

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Julia H. Cooper

SUBJECT: 2012-2013 BUSINESS TAX AMNESTY PROGRAM **DATE:** January 24, 2013

Approved



Date

1/24/13

INFORMATION

The Business Tax and Business Improvement District (“BID”) Assessment Amnesty Program commenced on December 1. The amnesty forgives long-term past due penalties and interest when past-due business taxes for the current year and up to three prior years are paid. The amnesty application period began on December 1, 2012 and ends March 29, 2013, for the tax delinquency period of January 1, 2009 through December 31, 2012. The program is intended to encourage San José business owners and self-employed individuals with income reported on Federal Form Schedule C, Profit or Loss from Business, to 1) pay past due Business Tax and BID assessments; 2) increase current and future Business Tax and BID assessment revenues and to capture the appropriate number of businesses and self-employed individuals conducting business in San José; and 3) educate businesses regarding the availability of the Business Tax Hardship Exemption Program that allows businesses that generate less than approximately \$22,000 per year to participate in the Hardship Exemption Program.

As part of the outreach effort to the business community, the Finance Department is utilizing a variety of mediums, including advertisements in print media, public service announcements through radio stations, assistance from business organizations and associations, and direct-mailing of approximately 40,000 notices, informing never registered and delinquent taxpayers about the program. Two issues have arisen regarding the application of the business tax on two groups, Police Officer Off-Duty Uniformed Employment and Sport Referees, Officials and Umpires. More detail and business tax application is discussed below.

Police Officer Off-Duty Uniformed Employment

Through the course of the direct-mailing of notices, it became apparent that City Police Officers were being notified of the Business Tax Certificate requirement. The Finance Department, Police Department and City Attorney’s Office met in December to discuss this issue. Consistent with past practice, it has been determined that if an officer has only worked Off-Duty Uniformed Employment, then the officer will not be required to have a City Business Tax Certificate or pay any taxes/fees. If an officer engages in any other type of Off-Duty Employment in San José, the officer is required to contact the Finance Department to determine whether or not a City Business Tax Certificate is required and to determine if the officer owes any outstanding taxes or fees.

The Finance and Police Departments are working together to ensure that officers that engage in Off-Duty Employment in San José are aware of the Business Tax Amnesty Program so that the officers may benefit from the forgiveness of long-term past due penalties and interest when they

pay past-due business taxes for the current year and up to three prior years. Please note that if the Off-Duty Employment is a low revenue generating business, the City offers a Business Tax Hardship Exemption Program.

The Finance Department, Police Department and the City Attorney's Office will be working on amending the San José Municipal Code (Chapter 4.76, Business License Taxes) to exempt uniformed police officers in secondary employment from payment of the tax or exemption fee and anticipates bringing it to Council before the end of the fiscal year.

Sport Referees, Officials and Umpires

Local sport referees, officials and umpires, hereinafter collectively referred to as "sport referees" were also notified of the Business Tax Certificate requirement. The Finance Department, the City Attorney's Office and the City Manager's Office collaborated in the review of San José Municipal Code Chapter 4.76 and other pertinent information and determined that local sports referees are subject to registration for a Business Tax Certificate. However, most, if not all, local sport referees are likely eligible for the Business Tax Hardship Exemption Program.

The Business Tax Hardship Exemption Program is available to sole proprietorships and corporations that are owned by one person or by husband/wife or domestic-partners ownership structures that have a) no employees and b) annual gross receipts at or below less than twice the current poverty level. The term "poverty level" means the income amount established by the U.S. Department of Health and Human Services as the poverty guideline for a single person multiplied by two for the calendar year in which the business tax is due.

For businesses that qualify for the Business Tax Hardship Exemption Fee Program, there is an annual processing fee. The current processing fee is \$38. The chart below illustrates the amount typically owed by a qualified business or a self-employed individual and the benefit of the Business Tax Amnesty Program.

<u>Amount Owed by Low-Revenue Generating Businesses¹ that Qualify for Hardship Exemption</u>							
<u>Categories</u>	<u>Tax</u>	<u>Penalties</u>	<u>Interest</u>	<u>Total Without Amnesty</u>	<u>Total With Amnesty</u>		
					<u>Tax</u>	<u>Processing Fee²</u>	
Current Year	\$150	\$75	\$27	\$252	\$0	\$38	
1 Prior Year + Current Year	\$300	\$75	\$39	\$414	\$0	\$75	
2 Prior Years + Current Year	\$450	\$75	\$106	\$631	\$0	\$110	
3 Prior Years + Current Year	\$600	\$75	\$189	\$864	\$0	\$148	

¹ Historic poverty levels for the income tax reporting year: 2012: \$22,340; 2011: \$21,780; 2010: \$21,660; 2009: \$21,660

² FY 12-13: \$38; FY 11-12: \$37; FY 10-11: \$35; FY 09-10: \$38

Information, instructions, registration and remittance forms may be obtained at www.csjfinance.org, on the first floor Customer Service Center at San José City Hall, 200 East Santa Clara Street, or by calling (408) 535-7055.

For questions, or additional information, please contact Wendy Sollazzi, Revenue Management Division Manager, at (408) 535-7005 or me at (408) 535-7011.

/s/
 JULIA H. COOPER
 Director, Finance