

CITY OF OAKLAND
OFFICE OF FINANCE
REVENUE DIVISION

DIRECTOR OF FINANCE RULING NO. 10

APPORTIONMENT OF GROSS RECEIPTS FOR CLASSIFICATION OF
RETAILERS, GROCERS, WHOLESALERS, AUTO DEALERS
(DOES NOT APPLY TO OAKLAND BASED MANUFACTURERS)

Reference: Section 5-1.23, 5-1.24, 5-1.25, 5-1.26 and 5-1.56 of the Oakland Municipal Code.

Purpose

Establishes apportionment guidelines to be used in determining the measure of tax for persons engaged in business within the City of Oakland as a retailer, wholesaler, grocer, or auto dealer.

BACKGROUND

The Business tax provisions of the Oakland Municipal Code addresses the issue of apportionment of the measure of the tax in broad (general) terms as it relates to taxpayer's selling activities within the City. The ruling herein promulgated provides specific apportionment criteria to be used by staff and the taxpayer in determining the measure of the tax.

RULING OF THE DIRECTOR OF FINANCE

All persons, whether or not they own, lease, occupy or otherwise maintain within or outside the City of Oakland a place or premise upon or from which they engage in business, shall nevertheless be deemed to be engaged in business within the City of Oakland when through the physical presence of themselves, their employees, agents, equipment, or through use of electronic devices, including but not limited to, telephone, teletype, computer or other forms of electronic transmission, and/or by any other means at their disposal, carries on activities within the City of Oakland which are designed to solicit, promote, stimulate or otherwise encourage the sale of goods, wares or merchandise.

The following guidelines shall be used to determine the percentages of gross receipts to be used as a tax base:

1. 30% for the sales negotiated or solicited within the City of Oakland, 30% of that sale must be reported in the tax base.

2. 20% for sales negotiated or solicited outside the City of Oakland where the sales office which serves as the base of operation for sales activities, and/or if no sales office exists which serves as a base of operations, then if the office from which the sales activities are directed or controlled is located within the City of Oakland, 20% of that sale must be reported in the tax base.
3. 10% for sales negotiated or solicited outside the City of Oakland, if the location where orders or contracts are accepted or approved is within the City of Oakland, 10% of that sale must be reported in the tax base. Such acceptance or approval shall be deemed to take place at the location of the office specified in item 2 above, unless there is clear and conclusive evidence that a binding acceptance or approval occurs elsewhere.
4. 30% of those gross receipts from all sales to customers located within the City of Oakland whether delivery or shipment is made to points within or outside the City of Oakland, regardless of f.o.b. point, other conditions of sale, or method of deliver.
5. 20% if merchandise is shipped from Oakland, 20% of the sale must be reported in the tax base.
6. 10% if billing procedures take place within the City of Oakland, 10% of the sale must be reported in the tax base.
7. 10% if collection of receipts are performed within the City of Oakland, 10% of the sale must be reported in the tax base.

PROVISION FOR MODIFICATION OF APPORTIONMENT FORMULA

Any person, who believes that the percentage of gross receipts determined to be subject to tax under the foregoing provisions of this ruling is greater than the facts justify, may apply to the Finance Director for modification of the percentage. Such application shall be made in writing to the Finance Director and shall be accompanied by a statement of facts supporting the basis for such modification. The Finance Director shall make his determination on the basis of evidence presented to him and select other evidence as he may have, may request from the taxpayer, or may discover from other sources. The Finance Director shall increase, reduce, or allow to stand the percentage originally determined, depending on the facts.

Should the Finance Director be of the opinion that the percentage of gross receipts determined to be subject to tax under the foregoing provisions of this ruling is less than the facts justify in any particular case, he shall make such investigation as is necessary to ascertain the facts and revise the percentage, if required.

Any variation from the percentages provided for under this ruling shall be approved in writing by the Finance Director.