OFFICE OF THE CITY ATTORNEY
ROCKARD J. DELGADILLO
CITY ATTORNEY

REPORT NO. R06-0359
03 13 2006

REPORT RE:

DRAFT ORDINANCE AMENDING ARTICLE 1,
CHAPTER II TO REVISE THE BUSINESS TAX PROVISIONS
OF THE LOS ANGELES MUNICIPAL CODE

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, CA 90012

Council File No. 04-0879

Honorable Members:

As requested, this office has prepared and now transmits for your action
the attached draft ordinance, approved as to form and legality. This draft
ordinance amends Article 1, Chapter II of the Los Angeles Municipal Code, the
business tax provisions, to consolidate similar business activities into the same
classification for purposes of simplicity and uniformity; and to reflect the 2007 tax
rate reduction for various categories of businesses.

Rate Consolidation

In November 2004, the Mayor and City Council adopted a number of tax
measures to reform the City's business tax in a continuing effort to become more
business friendly. Most of those measures were implemented over the past
several years. The last of these measures includes the consolidation of similar
business activities into nine fund classes with six tax rates instead of forty-two.
Accordingly, the applicable business tax provisions have been amended to
implement the rate consolidation and simplification measure.
Rate Reduction

Additionally, the tax reform measure included an across the board tax reduction up to 4% per year. That measure states “that when business tax revenues exceed budgeted targets, the business tax rates measured by gross receipts can incur a reduction of up to 4% per year.” In accordance with those ordinance provisions, the Director of Finance has determined that for fiscal year 2006-2007, there will be a rate reduction for 2007, in the amount of 4%. Accordingly, the applicable business tax provisions have been amended to reflect new tax rates.

Rule 38

This office sent a copy of the draft ordinance, pursuant to Council Rule 38, to the Office of Finance and requested that it make any comments it has directly to you when you consider this matter.

If you have any questions, please contact Deputy City Attorney Beverly Cook at (213) 978-7784. Either she or another member of this office will be available to answer any questions you may have.

Sincerely,

ROCKARD J. DELGADILLO, City Attorney

By: CLAUDIA CULLING
Special Counsel – Municipal

CC:BC:vrc
Attachment
ORDINANCE NO. _____________

An ordinance amending Article 1, Chapter II of the Los Angeles Municipal Code to revise the business tax provisions.

THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:

Section 1. The title of Article 1 of Chapter II of the Los Angeles Municipal Code is amended to read:

ARTICLE 1. BUSINESS TAXES

Sec. 2. A new Section 21.33 with a Tax Rate Table is added to the Los Angeles Municipal Code to read:

Unless specifically listed under other areas of this article, the annual tax rates are as follows:

(a) Tax Rate A shall be $1.09 for each $1,000.00 of gross receipts or fractional part.

(b) Tax Rate B shall be $1.37 for each $1,000.00 of gross receipts or fractional part.

(c) Tax Rate C shall be $2.76 for each $1,000.00 of gross receipts or fractional part.

(d) Tax Rate D shall be $3.42 for each $1,000.00 of gross receipts or fractional part.

(e) Tax Rate E shall be $3.85 for each $1,000.00 of gross receipts or fractional part.

(f) Tax Rate F shall be $5.50 for each $1,000.00 of gross receipts or fractional part.

Sec. 3. Sections 21.143, 21.197, 21.189.3, and 21.189.4 of the Los Angeles Municipal Code are repealed and a new Section 21.41 is added to read:

SEC. 21.41. GROSS RECEIPTS FUND CLASS 1.

For every person engaged in business as a Child Care Provider, Multimedia Business, Telephone Company, Tugboat and/or Barge Operator, Tax Rate A, set forth in Section 21.33(a) shall be applicable.
(a) CHILD CARE PROVIDERS.

1. A child care provider shall mean providing non-medical care for children under 18 years of age in need of personal services, supervision or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis.

2. As used in this section, the term “gross receipts” does not include receipts of:

   (i) Community chests, funds, foundations or corporations organized and operated for religious, hospital or charitable purposes, not conducted for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual;

   (ii) Non-profit secondary schools, which are duly accredited by the University of California, and receipts of non-profit elementary schools in which instruction is given to students in the pre-primary and primary grades in the several branches of studies required to be taught in the public schools of the State of California;

   (iii) Rotary, Kiwanis and Lions Clubs, non-profit automobile clubs, chambers of commerce, and other community service organizations; also receipts of trade associations such as Merchants Plumbers Association, Merchants and Manufacturers Association and labor organizations.

(b) MULTIMEDIA BUSINESSES.

1. A multimedia business shall mean a business that produces films, disks, tapes, software or other recording devices, whether visual or audio, through the integration of two or more media, which media include, without limitation, computer generated graphics and video, film, slides, video tapes, audio tapes and photographs or provides computer programming services on a contract or fee basis to the producer of these media. These services shall include computer software design and analysis, modification of custom software, digital imaging and other related programming services, the development of online and internet services and the design of web sites for clients.

2. A multimedia business shall not include a business that utilizes multimedia to sell goods or further its business, motion picture, television or radio producers, or radio or television broadcasters, or an adult entertainment business, as defined in Section 12.70 B of this Code.

(c) TELEPHONE COMPANIES
1. A person engaged in the business of providing telephone services shall mean a telephone company as the term is used in Article XIII, Section 14 of the Constitution of California.

2. For the purpose of this section, “gross receipts” shall have the same meaning as in Subsection (a) of Section 21.00, except that only those receipts derived from providing telephone services within the City of Los Angeles shall be included, and further excepting, that only receipts resulting from intrastate telephone services shall be included. “Gross receipts” shall also include receipts from the selling of advertising or advertising space in any directory, other printed matter or any other media only for business tax purposes commencing on or after January 1, 1984.

(d) TUGBOAT AND BARGE OPERATORS.

“Tugboat and barge operator” shall mean engaged in the business of operating a tugboat or barge.

Sec. 4. Section 21.166 of the Los Angeles Municipal Code is repealed and a new Section 21.42 is added to read:

SEC. 21.42. GROSS RECEIPTS FUND CLASS 2.

For every person engaged in wholesale sales, Tax Rate A, set forth in Section 21.33(a), shall be applicable.

(a) A “wholesale sale” or sale at wholesale means a sale of goods, wares or merchandise for the purpose of resale in the regular course of business; provided that a blind person, within the meaning of this section, need not include the first $100,000.00 of gross receipts in the computation of the amount of tax due. This exemption shall not subject these persons to the provisions of Section 21.49, Professions and Occupations, of this article.

(b) A blind person, within the meaning of this section, shall mean a person having not more than ten percent visual acuity in the better eye, with correction as certified by a licensed physician and surgeon who specialize in diseases of the eye or the Bureau of Vocational Rehabilitation of the Department of Education of the State of California. The exemption provided by this section shall not apply until a certificate as to the blindness shall be furnished to the Director of Finance.

(c) No tax under this article shall be required to be paid by any non-profit wholly owned retailer food cooperative by reason of its sales to its owner-members.

(d) For the purpose of this section, newspapers, magazines, periodicals, books and other printed matter shall be deemed to be included in the term “goods, wares or
merchandise" and the term "gross receipts" shall mean California receipts from the selling or furnishing of advertising or advertising space in printed matter in addition to California receipts from the sale of goods, wares or merchandise. The provisions of this subsection shall apply only to business tax periods commencing on or after January 1, 1984.

