



STAFF REPORT TO THE CITY COUNCIL

DATE: Regular Meeting of February 27, 2024

TO: Members of the City Council

VIA: Dante Hall, City Manager

SUBMITTED BY: Edwin Gato, Director of Finance

SUBJECT: Requested Report on Business License Taxes

RECOMMENDED ACTION:

Staff requests that the City Council receive this report, discuss, and provide direction, if any.

DISCUSSION:

On January 9, 2024, at a Council meeting, in response to a request of Vice Mayor Bailey, the City Council agreed to discuss the City's business license tax, specifically on businesses that did not receive the notice to file business tax, and temporarily waive the penalty. This item has been prepared in response to that request and is intended to provide background information on the existing business license tax.

On September 25, 2017, the City contracted with Avenu Insights & Analytics (formerly known as MuniServices, LLC) to administer the City's Business Licenses beginning with the license year 2018. The following services are provided:

- A. Collecting, Posting and Processing Payments
Collection of Business License taxes and fees: For both new licenses, renewals, and special short-term licenses with timely remittance or deposit on behalf of the City.
- B. Taxpayer Communications
Avenu Insights & Analytics will handle all taxpayer communications including general questions, account inquiries, business license application questions and issue resolution. Their National Taxpayer Call Center is available through a toll-free telephone line Monday through Friday, 7:00 AM to 5:00 PM Pacific Time. Avenue Insights & Analytics will respond to taxpayer correspondence via return phone call or written correspondence.

C. Online Filing and Payment Processing

Avenu Insights & Analytics provides online business license filing services and payments, which is the most convenient option for most businesses and results in expedited filing and payment.

What is a Business License?

A Business License is an annual tax a business owner pays each calendar year for doing business within the City limits of Hercules. As mandated by the City of Hercules Municipal Code, Title 8 Chapter 6 (Attachment 1), the City of Hercules requires all businesses operating within the City limits to have a business license. For the last five fiscal years, the City received the following revenues annually from the Business License:

Fiscal Year	Revenues
FY 18-19	194,711
FY 19-20	251,417
FY 20-21	268,697
FY 21-22	257,289
FY 22-23	274,540

Delinquent Business Tax

For delinquency payments, Sec. 8-6.403 states that all persons doing business in the City are responsible for obtaining a business license and for any back taxes and penalties resulting from a failure to submit a license application or renewal.

Any business license tax not paid when due shall be delinquent and subject to a Penalty. The Director of Finance shall add and collect a penalty of twenty-five percent (25%) of the amount of the tax on the last day of each month that the tax remains unpaid after the due date to a maximum of one hundred percent (100%) of the tax as the penalty amount.

Business License information on the City's website provides detailed information and responses to frequently asked questions about the Business License. The annual licenses expire on December 31st of each year. They must be renewed annually on January 1st, quarterly licenses expire at the end of the quarter for which licenses have been issued, and temporary licenses expire per the date printed on the official licenses.

Renewal Notices

Renewal notices are sent out to businesses with an active license from the prior year during the month of December. Attachment 2 reflects the list of businesses to which Avenu Insights & Analytics mailed renewal notices in December 2023. Renewal notices are only sent as a courtesy, and businesses are still responsible for renewing their business license even if renewal notices are not received. Failure to pay the annual business license fee before January 31 may result in late fees. Licenses are considered delinquent on or after February 1 of each license year and shall be subject to penalty as outlined in the ordinance. Instructions to renew the business license are located on our website at <https://www.herculesca.gov/government/finance/business-licenses>.

Can a penalty be waived for late renewals?

Section 8-6.206 of the Municipal Code states that any penalty that would otherwise have accrued may be waived for an approved time extension from the Director of Finance for filing any required application for a period not exceeding thirty (30) days.

Amending the Business License Tax Ordinance

Since the existing business license tax ordinance dates to 1985, it was adopted before Proposition 218, which the voters enacted in November 1996. California voters passed Proposition 218, the "Right to Vote on Taxes Act," as a state constitutional amendment to protect taxpayers by limiting the methods by which local governments can create or increase tax fees without taxpayer consent. Specific changes or revisions to the existing business license tax could trigger the requirement for voter approval. As such, any potential changes or revisions under consideration should be reviewed by the City Attorney regarding the provisions of Proposition 218. Hence, any changes to the city's business license program are a legal question.

FISCAL IMPACT:

There is no fiscal impact associated with this informational report.

ATTACHMENTS:

1. Business License Ordinance
2. List of Businesses – Renewal Notices
3. Business License Fee Schedule and Frequently Asked Questions (FAQs)