CITY OF OAKAND

OFFICE OF FINANCE

REVENUE DIVISION

DIRECTOR OF FINANCE RULING NO. 22

GROSS RECEIPTS AND TAXATION OF BUSINESS IN PROCESS OF BEING SOLD, TRANSFERRED OR LIQUIDATED

Reference: Section 5-1.09 of the Oakland Municipal Code.

Purpose

Establishes guidelines for the measure of tax for persons in the process of selling, transferring or liquidating of business in the preceding tax year, which process continues into the current tax year.

BACKGROUND

As a result of a dispute concerning the City's Ordinance requirement that a person engaged in their usual and customary business activities on January 1 of any given year is required to pay the full amount of the tax due without proration, the Director of Finance promulgates this ruling in the interest of providing for a fair and equitable measure of tax.

RULING OF THE DIRECTOR OF FINANCE

Every person meeting the following transaction and intent requirements will not be deemed to be carrying out its "usual and customary business activities" as within the meaning of Oakland Municipal Code Section 5-1.09(a) on January 1 of any given year and, therefore, not subject to an entire year's business tax liability but instead shall have any gross receipts attributable to its otherwise potential business tax liability prorated based on a 360-day calendar year. This proration will be contingent upon a finding by the Director of Finance that the taxpayer has demonstrated to the former's satisfaction that it was not the intent of the taxpayer to carry on "usual and customary business activities" during the calendar year subject to this ruling.

It will be resumed that a taxpayer did not intend to carry on "usual and customary business activities" beyond December 31 of any given year for the purposes of O.M.C., section 5-1.09(a) if:

a) It can be supported by documentation (i.e., opening escrow, bill of sale, etc.) that the taxpayer was in the act of selling, liquidating, transferring or otherwise permanently disposing of its business on or before November 30th of the year preceding the calendar year such business was terminated or transferred. Such transfer, if any, may not be made to a related business with more than 50% financial or equity interest in the business being terminated or transferred.

b) In addition, such termination, liquidation, transfer or disposition must be final with no gross receipts either received or attributable to the taxpayer eligible for the subject proration as of the last day of February of the year of proration, i.e., the calendar year after the intent to terminate, transfer, liquidate or otherwise dispose was initiated.

c) Any business failing to meet the specific deadline and supporting documentary proof required in this ruling will be subject to the full business assessment applicable.

This presumption or proration amount is subject to verification or audit by the Business Tax Division.