Sec. 5. Sections 21.198, 21.198.1, 21.198.2, and 21.199 of the Los Angeles Municipal Code are repealed and a new Section 21.43 is added to read:

SEC. 21.43. GROSS RECEIPTS FUND CLASS 3.

For every person engaged in business as an Antique Show or Collectors Exchange Show Promoter, Swap Meet Operator; engaged in the business of Renting Accommodations or Residential Rentals, Rentals of Office, Commercial Buildings, etc., Tax Rate B. as set forth on Section 21.33(b), shall be applicable.

No registration certificate shall be required or a tax paid by any person engaged in one or more of the businesses described in this section, unless the total gross receipts derived from being so engaged are equal to or in excess of $20,000.00 per calendar year.

(a) ANTIQUE SHOW AND COLLECTORS EXCHANGE SHOW PROMOTER.

1. Antique show, collectors, exchange show, antique show or collectors exchange show promoter and antique show or collectors exchange show exhibitor shall be as defined in Article 3, Division 9, Section 103.301.1 of this Code.

2. In addition to the tax stated here, there is an additional $0.59 per space for each show space rented for each day of show operation. The portion of the tax measured by space rentals shall be paid to the Director of Finance on a monthly basis, and shall be delinquent if not paid within the calendar month following the month during which the tax is accrued, notwithstanding any other provision of this article. If the promoter of the antique show or collectors exchange show is an organization otherwise exempted from the payment of taxes under this chapter, it shall be required, notwithstanding any other provision of this article, to obtain a business tax registration certificate and pay to the Director of Finance the above noted space rental taxes. The promoter must pass the space rental tax on to the antique show or collectors exchange show exhibitor and the reimbursement shall not be included in the promoter's gross receipts under this section.

3. For the purpose of taxation of antique shows and collectors exchange shows, the definitions contained under Rental of Office, Commercial Buildings, etc., in this section shall apply, except that the definition of “tenant”
and "tenancy" shall include land or space on land, and is not limited to the occupation of a building or structure or space.

(b) SWAP MEET OPERATOR.

1. A swap meet operator is defined in Article 3, Division 9 Section 103.311 of the Los Angeles Municipal Code.

2. In addition to the tax stated here, there is an additional $.059 per space for each swap meet space rented for each day of swap meet operation. The portion of the tax measured by space rentals shall be paid to the Director of Finance on a monthly basis and shall be delinquent if not paid within the calendar month following the month during which the tax is accrued, notwithstanding any other provision of this article. If the operator of the swap meet is an organization otherwise exempted from the payment of taxes under this chapter, it shall be required, notwithstanding any other provision of this article, to obtain a business tax registration certificate and pay to the Director of Finance the above noted space rental taxes. The swap meet operator may pass the space rental tax on to the swap meet vendor and the reimbursement shall not be included in the swap meet operator's gross receipts for purposes of this section.

3. For the purpose of taxation of swap meets, the definitions contained under Rental of Office, Commercial Buildings, etc., in this section shall apply, except that the definition of "tenant" and "tenancy" shall include land or space on land, and is not limited to the occupation of a building or structure or space.

(c) RENTING ACCOMMODATIONS OR RESIDENTIAL RENTALS

1. Renting accommodations or residential rentals shall mean every person engaged in the business of conducting or operating a hotel, rooming house, boarding house, apartment house, lodging house, house court or bungalow court, and every person engaged in the business of renting or letting rooms, apartments or other accommodations for dwelling, sleeping or lodging in any similar place, and every person engaged in the business of operating any public camp, or trailer camp, park or lot where the public may rent camping, trailer or tent space, or services provided or available in connection with that space.

2. Notwithstanding the provisions of Section 21.06 to the contrary, a person required by this section to pay a tax need obtain only one registration certificate by reason of that requirement; but he or she shall include in the measure of the tax the gross receipts derived from all businesses taxed by this section engaged in by him or her within the City of Los Angeles, whether at one or more than one location. At the time the tax provided here is
remitted, the Director of Finance may require the registrant to furnish a statement of the number of these businesses conducted by him or her, giving the street address of each location, the amount of gross receipts attributable to each location, and designating a location at which the registration certificate issued shall be posted as provided in Section 21.09. The location so designated shall be considered the location of the business for the purpose of Section 21.08.

3. The Director of Finance may require a person engaged in any business taxed by this section to furnish information necessary in order for the Director of Finance to determine the nature of the ownership of the business, and the amount of interest that parties to the ownership of the business claim or possess. Where the Director of Finance determines that the parties claiming or possessing an ownership interest in two or more businesses taxed by this section, one or more of which produces less than $20,000.00 in gross receipts in a particular calendar year, are substantially the same, he may require that the receipts of all these businesses be used as the measure of any tax that may be due, and issue a registration certificate and the identifying symbols as may be required in the manner prescribed in Subsection (c)2. Notice of the determinations made by the Director of Finance shall be served on the persons or parties affected by his or her determination in the same manner as notices of assessment are served under the provisions of Section 21.16. Any person or party affected by the determination of the Director of Finance may protest the determination by making written application for a hearing within ten days after the mailing or serving of the notice of the Director of Finance's determination. Within 15 days after receiving a request for a hearing, the Director of Finance shall cause the matter to be set for hearing before a board constituted as provided in Section 21.16. The Board shall consider the evidence, make findings, serve a copy of the findings, and receive and consider any exceptions that may be filed, and make any modification of its findings it may deem necessary. Once the Board completes those steps, the findings of the board shall be considered final.

4. No tax under this section shall be required to be paid by any cooperative housing corporation by reason of its renting or letting to its tenant-stockholders.

(d) RENTAL OF OFFICE, COMMERCIAL BUILDINGS, ETC.

1. "Commercial Rental" shall mean renting or letting a building or structure of any kind on land located in the City of Los Angeles to a tenant for purposes other than dwelling, sleeping or lodging, or renting or letting space or the use or possession of space, or the right to use or possess space in a building or structure to a tenant for those purposes, and for every lessor engaged in the business of renting or letting boat slips or moorings. Tenant
and tenancy shall include tenants and tenancies of all types, and persons occupying and the occupation of a building or structure, or space in a building or structure under any license or any concession agreement with a lessor. The right to use or possess the space shall be deemed to be the same as actual occupation.

2. The foregoing definition includes renting and letting of every kind and character, whether by an owner, lessee or sublessee, and licensing, and the granting of a concession by any of them, without regard to the length of the term of the tenancy, the date of its commencement, expiration or renewal, without regard to the number of tenants a lessor may have, or the number of buildings or structures, or the quantity of space in the buildings or structures, or the number of boat slips or moorings a lessor may have available for renting or letting to a tenant. It shall not fail to be a commercial rental by reason of the fact that one or more persons may reside within the building or structure where either the primary purpose of the particular tenancy or the primary use or right of use by the particular tenant is for some purpose other than dwelling, sleeping or lodging. It also shall not fail to be a commercial rental by reason of the fact that the tenant proposes to operate or does in fact operate the building or structure as a premises for a hotel, apartment or other dwelling.

