CAO 2012-010

From: Diana M. Gomez

Approved: Craig E. Leen, City Attorney for the City of Coral Gables

RE: Legal Opinion Regarding Changes To Local Business Tax Fees Resolution 2011-142

Date: June 20, 2012

The Finance Department is requesting that the provision for local business taxes on Real Estate Salesman be removed from Resolution No. 2011-142 because the fees imposed by that resolution for that category have been superseded by Section 205.67, Florida Statutes, which creates an exemption for Real Estate broker associates and sales associates under Chapter 475.

Received
JUN 21 2012

CITY OF CORAL GABLES

- MEMORANDUM -

TO: CRAIG E. LEEN
CITY ATTORNEY

DATE: JUNE 20, 2012

FROM: DIANA M. GOMEZ
FINANCE DIRECTOR

SUBJECT: CHANGES TO LOCAL BUSINESS TAX FEES RESOLUTION NO. 2011-142

The Finance Department is requesting that the provision for local business taxes on Real Estate Salesman be removed from Resolution No. 2011-142 because the fees imposed by that resolution for that category have been superseded by Section 205.67, Florida Statutes, which creates an exemption for Real Estate broker associates and sales associates under Chapter 475.

Please indicate your approval and acceptance of removing the above provision by signing below.

If you need additional information, please feel free to contact me at 305-460-5275.

Approved _____
Craig E. Leen, City Attorney

Attachments

cc: Adolfo E. Sansores
Lily Portu
Ampy Gomez

CHAPTER 2012-102

House Bill No. 7125

An act relating to exemptions from local business taxes; creating s. 205.067, F.S.; specifying that an individual licensed and operating as a broker associate or sales associate is not required to apply for an exemption from a local business tax or take certain actions relating to a local business tax; prohibiting a local governing authority from holding such exempt individual liable for the failure of a principal or employer to comply with certain obligations related to a local business tax or from requiring the exempt individual to take certain actions related to a local business tax; prohibiting a local governing authority from requiring a principal or employer to provide personal or contact information for such exempt individuals in order to obtain a local business tax receipt; amending s. 205.066, F.S.; conforming provisions; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 205.067, Florida Statutes, is created to read:

205.067 Exemptions; broker associates and sales associates.—

(1) An individual licensed and operating as a broker associate or sales associate under chapter 475 is not required to apply for an exemption from a local business tax, pay a local business tax, or obtain a local business tax receipt.

(2) An individual exempt under this section may not be held liable by any local governing authority for the failure of a principal or employer to apply for an exemption from a local business tax, pay a local business tax, or obtain a local business tax receipt. An individual exempt under this section may not be required by any local governing authority to apply for an exemption from a local business tax, otherwise prove his or her exempt status, or pay any tax or fee related to a local business tax.

(3) A principal or employer who is required to obtain a local business tax receipt may not be required by a local governing authority to provide personal or contact information for individuals exempt under this section in order to obtain a local business tax receipt.

Section 2. Subsection (1) of section 205.066, Florida Statutes, is amended to read:

205.066 Exemptions; employees.—

(1) An individual who engages in or manages a business, profession, or occupation as an employee of another person is not required to apply for an exemption from a local business tax, pay a local business tax, or obtain a local business tax receipt. ~~For purposes of this section, an individual licensed and~~

~~operating as a broker associate or sales associate under chapter 475 is an employee.~~ An individual acting in the capacity of an independent contractor is not an employee.

Section 3. This act shall take effect October 1, 2012.

Approved by the Governor April 6, 2012.

Filed in Office Secretary of State April 6, 2012.

CITY OF CORAL GABLES, FLORIDA

RESOLUTION NO. 2011-142*

RESOLUTION AMENDING RESOLUTION 2010-184 WHICH ESTABLISHED FEES FOR VARIOUS LICENSES, PERMITS, SERVICES, AND PENALTIES BY THE CITY OF CORAL GABLES, PROVIDING FOR SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, Resolution No. 2006-187, passed and adopted by the City Commission on October 10, 2006 and subsequently amended by Resolution No. 2006-211 on December 12, 2006; Resolution No. 2007-153 on June 26, 2007; Resolution No. 2007-245 on October 23, 2007; Resolution No. 2008-201 (As Amended) on November 18, 2008; Resolution No. 2009-195 on July 7, 2009; Resolution No. 2009-218 on July 29, 2009; Resolution No. 2009-233 on August 25, 2009; Resolution No. 2010-132 on July 13, 2010; Resolution No. 2010-184 on August 24, 2010; and Resolution No. 2011-142 on June 7, 2011 established fees for various licenses, permits, services and penalties by the City of Coral Gables; and

WHEREAS, any subsequent increases or additions to the fees contained in this resolution shall be established by the City Commission by amending this resolution; and

WHEREAS, the City Commission has determined that it is necessary to recover more of the City's cost of providing these services;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF CORAL GABLES:

SECTION 1. The foregoing "Whereas" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Resolution upon adoption hereof.

