



REVISED

AGENDA
ITEM: 96
DATE: 6-1-09

City Council Report

Date: June 1, 2009
To: City Council
Through: Bryan Raines, Deputy City Manager
From: Ed Quedens, Business Services Director
Subject: Revision to the Mesa Tax Code – Privilege Tax License Renewals
Citywide

Purpose and Recommendation

The purpose of this City Council report is to recommend Council adoption of the attached ordinance revising the Mesa Tax Code. This ordinance will result in the correction of certain language contained in MTC Section 5-10-310 to conform to the language contained in the Model City Tax Code (MCTC), thereby establishing an license renewal date of January 1 annually.

Background and Discussion

On June 28, 2008, the City Council adopted Ordinance No. 4852 which provided for an annual Privilege Tax License renewal and an associated annual license fee. The effective date of the ordinance was January 1, 2009.

When drafting the ordinance, City staff relied upon the language contained in the master version of the MCTC that is maintained and was provided by the Arizona League of Cities and Towns. The master version contained two options as to when taxpayers would be subject to the annual renewal.

The first option was to base the annual renewal date on the anniversary date of the original issuance of the license. The second option was to have all taxpayers renew their licenses on January 1 of each year. The Council adopted the first option of renewing the licenses based on the anniversary date of the original issuance.

Recently, City staff discovered that the MCTC language relied upon in the drafting of the ordinance was incorrect. The Municipal Tax Code Commission previously adopted a revision to the MCTC to remove the option of an anniversary date renewal, instead requiring all taxpayers to renew their licenses on January 1 of each year. This was done in the interest of uniformity among all cities so that taxpayers operating in multiple cities would not have different renewal dates throughout the year. Unfortunately, the League failed to update the master version after the Municipal Tax Code Commission action. Thus, when drafting Ordinance No. 4852, City Staff based it on language in the MCTC that was no longer valid.

In order to correct this situation, it will be necessary for the Council to adopt the attached ordinance requiring all taxpayers to renew their tax licenses by January 1 of each year.

Taxpayers who have not yet renewed in 2009 will receive a renewal notice upon adoption of the ordinance and will be issued a license with an expiration date of December 31, 2009. Licenses already issued in 2009 will be renewed in 2010 with an expiration date of December 31, 2010.

Fiscal Impact

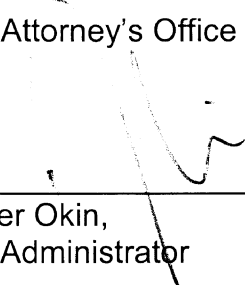
None

Alternatives

The Municipal Tax Code Commission approved the January 1 renewal date in 2001 for all cities that have an annual license renewal. Arizona Revised Statutes §42-6053 requires all Arizona cities and towns adopt any changes approved by the Commission.

Coordinated With:

City Attorney's Office



Roger Okin,
Tax Administrator



Edward Quedens,
Business Services Director



Bryan Raines,
Deputy City Manager

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, RELATING TO TRANSACTION PRIVILEGE TAX LICENSING; AMENDING MESA PRIVILEGE AND EXCISE TAX CODE SECTION 5-10-310; PROVIDING PENALTIES FOR THE VIOLATION THEREOF; AND PROVIDING FOR EFFECTIVE DATE THEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

SECTION 1. Mesa Privilege and Excise Tax Code Section 5-10-310, is amended to read:

5-10-310: LICENSING; DURATION OF LICENSE; ANNUAL LICENSE FEE; TRANSFERABILITY; DISPLAY; PENALTIES; CANCELLATION; RENEWAL; LATE APPLICATION PROVISIONS; ACTIONS;

- (A) Except as provided in Section 5-10-320, the Privilege License shall be valid only for ~~one~~ **(1) THE CALENDAR** year ~~from the date IN WHICH IT IS~~ issued unless renewed each year by filing the appropriate application for renewal and paying the renewal fee of twenty dollars (\$20.00) ~~on or before the last business day of the month prior to the annual anniversary of the original issuance of such license~~ , **WHICH IS DUE AND PAYABLE ON JANUARY 1 AND SHALL BE CONSIDERED DELINQUENT IF NOT RECEIVED ON OR BEFORE THE LAST BUSINESS DAY OF JANUARY.** Application and payment for renewal must be received within the Tax Collector's office by such date to be deemed final and paid.
- (B) The Privilege License shall be nontransferable between owners or locations and shall be on display to the public in the licensee's place of business.
- (C) Any licensee who permits his license to expire through cancellation as provided in Section 5-10-320, by his request for cancellation, by surrender of the license, or by the cessation of the business activity for which the license was issued and who thereafter applies for a license shall be granted a new license as an original applicant and shall pay the current application license fee imposed by Section 5-10-300. Any licensee who loses or misplaces his Privilege License which is still in effect shall be charged the current application license fee for each reissuance of a license.
- (D) (Reserved)
- (E) Any licensee who fails to renew his license on or before the date provided in (A) above shall be deemed to be operating without a license following such due date, and shall be subject to all penalties imposed under this Chapter against persons required to be licensed

and operating without a license. The non-licensed status may be removed by payment of an annual license fee in the amount of one hundred fifty percent (150%) of the fee imposed under (A) above.

(F) (Reserved)

(G) (Reserved)

(H) If any person required to be licensed under this Chapter fails to obtain a license on or before the conducting of any business activity requiring such license, such person shall be subject to a penalty in the amount of ~~one hundred~~ fifty percent (+50%) of the annual license fee for each period of time for which such fee would have been imposed from and after the date on which such activity commenced until paid. This penalty shall be in addition to any other penalty imposed under this Chapter and must be paid prior to the issuance of any license.

(I) Notwithstanding the failure of any person to apply for a license and to remit all fees and penalties, if any, imposed herein, such person conducting a business activity subject to licensing without obtaining a license, shall be liable to the City for all applicable fees and penalties and shall be subject to the provisions of Sections 5-10-580 and 5-10-590, to the same extent as if said fees and penalties were taxes and penalties under such Sections.

(J) (Reserved)

SECTION 2. Penalties. Any person found guilty of violating any provision of these amendments to the tax code shall be guilty of a class one misdemeanor. Each day that a violation continues shall be a separate offense punishable as herein above described.

SECTION 3. Retroactivity. The provisions of this ordinance shall be retroactively effective to January 1, 2009.

PASSED AND ADOPTED by the City Council of the City of Mesa, Maricopa County, Arizona, this ____ day of _____, 2009.

APPROVED:

Mayor

ATTEST:

City Clerk