Commercial rental specifically does not include any of the following:

(i) Maintaining a storage or warehouse and required to pay a tax for that business under other provisions of this article;

(ii) Providing space in a building or structure for the parking or storage of automobiles, and required to pay a tax for that business under other provisions of this article;

(iii) Operating a theater, exhibition hall or any similar place of public assemblage or entertainment, to the extent that the receipts are charges collected from patrons for admission to the premises;

(iv) To the extent that a business activity includes renting to casual tenants, where casual tenant and casual tenancy shall mean any tenant or tenancy where the consideration paid or agreed to be paid consists exclusively of services; or where, after examining all the facts, the Director of Finance determines that the only tenancy is that of one or more tenants paying to a sublessor, primarily on a cost-sharing basis for the space used, involving less than 25% of the space under the control of the sublessor, and is terminable at will, a business otherwise subject to tax as a commercial rental;
(v) A business where the gross receipts are received as compensation for permitting coin-operated machines and devices to be placed, or to remain on or within the premises under the control of the lessor;

(vi) Conducting, operating, promoting or sponsoring a bona fide trade show as defined in Section 21.168.4(b), of this article, where the bona fide trade show does not exceed 14 days; neither shall these persons be subject to tax under any other provision of this article by virtue of engaging in any activity for which an exemption is granted in this paragraph.

(vii) Acting as an antique show or collectors exchange show promoter or as a swap meet operator, both of which are defined in Article 3, Division 9, Section 103.311 of this Code.

(viii) Renting or letting boat slips or moorings to the extent that the boat slips or moorings are used exclusively for commercial purposes.

3. Notwithstanding the provisions of Section 21.06 to the contrary, a lessor required by this section to pay a tax need obtain only one registration certificate; but he or she shall include in the measure of the tax the gross receipts derived from all businesses taxed by this section engaged in by him or her within the City of Los Angeles, whether at one or more than one location. At the time the tax provided here is remitted, the Director of Finance may require the registrant to furnish a statement of the number of these businesses conducted by him or her giving the street address of each location, the amount of gross receipts attributable to each location, and designating a location at which the registration certificate issued shall be posted as provided in Section 21.09. The location so designated shall be considered the location of the business for the purposes of Section 21.08.

4. A promoter or operator of a consumer show, exhibition or fair shall submit to the Director of Finance a list containing the legal name, doing business as name (DBA), business address, mailing address and telephone number of each participating exhibitor 30 days prior to the date of the consumer show, exhibition or fair and shall provide each participating exhibitor with information of the City's Business Tax requirements.

Sec. 6. Sections 21.167 and 21.102 of the Los Angeles Municipal Code are repealed and a new Section 21.44 is added to read:

SEC. 21.44. GROSS RECEIPTS FUND CLASS 4.

For every person engaged in the business of Retail Sales, Laundry Cleaning or Service and Shoe Repair, Tax Rate B, as set forth in Section 21.33(b), shall be applicable.
(a) RETAIL SALES.

1. A retail sale or sale at retail shall mean a sale of goods, wares or merchandise for any purpose other than resale in the regular course of business; provided that a blind person need not include the first $75,000.00 of gross receipts in the computation of the amount of tax due. This exemption shall not subject these persons to the provisions of Section 21.49, Professions and Occupations, of this article.

2. A blind person, within the meaning of this section, shall mean a person having not more than ten percent visual acuity in the better eye, with correction as certified by a licensed physician and surgeon who specializes in diseases of the eye, or the Bureau of Vocational Rehabilitation of the Department of Education of the State of California. The exemption provided by this section shall not apply until a certificate as shall be furnished to the Director of Finance.

3. Whenever a person engages at the same location in two or more businesses of the kind taxed in this section, a joint Registration Certificate shall be issued for all these businesses and the tax shall be measured by the sum of the gross receipts of all these businesses so conducted.

4. For the purpose of this section, newspapers, magazines, periodicals, books and other printed matter shall be deemed to be included in the term "goods, wares or merchandise" and the term "gross receipts" shall mean California receipts from the selling or furnishing of advertising or advertising space in printed matter in addition to California receipts from the sale of goods, wares or merchandise. The provisions of this subsection shall apply only to business tax periods commencing on or after January 1, 1984.

5. The provisions of this section shall not apply to an exhibitor who displays, exhibits or offers for sale or exchange any secondhand personal property at an antique show or at a collectors exchange show, or a vendor who sells, exchanges, displays or offers for sale or exchange new or secondhand goods at a swap meet, as defined in Article 3, Division 9, Section 103.311 of this Code. This exemption applies only to that portion of an exhibitor's or vendor's receipts from sales or exchanges at an antique show, collectors exchange show or swap meet.

(b) LAUNDRY CLEANING OR SERVICE AND SHOE REPAIR.

Laundry, cleaning and dyeing agent, collector, linen supply and shoe repair shall mean washing, ironing, drying, cleaning, dyeing, sizing, blocking or pressing any clothing, wearing apparel, garment, linen, fabric or similar material, or similar article of personal property, whether accomplished by hand, machine or any coin-operated machine operated by a person, his or her employee or any customer, or furnishing or
letting the use of any towels, linens, aprons, bedding, napkins, table covers, or any other article of personal property of a similar nature, or collecting or delivering any similar article as an agency or otherwise, for a fee or charge, or repairing or rebuilding shoes; provided that a person engaged in business subject to tax under this section, makes minor alterations or repairs to the clothing, wearing apparel, garments, linens, fabrics or similar material being washed, ironed, dried, cleaned, dyed, sized, blocked or pressed, in lieu of paying a separate business tax and obtaining a separate registration certificate under this article for the conduct of each business, may combine the gross receipts of all these businesses at that location and upon the basis of that computation pay a combined business tax and obtain a single registration certificate under this section for all these businesses at that location.

Sec. 7. Sections 21.147 and 21.189.2 of the Los Angeles Municipal Code are repealed and a new Section 21.45 is added to read:

SEC. 21.45. GROSS RECEIPTS FUND CLASS 5

For every person engaged in the business of Radio and Television Broadcaster, and Theater, Tax Rate B. set forth in Section 21.33(b), shall be applicable.

(a) RADIO AND TELEVISION BROADCASTER.

1. "Radio Broadcaster" shall mean any person engaging in the business of producing and broadcasting or broadcasting local or network radio programs or advertising material, including the furnishing of services, program elements or facilities in connection with production, production and broadcasting, or broadcasting.

2. "Television Broadcaster" shall mean any person engaging in the business of producing and broadcasting or broadcasting local or network television programs or advertising materials, including the furnishing of services, program elements or facilities in connection with production, production and broadcasting, or broadcasting. A "television broadcaster" shall include any person operating a television system where the viewing audience pays a fee to view the broadcast.

3. When gross receipts are constitutionally required to be apportioned and are derived from or attributable to activities engaged in both within and without the City, gross receipts shall be apportioned in a manner that is fairly calculated to determine the amount of gross receipts derived from or attributable to engaging in business in the City. This apportionment shall be made on the basis of payroll, value and situs of tangible property, general expense, or by reference to any of these or other factors, or by any other method of apportionment, that will fairly determine the amount of gross receipts derived from or attributable to engaging in business in the City.
Gross receipts derived from or attributable to sources within the City shall include gross receipts from any activities carried on in this City.

4. Notwithstanding the foregoing, the gross receipts used in the measurement of the tax under this section shall be limited to receipts that are generated, produced, or attributable to local activities in the State of California.

5. The provisions of this section shall apply only to business tax periods commencing on or after January 1, 1984.

(b) THEATER.

