

CITY OF OAKLAND
OFFICE OF FINANCE
REVENUE DIVISION

DIRECTOR OF FINANCE RULING NO. 29

PURPOSE

This ruling is to provide taxpayers who believe they have been injured by an unconstitutional or otherwise illegal tax provision with a clear and certain means of resolving their claim and, if appropriate, obtaining a proper refund.

This Regulation is being issued pursuant to the authority granted in Section 5.04.520 of the Business Tax Ordinance.

BACKGROUND

In the event that a tax provision is found invalid, the taxpayer will be compensated to extent of its injury from the tax. The City will not provide a windfall at the expense of the other citizens of the City. The burden is on the taxpayer-claimant to establish the amount of the tax it absorbed, and did not pass through to its customers, and for any loss of market share attributable to the invalid tax.

RULING OF THE DIRECTOR OF FINANCE

- A. Any taxpayer who believes that they may be entitled to a refund of a tax paid under Chapter 5.04 must file a verified claim for refund with the Director of Finance within one year of the payment of the tax.
- B. A claim for refund must be in writing, verified, identify the amount of the claim by the tax period, state the date on which such tax was paid and state with particularity the facts that support its claim.
- C. A claim for refund or credit may be filed by regular or certified mail, or by hand delivery to the Office of the Director of Finance and will be deemed filed on the date received by the Director of Finance.
- D. At the option of the taxpayer, the amount to be refunded may be refunded in cash or may be applied as a credit against future taxes.
- E. A taxpayer may appeal the decision of the Director of Finance to the Business Tax Review Board pursuant to the provisions of Section 5.04.550.

F. The Director of Finance or her designee will determine the extent to which a taxpayer absorbed or passed through a particular tax by a tax incidence analysis. Tax incidence analysis examines supply and demand conditions in the market place to determine who bore the burden of the cost (tax) increase. This analysis focuses on the relationship between the elasticity of demand and the elasticity of supply for the relevant product or service as well as the relationship among input costs, revenues, taxes and prices

G. In order to efficiently resolve the absorption and market share questions the taxpayer should address the following questions and provide all relevant supporting documents:

1. Whether the taxpayer contends that it absorbed all or part of the relevant tax without passing any through to its customers, retailers and consumers, or without passing any of it back to its suppliers? If so, the taxpayer should provide all documents, including, but not limited to, tax returns, work papers, correspondence, and notes in its possession that would support this contention.
2. Describe how the pricing decisions of the taxpayer are made. Describe what factors are taken into account (e.g., costs, demand, competition, desired profit margins, etc.) in making pricing decisions. Provide all documents, correspondence, notes and work papers relating to such pricing decisions during the period of the tax in question.
3. Whether the taxpayer contends that the market would not have permitted the taxpayer to pass on any of the relevant tax in the form of higher price? Provide all documents, notes, correspondence, and work papers which support this contention.
4. Whether the taxpayer contends that it lost market share as a result of the invalid tax. Provide all documents, correspondence, notes and work papers that support this contention.

s/ Deborah Edgerly
Director of Finance

Reaffirmed:

s/ _____
Board of Review