salespersons/agents, whether such payments are made by the broker to the salespersons/agents or paid by the title company to said real estate salespersons/agents directly from the proceeds of the transactions.

“Gross Receipts”: For purposes of taxation under the above referenced Oakland Municipal Code Sections, gross receipts are herein defined as all commissions and/or fees paid or payable to, or on behalf of, said real estate brokerage firms/offices.

“Real Estate Salespersons/Agents”: For purposes of taxation under the above referenced Oakland Municipal Code Sections, a real estate salesperson/agent is determined to be the employee of the broker, not an independent contractor.