Theater Operator shall mean any person engaged in the business of conducting a theater containing a permanent stage upon which movable scenery and theatrical appliances are used, where regular theatrical or vaudeville performances are given and for the privilege of viewing the performances, a fee is charged, collected or received, or conducting, managing or carrying on a moving picture theater or drive-in theater, where moving or motion pictures are exhibited and a fee is charged, collected or received, or conducting, operating or promoting any entertainment, show or exhibition not otherwise required to pay a tax under other provisions of this article, where an admission fee is charged, collected or received, or where no admission fee is charged, collected or received but donations of any kind or character are solicited or accepted. Provided, that in connection with any entertainment, show or exhibition, if no admission fee is charged, collected or received, and no donations of any kind or character are solicited or accepted, or if the person conducting, operating or presenting the entertainment, show or exhibition taxed under this section is a person mentioned in Section 21.49 c 3(iv), Professions and Occupations, or if the person is a strolling musician who performs on sidewalks, in parks and similar publicly owned places where no admission fee is charged, collected or received, even though donations are solicited and collected, no tax shall be required to be paid for those performances by that person.

Sec. 8. Sections 21.59, 21.65, 21.78, 21.141, and 21.192 are repealed and a new Section 21.46 is added to read:

SEC. 21.46. GROSS RECEIPTS FUND CLASS 6.

For every person engaged in the business of Promoting or Staging Sporting Events, Operating or Maintaining Vending Machines, Collection Agencies, Storage, Freight Forwarding/Steamship Agency, and Personal Property Rental, Tax Rate C, as set forth in Section 21.33(c), shall be applicable.

(a) SPORTING EVENT.

"Sporting Event" shall mean the business of promoting or staging any baseball, football, soccer, tennis, polo, swimming, boxing, wrestling, or similar exhibition, event or
contest; provided, however, as used in this section, "gross receipts" shall not include any of the following:

1. Receipts from a trade, calling, occupation, vocation, profession or other means of livelihood, which this City is prohibited from taxing under the Constitution or laws of the United States, or under the Constitution or laws of the State of California;

2. Receipts of community chests, funds, foundations or corporations organized and operated for religious, hospital or charitable purposes, not conducted for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual;

3. Receipts of non-profit educational institutions of collegiate grade, defined here to mean institutions incorporated as colleges or seminaries under the laws of the State of California, which require for regular admission the completion of a four-year high school course, or its equivalent, and which confer upon their graduates at least one academic or professional degree, based on a course of at least four years in liberal arts and sciences, or on a course of at least three years in professional studies such as law, theology, education, medicine, pharmacy, architecture, fine arts, commerce or journalism; receipts of non-profit secondary schools which are duly accredited by the University of California; and receipts of non-profit elementary schools in which instruction is given to students in the pre-primary and primary grades in the several branches of studies required to be taught in the public schools of the State of California;

4. Receipts of Rotary, Kiwanis and Lions Clubs, non-profit automobile clubs, Chambers of Commerce, and other community service organizations; also receipts of trade associations such as Merchants Plumbers Association, Merchants and Manufacturers Association and labor organizations.

(b) VENDING MACHINES.

1. "Vending Machine Operator" means the business of operating, maintaining or letting the use of any coin-operated vending machine for the dispensing of goods, wares, merchandise or other tangible property.

2. Except as otherwise provided in this section, each coin-operated vending machine, which is operated, maintained or used within this City, shall have conspicuously stamped upon it or affixed on it for identification purposes, the name and address, Business Tax Registration Certificate number, and the telephone number, if any, of the owner or operator. The identification shall be provided by the owner or operator of the machine and at his expense, notwithstanding the provisions of Section 21.06(b) to the contrary, and shall be removed from the machine by the owner or operator.
when the authority to use the machine is transferred to another person, whether by sale, lease, license or otherwise.

3. No business tax or identification shall be required for the maintenance or operation of:

   (i) Any postage stamp machine;

   (ii) Any machine dispensing sanitary or hygienic articles, or drinking cups, towels or medicine, which machine is entirely owned and supplied by the owner or operator of the premises where the machine is installed, and is maintained solely for the convenience of employees, visitors or customers and, not for profit to him or to any other person;

   (iii) Any machine, which is entirely owned, operated and supplied by the owner or operator of the premises where the machine is installed, and the owner or operator holds a valid registration certificate at that location to engage in a business taxed under the provisions of Section 21.42, Wholesale Sales or Section 21.44, Retail Sales, of this article, and the owner or operator includes the gross receipts from the sale of all goods, wares, merchandise or other tangible property dispensed by the machine in the measure of the applicable business tax paid under Section 21.42, Wholesale Sales or Section 21.44, Retail Sales, of this article;

   (iv) Any machine dispensing newspapers or other printed matter.

(c) COLLECTION AGENCIES.

1. “Collection agency” means and includes all persons engaged directly or indirectly and as primary or secondary object, business or pursuit, in soliciting claims for collection or in the collection of claims owed or due or asserted to be owned or due to another, and any person, when engaged in collecting accounts for another, where the employment is for one or more persons, shall be deemed to be engaged in the collection business within the meaning of this section. Any person using a fictitious name in collecting his or her own accounts receivable with the intention of conveying to the debtor that a third party has been employed, is a collection agency as contemplated by this section and shall be subject to these provisions. The term “collection agency” shall not include attorneys-at-law, individuals regularly employed on a regular wage or salary, in the capacity of credit men or in other similar capacity upon the staff of employees of any one person not engaged in the business of a collection agency, banks, abstract companies doing an escrow business, duly licensed real estate brokers or agents doing a real estate business, nor a merchant-owned non-profit credit association unless they are conducting a collection agency.
2. In computing the tax imposed by this section, there shall be deducted from gross receipts the amount received as the result of collections made outside of the State of California.

(d) STORAGE, FREIGHT FORWARDING.

1. "Freight Forwarding" means the business of preparing the documentation and otherwise arranging for the importation or exportation of goods, wares or merchandise, or of collecting or consolidating for shipment in carload lots or less, truck load lots or less, any goods, wares or merchandise, as agent or bailee for any person where a fee is charged for that service.

2. "Steamship Agency" means the business of soliciting, receiving or handling outbound or inbound freight aboard vessels attending to operational requirements of vessels while they are entering, within and departing from a port, and performing husbanding services, such as arranging for ships stores, bunker fuel, crew changes, vessel repairs and delivery or re-delivery of vessels pursuant to charter.

3. "Storage or Warehousing" shall mean the business of storing goods, ware or merchandise of any kind.

(e) PERSONAL PROPERTY RENTAL.

1. "Personal Property Rental" means the business of leasing or renting any tangible personal property. For the purpose of this section, "Tangible Personal Property" shall mean personal property that may be seen, weighed, measured, felt, or touched, or which is in any other manner perceptible to the senses.

2. Nothing in this section shall be construed to require the inclusion of the amount received for the leasing or renting of tangible personal property the entire use of which is made wholly outside the State of California.

Sec. 9. Sections 21.79 and 21.80 of the Los Angeles Municipal Code are repealed and a new Section 21.47 is adopted to read:

SEC. 21.47. GROSS RECEIPTS FUND CLASS 7.

For every person engaged in the business of Commission Broker and Independent Telemarketing, Tax Rate D, as set forth in Section 21.33(d), shall be applicable.