SECTION 2. The amended fees for the various licenses, permits and services furnished by the City of Coral Gables are as follows (only the pages of the prior resolution contaning amended fees are included):

*select pages

Local business tax change of ownership fee. City Code section 66-34(4)	
Ten (10) percent of the annual business tax. The minimum transfer fee in the case of a transfer of any license authorizing the vending at retail of alcoholic beverages or intoxicating liquors shall be regulated by state law.	Not less than $3.00 no more than $25.00
Where no new person in interest comes into the business, a change of business organization or structure, such as from a corporation to an individual proprietorship or partnership, or from an individual proprietorship or partnership to a corporation, shall not be considered a transfer of ownership for business tax purposes calling for payment of transfer fees above set forth, and the existing business tax receipt shall be transferred to the new business entity upon payment of a transfer fee.	$3.00
(R-2006-187, 10-10-2006; R-2006-211, 12-12-2006)	
Duplicate local business tax. City Code Section 66-35	
Replacement fee	$1.00
(R-2006-187, 10-10-2006; R-2006-211, 12-12-2006)	
Local business tax delinquencies; additional penalties. City Code Section 66-42(1)	
Those business taxes not renewed by October 1st are subject to a delinquency penalty of ten (10) percent for the month of October, plus an additional five (5) percent penalty for each subsequent month of delinquency until paid. However, the total delinquency penalty may not exceed twenty-five (25) percent of the business tax for the delinquent business.	
(R-2006-187, 10-10-2006; R-2006-211, 12-12-2006)	
Local business taxes. City Code Section 66-43 *	
* The applicable fees required by Ordinance 2006-27 are required for all local business taxes.	
A	
(100) ABSTRACT AND/OR TITLE COMPANY. * (Engaged in furnishing abstracts of title from public records; insurance company business tax is required if title insurance is furnished)	$284.00*
(300) ACTUARIES. * (Computations involving compound interest and retirement and mortality estimates):	
Permitting the operation of but one person	$171.00*

One (1) to five (5) employees	$236.00*
Six (6) to fifteen (15) employees	$354.00*
Over fifteen (15) employees	$528.00*
(20400)PRIVATE DETECTIVE OR PRIVATE INVESTIGATOR, which means and includes any one person engaged in the business of private investigation who does not employ any full-or part-time private investigators; who performs the service of private investigation and is operated under his individual name only *	$171.00*
(20450)PRODUCER (Classify as Motion Picture Producer)	
(20500)PROFESSIONAL SERVICE CORPORATION/LLC/LP. Individual(s) or entity whose members are regulated by any state or association that incorporates (each professional requires separate business tax) *	$171.00*
(20510)PROMOTER of entertainment, sports, contests, parades or similar activities sponsored by civil, fraternal or religious organizations, including vendors in connection therewith *	$66.00*
(20550)PROMOTER, not sponsored by civil, fraternal or religious organizations*	
Permitting the operation of but one person	$164.00*
In addition thereto, for each partner and/or employee in connection therewith	$47.00*
(20600)PROPERTY MANAGEMENT SERVICE, excluding real estate brokers *	$171.00*
(20700)PSYCHIATRIST *	$171.00*
(20800)PSYCHOLOGIST *	$171.00*
(20850)PSYCHOTHERAPISTS *	$171.00*
(20950)PUBLISHING (Classify as Printing/Publishing Establishment).	
R	
(21000)RADIO BROADCASTING STATION. Business of production or generation of electromagnetic waves within the city for the purpose of broadcasting *	$321.00*
(21050)RADIO/TELEPHONE COMMUNICATION SERVICES: Includes cellular phones, beepers, paging, etc *	
Permitting the operation of but one person	$171.00*
For each partner and/or employee in connection therewith	$47.00*
(21100)REAL ESTATE:*	