(a) COMMISSION BROKERS.
"Commission Broker" shall mean any person engaged in the business of buying and selling of goods, wares or merchandise by a person to the extent that the person:

1. Does not engage in the business of manufacturing, refining, fabricating, milling, treating or other processing of the goods, wares or merchandise bought and sold and, does not cause the goods, wares or merchandise to be manufactured, refined, fabricated, milled, treated or otherwise processed;

2. Does not obtain or retain title to the goods, wares or merchandise, except while the goods, wares or merchandise may be in transit, or for short periods of time before transportation commences or after it ceases; and

3. Does not store or warehouse the goods, wares or merchandise, except while the goods, wares or merchandise are actually in transit, or for short periods of time before transportation commences or after it ceases.

(b) INDEPENDENT TELEMARKETING AGENCY.

"Independent Telemarketing Agency" means any person who engages in the business of marketing services or goods, wares or merchandise on behalf of three or more clients continuously, none of which has any ownership interest in the person, by use of a telecommunications device at a call center. An Independent Telemarketing Agency shall not include a person who sells his or her own services or goods, wares or merchandise. A call center shall mean a location in which 25 or more persons are continuously employed or utilized to make and/or receive telephone calls by means of a centralized telecommunications system.

Sec. 10. Section 21.189.1 of the Los Angeles Municipal Code is repealed and a new Section 21.48 is adopted to read:

SEC. 21.48. GROSS RECEIPTS FUND CLASS 8.

(a) For every person engaged in business providing miscellaneous services as an Advertising Agency, Aircraft Support Contractor, Apparel Subcontractor, Bookbinder, Check Cashing Service, Drapery Subcontractor, Heat Treater, Mailing Service, Metal Plater, Music Teacher, Public Relations Agency, Refuse Contractor, Shoe Shining Stand, Parlor Operator, Silk Screen Apparel Subcontractor, Temporary Help Agency, Ticket Seller, Travel Agency, Typesetter or Wire Terminator, Tax Rate E, as set forth in Section 21.33(e), shall be applicable.

(b) For purposes of this section, the following terms are be defined as follows:

"Miscellaneous Services" means any person engaged in business as an advertising agency, aircraft support contractor, apparel subcontractor, bookbinder, check cashing service, drapery subcontractor, heat treater, mailing service, metal plater,
music teacher, public relations agency, refuse contractor, shoe shining stand or parlor operator, silk screen apparel subcontractor, temporary help agency, ticket seller, travel agency, typesetter or wire terminator.

“Advertising Agency” means any person who engages in the business of advertisement counseling, including the writing, composing, designing and placement of advertisements for clients, regardless of the advertising media employed; provided however that the extent the person employs the use of his or her own media, he or she shall not be considered an advertising agency with regard to either the promotion or placement of advertisements in that media.

“Aircraft Support Contractor” means any person who engages in the business of furnishing ground support services to airline carriers, including the providing of ramp services, baggage and freight handling services, ticket services, mechanical services, fueling services or other similar services normally performed at an airport.

“Apparel Subcontractor” means any person who engages in the business of cutting, sewing, or fabricating any clothing, wearing apparel, garment, or similar material belonging to an apparel manufacturer or pursuant to a contract with another apparel subcontractor.

“Bookbinder” means any person engaged in the business of binding books.

“Check Cashing Service” means any person engaged in the business of cashing payroll checks, for a fee or charge and for every person whose business consists in whole or in part of cashing checks for others for a fee or charge.

“Drapery Subcontractor” means any person who engages in the business of cutting, sewing, or fabricating any draperies, curtains, or similar material belonging to a drapery manufacturer, drapery jobber, or drapery seller, or pursuant to a contract with another drapery subcontractor.

“Heat Treater” means any person who engages in the business of changing the hardness and/or strength of metal materials of another by controlled heat process methods.

“Mailing Service” means any person who engages in the business of preparing printed matter for mailing (such as, by sorting, collating, tying, inserting, addressing, and metering), mailing the printed matter, or providing (without selling), advising as to, compiling, or maintaining lists of persons, businesses, or locations for use in mailing printed matter.

“Metal Plater” means any person who engages in the business of plating, anodizing or galvanizing metal articles of another electrolysis or any other plating process.
“Music Teacher” means any person who engages in the business of teaching music.

“Public Relation Agency” means any person who engages in the business of promoting rapport and goodwill between a person and other persons, special publics, or the community at large through the distribution of interpretative material, the development of neighborly interchange and the assessment of public reaction.

“Refuse Contractor” means any person who engages in the business of hauling refuse.

“Shoe Shining Stand or Parlor Operator” means any person who engages in the business of operating or maintaining a shoe shining stand or parlor.

“Silk Screen Apparel Subcontractor” means any person who engages in the business of performing silk screen printing work upon any clothing, wearing apparel, garment, or similar material belonging to an apparel manufacturer or pursuant to a contract with another silk screen apparel subcontractor.

“Temporary-Help Agency” means any person engaged in the business of supplying his employees to others on a temporary basis, provided however that this term does not include an agency for the brokerage of labor for a fee to be paid either by the applicant for employment or the prospective employer.

“Ticket Seller” means any person, who engages in the business of selling rights, evidenced by tickets, which entitle the purchaser to view, hear and/or attend a theatrical, cultural, sporting or similar event and who does not sponsor, promote, produce or contribute to the event. Ticket seller includes persons selling rights on their own account and persons selling rights as broker or agent for another person.

“Travel Agency” means any person who engages in business as a broker of travel services, and who arranges for transportation, tours, lodging facilities, food, entertainment, and other similar accommodations or related services.

“Typesetter” means any person who, as a typesetter, compositor, typographer, or type founder, engages in the business of setting type for another by hand, cold type process, hot metal process, photographic process, or any other similar mechanical or photochemical “type assembly” process.


As used in this section, the term “gross receipts” includes all receipts included by the provisions of Subsection (a) of Section 21.00 of this article. In the case of persons acting as agents or brokers for another person, the term gross receipts includes and
excludes, respectively, those receipts that are included and excluded under Subdivision 6 of Subsection (c) of Section 21.49, Professions and Occupations; provided, however, that with regard to a person engaged in business as a Travel Agency the cost of transportation, tours, lodging facilities, food, entertainment, and other similar accommodations or services shall be deemed to be the legal obligation of the recipient.

Sec. 11. Sections 21.56, 21.190, and 21.191 of the Los Angeles Municipal Code are repealed and a new Section 21.49 is added to read:

SEC. 21.49. GROSS RECEIPTS FUND CLASS 9.

For every person engaged in business conducting Auto Parks, Health Maintenance Organizations, Any Trade, Calling, Occupation, Vocation, Profession or other means of livelihood, as an independent contractor and not an employee of another, and not specifically taxed by other provisions of this article, Tax Rate F, as set forth in Section 21.33(f), shall be applicable.

(a) AUTO PARK.

“Auto Park” means engaged in the business of conducting any automobile parking place, storage lot or storage place where motor vehicles are parked or stored, and a charge is made directly or indirectly for the parking or storage.

(b) HEALTH MAINTENANCE ORGANIZATIONS.

“Health Maintenance Organization” means engaged in business arranging for the provision of health care services to subscribers or enrollees, or to pay for or to reimburse any part of the cost for those services, in return for a prepaid or periodic charge paid by or on behalf of the subscribers or enrollees.

1. For the purposes of this section, gross receipts of a Health Maintenance Organization, which are attributable to a place of business within the City, shall be apportioned by using the total cost method to determine the amount of gross receipts that are subject to tax. The total cost method uses a ratio to derive a percentage that is multiplied by the total gross receipts. The numerator of the ratio is the total in-City costs. The denominator of the ratio is the sum of the total in-City costs and the total out-of-City costs. The percentage derived by dividing the numerator by the denominator is multiplied by the total gross receipts to determine the amount of gross receipts that are subject to tax. Total costs shall include a Health Maintenance Organization’s payroll and related costs, property and related costs, and contract health care provider costs, incurred within and without the City.

2. The apportionment formula set forth in Subdivision 1 shall be applicable to all tax years not barred by the statute of limitations on January
1, 1998. Notwithstanding the foregoing, no person shall be entitled to a refund for any tax year prior to 1998, due to the application of the apportionment formula set forth in Subdivision 1. In computing any person’s tax liability due for tax years prior to 1998, offsets of applicable credits not barred by the statute of limitations shall be allowed before determining the total tax due.

3. The Director of Finance shall levy an assessment pursuant to Section 21.16 of this article in the amount of the underpayment against any person who has underpaid tax for any tax year prior to 1998, to which the apportionment formula set forth in Subdivision 1 is applicable.

4. Notwithstanding the provisions of Section 21.05 of this Code, no penalty shall apply, and interest shall accrue at the rate equal to the annualized rate of return on the general pool earned by the City Treasurer for the calendar year prior to the tax year involved, on any underpayment described in Subdivision 3.

5. No interest described in Subdivision 4 shall accrue during the period commencing on January 1, 1997, and ending on June 30, 1998.

6. Notwithstanding the provisions of Section 21.05 of this Code, the tax under this section for the 1998 tax year shall not be delinquent until July 1, 1998, and prior to that date, no penalty shall apply and no interest shall accrue.

(c) PROFESSIONS AND OCCUPATIONS

1. “Professions and Occupations” means a person engaged in any trade, calling, occupation, vocation, profession or other means of livelihood, as an independent contractor and not as an employee of another, and not specifically taxed by other provisions of this article.

2. A person engaged in more than one trade, calling, occupation, vocation, profession or other means of livelihood embraced within this section shall consolidate all gross receipts and shall be issued one registration certificate covering all these activities. Any person engaged in any activities embraced within this section, in addition to activities covered by any other section of this article, shall obtain separate registration certificates for the activities covered by those other sections.

3. As used in this section, the term “gross receipts” does not include:

   (i) Receipts from a trade, calling, occupation, vocation, profession or other means of livelihood, which this City is prohibited from taxing under
the Constitution or laws of the United States, or under the Constitution or laws of the State of California;

(ii) Receipts of community chests, funds, foundations or corporations organized and operated for religious, hospital or charitable purposes, not conducted for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(iii) Receipts of non-profit educational institutions of collegiate grade, defined here to mean institutions incorporated as colleges or seminaries under the laws of the State of California, which require for regular admission, the completion of a four-year high school course, or its equivalent, and which confer upon their graduates at least one academic or professional degree, based on a course of at least four years in liberal arts and sciences, or on a course of at least three years in professional studies such as law, theology, education, medicine, pharmacy, architecture, fine arts, commerce or journalism; receipts of non-profit secondary schools which are duly accredited by the University of California; and receipts of non-profit elementary schools in which instruction is given to students in the pre-primary and primary grades in the several branches of studies required to be taught in the public schools of the State of California;

(iv) Receipts of Rotary, Kiwanis and Lions Clubs, non-profit automobile clubs, Chambers of Commerce, and other community service organizations; also receipts of trade associations such as Merchants Plumbers Association, Merchants and Manufacturers Association and labor organizations;

(v) Receipts of:

a. Railroad companies including street railways, defined here to include interurban electric railways;

b. Sleeping car, dining car, drawing-room car, and palace car companies, refrigerator, oil, stock, fruit and other car-loaning and other car companies operating upon railroads in this City;

c. Companies doing express business on any railroad, steamboat, vessel in this City;

d. Telegraph and telephone companies;

e. Companies engaged in the transmission or sale of gas or electricity.
(vi) Receipts of persons acting as agents or brokers for other persons to be paid over to those other persons, or to pay for those other persons' legal obligations, or as reimbursements for sums advanced by the agent for those other persons' legal obligations, or to be invested on behalf of those other persons. Notwithstanding the foregoing, however, the term "gross receipts" includes but is not limited to:

Receipts of any person received as commissions or fees earned, or charges of any character made or compensation of any character received, for the performance of any service by that person or any of that person's employees;

Receipts of any person received as partial or full compensation or reimbursement for salaries, payroll taxes, free benefits and any and all similar expenses for persons who are employees of that person under the criteria set forth in Division 4, Part 1, Chapter 2, Article 2 of the Labor Code of the State of California as effective on July 1, 1976.

Receipts of any person received as partial or full compensation or reimbursement for equipment, supplies, utilities, or other items or services acquired by that person in that person's name and used or consumed in the performance of services subject to tax under this section.

Provided, further, that any agent or broker dealing in stocks or other similar written instruments evidencing the right to participate in the assets of any business, or dealing in bonds or other evidences of indebtedness, who also deals in that property as a principal, shall include the gross receipts by which the tax is measured the amount of his trading profits resulting from these dealings. No deduction from receipts attributable to trading as a principal shall be made unless the deduction is provided for under Subsection (a) of Section 21.00 of this article.

(vii) Receipts from the publication and sale of newspapers, magazines and other periodicals regularly issued at average intervals not exceeding three months. The exclusion contained in this paragraph shall apply only to business tax periods commencing on or after January 1, 1984.

(viii) Receipts derived by a radio or television studio, station or network business from the production or broadcasting of local or network radio or television programs or advertising materials, including but not limited to the furnishing of services, program elements or facilities in connection with the production or broadcasting; provided, however, that nothing in this paragraph shall exempt any person from the tax imposed under Section 21.109 or exclude from the measure of the tax any receipts derived by any person from the operation of a television system where the viewing audience pays a fee to view the broadcast; provided, further, that
nothing in this paragraph shall be construed as entitling any studio, station or network business to engage in a business subject to tax under Section 21.42 Wholesale Sales, or Section 21.47, Retail Sales, or Section 21.46 Personal Property Rental, without paying the tax required in those sections. The exclusion contained in this paragraph shall apply only to business tax periods commencing on or after January 1, 1984.

(ix) Receipts of a person acting as a real estate salesman as that term is defined in Section 10132 of the California Business and Professions Code.

4. When the gross receipts are derived from or attributable to activities engaged in within and without the City, gross receipts shall be allocated in a manner that is fairly calculated to determine the amount of gross receipts derived from or attributable to engaging in business in the City. This allocation shall be made on the basis of payroll, value and situs of tangible property, general expense, or by reference to any of these or other factors, or by another method of allocation that will fairly determine the amount of gross receipts derived from or attributable to engaging in business in the City. Gross receipts derived from isolated or occasional transactions at places outside the City but within the State of California, where the registrant is not regularly engaged in a course of business transactions shall be deemed to be gross receipts derived from engaging in business in the City. Gross receipts derived from or attributable to sources within this City include: (a) gross receipts from tangible or intangible property located or having situs in this City; and (b), when not contrary to law, gross receipts from any activities carried on in this City regardless of whether carried on in interstate, intrastate or foreign commerce.