Broker Each broker or member of firm; provided, however, that a separate business tax, as hereinafter designated, shall be required for each real estate salesman employed by such broker at any time during any business tax year, and each real estate broker shall be liable and responsible to the city for the business tax due for each salesman so employed by him.	$187.00*
~~Salesman; each salesman employed by a broker~~	~~$$47.00*~~
Company or corporation, engaged in real estate practice or sales	$171.00*
Appraiser; each appraiser	$187.00*
(21200)REAL ESTATE AUCTION (Classify as Auctioneer).	
(21300)RENTAL AGENCY:*	
Personal property of all kinds including trailers (Except passenger automobiles paying a business tax as rental cars.)	$164.00*
Rental of trucks	$215.00*
Video tapes and/or computer software	$164.00*
(21400)RENTAL CARS AND/OR OTHER MOTOR DRIVEN VEHICLES:*	
Each place of business or operator	$641.00*
Each car or other motor driven vehicle	$66.00*
(21500)REPAIR AND/OR SERVICE SHOP Includes radio, video, television, business machine, small electronics, major appliances, watch, clock, jewelry, and other tangible personal property *	$171.00*
(21600)REPORTING SERVICE. Includes convention, court, medical and similar types of reporting:*	
Permitting the operation of but one person	$164.00*
For each partner and/or employee in connection therewith	$47.00*
(21700)RESEARCH AND/OR DEVELOPMENT SERVICE, providing analytical marketing reports, feasibility studies or the like:*	
Permitting the operation of but one person	$171.00*
For each partner and/or employee in connection therewith	$47.00*
(21750)RESERVATION SERVICE. Other than Travel Bureau and/or Ticket Office:*	

Special Events – Division 6065									
Category	Fee	Res	Units	Tax Incl	08-09 Yr 1	09-10 Yr 2	10-11 Yr 3	11-12 Yr 4	12-13 Yr 5
Special Events *	Run, Walk or Bikeathon - Up to 5K	All	Event	N	$ 170.00	$ 178.00	$ 178.00	$ 178.00	$ 187.00
Special Events *	Run, Walk or Bikeathon - 5K to 10K	All	Event	N	$ 195.00	$ 205.00	$ 205.00	$ 205.00	$ 215.00
Special Events *	Run, Walk or Bikeathon - Over 10K	All	Event	N	$ 280.00	$ 294.00	$ 294.00	$ 294.00	$ 309.00
Special Events *	Parades	All	Event	N	$ 280.00	$ 294.00	$ 294.00	$ 294.00	$ 309.00
Special Events *	Single day event (anticipate <2,500)		Event	N	$ 280.00	$ 294.00	$ 294.00	$ 294.00	$ 309.00
Special Events *	Single day event (anticipate >2,500)	All	Event	N	$ 550.00	$ 577.00	$ 577.00	$ 577.00	$ 606.00
Special Events *	Multi-Day (not to exceed 3 days)	All	Event	N	$ 1,100.00	$ 1,155.00	$ 1,155.00	$ 1,155.00	$ 1,213.00
Commercial Photo Permits	Still Photography	All	day/ location	N	$ 60.00	$ 63.00	$ 63.00	$ 63.00	$ 66.00
Commercial Photo Permits	Video/Movie	All	day/ location	N	$ 275.00	$ 289.00	$ 289.00	$ 289.00	$ 303.00
Commercial Photo Permits	Still Photography at City Facility	All	day/ location	N	$ 385.00	$ 404.00	$ 404.00	$ 404.00	$ 424.00
Commercial Photo Permits	Video/Movie at City Facility	All	day/ location	N	$ 1,000.00	$ 1,050.00	$ 1,050.00	$ 1,050.00	$ 1,102.00
Residential Photo Permits	Still Photo	All	Per 3 days	N	$ 175.00	$ 184.00	$ 184.00	$ 184.00	$ 193.00
Residential Photo Permits	Video/Movie Photo (outside)	All	Per 3 days	N	$ 175.00	$ 184.00	$ 184.00	$ 184.00	$ 193.00
Residential Photo Permits	Major Motion Picture	All	Per weeks	N	$ 300.00	$ 315.00	$ 315.00	$ 315.00	$ 331.00

SECTION 3. FUTURE AMENDMENTS

Future amendments to the Zoning Code that change the numbering of the code sections for which fees are charged in this document shall not affect the particular fees or fines. Future amendments to the City Code that change the numbering of the code sections for which fees are charged in this document shall not affect the particular fees or fines.

SECTION 4. SEVERABILITY

If any section, sentence, clause of phrase of this Resolution is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Resolution.

SECTION 5. EFFECTIVE DATE

This resolution shall become effective July 1, 2011.

PASSED AND ADOPTED THIS SEVENTH DAY OF JUNE, A.D., 2011.
(Moved: Anderson / Seconded: Kerdyk)
(Yeas: Anderson, Kerdyk, Cabrera)
(Majority: (3-0) Vote)
(Absent: Quesada, Cabrera)
(Agenda Item: H-4)

APPROVED:

JIM CASON
MAYOR

ATTEST:

WALTER J. FOEMAN
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

for

CRAIG E. LEEN
CITY ATTORNEY

Hernandez, Cristina

From: Hernandez, Cristina
Sent: Tuesday, June 26, 2012 10:04 AM
To: Leen, Craig
Subject: Changes to Local Business Tax Fees Resolution No. 2011-142
Attachments: 0988_001.pdf

Craig, as per your request please see attached documents regarding the above matter. Thank you.