5. Allocation formulae designed to carry into effect the purpose of this subsection shall be adopted by the Director of Finance by rules and regulations. The Director of Finance is hereby authorized, in the application to individual cases of the rules and regulations and the formulae they contain, to make any modifications in formulae that may be necessary to carry out the intent of this subsection. If the Director of Finance reallocates gross receipts upon his or her examination of any return, he or she shall, upon the written request of the registrant, disclose to him or her the basis upon which the reallocation has been made.

Sec. 12. Section 21.65.1 of the Los Angeles Municipal Code is amended to read:

SEC. 21.65.1. COIN-OPERATED SCALES AND SERVICE MACHINES.

(a) For every person engaged in the business of operating, maintaining or letting the use of any coin operated scales, weighing device, baggage checking device, radio,
television, or any other coin-operated machine or device, and not otherwise specifically taxed or specifically exempted from tax under any other section of this article, whether or not of the same general character as those specifically enumerated here, which renders any service or furnishes any program or information in return for a coin or token of value and is installed or maintained for profit or gain, the tax shall be $22.17 per year or fractional part for each machine or device.

(b) Except as otherwise provided in this section, each coin-operated machine or device described in Subsection (a) that is operated, maintained or used within this City shall have conspicuously stamped upon it or affixed on it for identification purposes, the name and address, Business Tax Registration Certification number, and the telephone number, if any, of the owner or operator. The identification shall be provided by the owner or operator of the machine or device, at his or her expense, notwithstanding the provisions of Section 21.06(b) to the contrary, and shall be removed from, the machine or device by the owner or operator when the authority to use the machine or device is transferred to another person, whether by sale, lease, license or otherwise.

(c) Exemptions. Nothing contained in this section shall be construed to require the payment of any business tax for any coin-operated machine or device used in the operation of any automatic telephone, or any coin box for the receipt of fares on any carrier, or any coin receiving device the use of which is merely incidental to the conduct of a business operating under any franchise or specifically taxed by other provisions of this article.

Sec. 13. Section 21.75 of the Los Angeles Municipal Code is amended to read:

SEC. 21.75. SIDE SHOWS, CARNIVALS, CONCESSIONS.

(a) For every person engaged in the business of conducting a side show, or an after show to the circus, where a separate fee of $0.75 or less, is charged, received or collected, the tax shall be $44.34 per day; where the fee charged, received or collected amounts to more than $0.75, but less than $1.50, the tax shall be $88.69 per day; where the fee charged, received or collected, is $1.50 or more the tax shall be $177.38 per day.

(b) For every person operating or conducting any carnival, the tax shall be $88.69 for each concession for the first day of the carnival and $44.34 for each concession for each additional day.

(c) For the purpose of this section, a "carnival" shall mean any fair, festival or like activity of a temporary nature having a concession or concessions. A "concession" is defined to include any booth or stand or any space, court or area at, or in which, any game or test of skill, science or amusement is offered and at or in which the public is permitted or invited to participate for a fee, charge or donation.
(d) When the carnival is sponsored solely by a religious, charitable, educational, civic, veteran or other non-profit benevolent organization, or by a group of these organizations, the organization or group shall be deemed to be the person operating or conducting the carnival. Provided, however, that in the event any person other than this organization or group receives any proceeds or personal gain or profit by operating or participating in the operation of any concession in, at or adjacent to the carnival on behalf of himself or herself or on behalf of any person other than the sponsoring organization or organizations, that person shall be deemed to be the person operating or conducting the carnival.

(e) In the case of more than one non-sponsoring operator or conductor, each shall be jointly and severally liable and responsible for making application for the business tax registration certificate and for payment of the business tax for the carnival; provided, however, if one non-sponsoring operator or conductor has also rented, leased or otherwise furnished for use in the carnival equipment as concession booths or stands, or games or tests of skill, science or amusement, that person shall be deemed to be the operator or conductor of the carnival; and if more than one non-sponsoring operator or conductor has rented, leased or furnished equipment to the carnival, that person whom the Director of Finance, after full investigation of all the facts, determines to be the one who has leased, rented or furnished the greater amount of equipment shall be deemed to be the operator or conductor of the carnival.

(f) Where the operator or conductor of the carnival is a religious, charitable, educational, civic, veteran or other non-profit benevolent organization, or a group of these organizations, and the net proceeds of the carnival are to be used exclusively for religious, charitable, benevolent, educational or civic purposes, the operator or conductor shall be entitled to a tax exempt registration certificate upon application and qualification for the certificate as provided in this subsection.

The application for this exemption shall be made in the manner provided in Section 21.22 of this article not less than 30 calendar days prior to the starting date of the carnival; provided however, an application for this exemption, which is not filed within the time period prescribed here, may be accepted by the Director of Finance upon a showing that the failure to file a timely application was not a result of an intentional disregard of the prescribed statutory provisions. The Board of Police Commissioners shall investigate as provided in Section 21.22 and shall forward its report to the Director of Finance at least 16 calendar days prior to the starting date of the carnival in all cases where the application has been timely filed; otherwise the report shall be forwarded within 16 calendar days subsequent to the filing of the application for the exemption. If the report certifies that the sponsorship of the carnival and the use to be made of the net proceeds meet the requirements of this subsection for a tax exempt registration certificate, and if all other charges, fees and taxes required to be paid to the Director of Finance by reason of the operation of the carnival or activities conducted in connection with the carnival have been paid, the Director of Finance shall issue a tax exempt registration certificate. Any application not reported upon by the Board of Police Commissioners within the time limits prescribed here shall be deemed to be approved.
and the Director of Finance may issue the tax exempt certificate in lieu of payment of the tax.

If at any time the carnival or any part of it is conducted in a manner which, had it been disclosed in the application for the exempt certificate approved by the Board of Police Commissioners, would not have entitled the organization or organizations conducting the carnival to a tax exempt registration certificate, or if the net proceeds from the carnival are not used for the purposes stated in this subsection, if any tax exempt registration certificate so issued shall be void and the full amount of the business tax for the carnival shall be immediately due and payable to the City, and no other tax exempt registration certificate for a carnival shall be issued to the sponsoring organization or organizations until the tax has been paid.

(g) No business tax registration certificate and no business tax shall be required for any religious, charitable, educational or other non-profit benevolent institution to operate or conduct a carnival held within and upon buildings or grounds owned or occupied by the institution where none of the rides set forth in Section 21.94 are operated in, at or adjacent to the carnival and the concessions of the carnival are operated exclusively by and for the entertainment or benefit of the members of that institution and the net proceeds derived from the concessions are not used for the purpose of private gain to any individual but are used wholly for the benefit of the organization or for charitable or benevolent purposes; provided, that no advertising for the carnival is placed, exhibited, shown, or otherwise permitted outside the premises of the buildings or grounds and the non-member public is not invited to participate in or attend the carnival.

(h) No tax shall be required for any person conducting or operating a carnival at any fair, festival or like activity of a temporary nature conducting or operated by a California Agricultural District.

(i) For every person engaged in the business of conducting a circus procession or circus parade, and not having a registration certificate for conducting, managing or carrying on a circus within the limits of the City of Los Angeles, the tax shall be $4,434.00 for each procession or parade.

Sec. 14. Subsection (c) of Section 21.94(c) the Los Angeles Municipal Code is amended to read:

(c) No tax shall be required for any person conducting or operating a carnival at any fair, festival or like activity of a temporary nature conducted or operated by a California Agricultural District.

Sec. 15. Section 21.108 of the Los Angeles Municipal Code is amended to read:

SEC. 21.108. MONEY LENDERS.
(a) Subject to the exceptions stated here, for each person engaged in the business of lending money, advancing credit or lending credit, or arranging for the loan of money or advancing of credit or lending of credit, for and on his or her own behalf or on behalf of any other person as principal, agent or broker, whether security of any kind is taken for the loan or advance or not, or purchasing or discounting or arranging for the purchase or discounting of any obligation or evidence of money due or to become due, whether the obligation or evidence is secured or guaranteed or not, and whether the person so purchasing or arranging for the purchase of items and acts mentioned above, as principal, agent or broker, the tax shall be $2,660.63 per year.

(b) The tax imposed under the provisions of Subsection (a) shall not apply to the business of lending money or advancing credit or arranging for the loan of money or the advancing of credit as principal or agent, where the obligation to repay the money lent or debt incurred or to compensate for the advance of credit is secured by a lien on real property, or some interest in real property; nor shall the provisions of this section apply to the business of purchasing, either as principal or agent, any debt or evidence of debt secured by any lien upon real property; nor shall the provisions of this section apply to any transaction involving the purchase or sale of real property. All persons engaged in businesses as are described in this subsection shall be subject to tax under Section 21.49 Professions and Occupations.

(c) The tax imposed under the provisions of Subsection (a) shall not apply to a person who, in the conduct of another business in the City, engages in a business of the kind described in Subsection (a) solely with customers or suppliers of that other business; nor shall the tax apply to a person engaged in this type of business, whether or not the relation of customer or supplier exists, when the person confines the business dealings to other persons who are his employees, stand in the relation of parent or subsidiary to him, are so constituted as to have substantially common ownership with him or her, or are employees of any person who is his parent or subsidiary or has substantially common ownership with him or her; provided, however, if the other business is subject to a tax under this article measured by gross receipts, all interest and other charges received as a result of the activity described in Subsection (a) shall be included in the gross receipts by which the tax elsewhere imposed by this article is measured; and if the other business is not subject to a tax measured by gross receipts, or if there is no other business, he or she shall pay a tax under the provisions of Section 21.49, Professions and Occupations, for engaging in the kind of activity described in Subsection (a).

Sec. 16. Subsection (d) of Section 21.109 of the Los Angeles Municipal Code is amended to read:

(d) Any motion picture, television, or radio producer as defined in Subsection (a) of this section and subject to the tax imposed by this section, shall not be subject to tax under Section 21.45 of this article for production activity.
Sec. 17. Subsection (d) of Section 21.142 of the Los Angeles Municipal Code is amended to read:

SEC. 21.142. STEVEDORES.

(d) Engaging in the business of stevedoring without a fixed place of business within the City shall not subject any person to taxation under the provisions of Section 21.49, defined as Professions and Occupations, of this article.

Sec. 18. Section 21.168.1 of the Los Angeles Municipal Code is amended to read:

SEC. 21.168.1. OUT OF STATE SALES.

Nothing defined in Section 21.41, as Multimedia Business, in Section 21.42, as Wholesale Sales or in Section 21.44, as Retail Sales, shall be construed to require the inclusion in the computation of the amount of the tax due under these sections the gross receipts of the sales of goods, which are shipped to the purchasers of the goods by the seller to points outside of the State of California.

No sale shall be considered a sale for convenience within the meaning of this section unless it is of a kind described in Subdivisions 1, 2, 3 or 4 of this section.

Sec. 19. Section 21.168.2 of the Los Angeles Municipal Code is amended to read:

SEC. 21.168.3. CERTAIN SOLICITORS DEEMED EMPLOYEES.

Any person who goes from place to place to solicit sales of goods, wares or merchandise of another person, or to sell and deliver the goods, wares or merchandise of another person or his products exclusively, is deemed for the purposes of this article to be the employee of the other person and not liable for payment of sales tax or business tax for the sales or delivery, provided that the person deemed here to be the employer shall pay to the City all sales taxes due by reason of the sales or delivery and business taxes measured by the gross receipts from the sales computed at the rate provided in Sections 21.42 or 21.44, whichever is applicable. The Director of Finance shall issue a Registration Certificate or sales tax permit, or both, in the manner provided in this article to any person deemed in this section to be an employer who undertakes to pay business tax in the manner provided here.

Sec. 20. Subsection (a) of Section 21.168.4 of the Los Angeles Municipal Code is amended to read:

(a) Nothing contained in Section 21.42, Wholesale Sales, in Section 21.44, Retail Sales, in Section 21.47, Commission Broker or Article 1.2 of Chapter 2 relative to art and cultural shows, shall be construed to require the payment of a tax by any person
operating a temporary exhibit at a bona fide trade show where the temporary exhibit does not exceed 14 days within any six-month period in a calendar year at any single trade show.

Sec. 21. Subsection (a) of Section 21.168 of the Los Angeles Municipal Code is amended to read:

(a) Any person who is a certified producer and who sells goods, wares or merchandise at a certified farmer's market is deemed for the purposes of this article to be the employee of the operator of the certified farmer's market and not liable for payment of business tax for the sales provided that the operator shall pay to the City business taxes measured by the gross receipts from the sales computed at the rate provided in Section 21.44. The Director of Finance shall issue a registration certificate in the manner provided in this article to any operator deemed in this section to be an employer who undertakes to pay business taxes in the manner provided here.

Sec. 22. Section 21.169 of the Los Angeles Municipal Code is amended to read:

SEC. 21.169. CHRISTMAS TREES.

For every person engaged in the business of selling or offering for sale Christmas trees at retail, and not from a fixed place of business dealing in other commodities and previously taxed under Section 21.44 of this article, the tax shall be $29.56 per quarter or fractional part.

Sec. 23. The title of Section 21.187 of the Los Angeles Municipal Code is amended to read:

SEC. 21.187. COMMON CARRIER BUS.

Sec. 24. Subsection (f) of Section 21.195 of the Los Angeles Municipal Code is amended to read:

(f) Exemption and Exceptions. No tax under this section shall be required to be paid by any person who is subject to tax under the Household Goods Carriers Uniform Business License Tax Act or the Motor Carriers of Property Permit Fee Act.

Sec. 25. Section 21.188 of the Los Angeles Municipal Code is amended to read:

SEC. 21.188. CONTRACTORS.

For every person engaged in business as a contractor, the tax shall be $165.60 per year or fractional part for the first $60,000.00 or less of gross receipts, plus $1.09 per year for each additional $1,000.00 of gross receipts or fractional part in excess of
$60,000.00; provided that every contractor having a fixed place of business in the City of Los Angeles shall pay, in addition to the tax computed in the manner set forth above, a further tax of $2.76 per year for each $1,000.00 or fractional part of all salaries, wages, fees and other compensation paid to his employees or consultants, other than legal or accounting consultants, for services rendered by the employees and consultants in the City of Los Angeles in connection with jobs and projects located outside the City.

1. The term "contractor" as used here means any person, except an owner who contracts for a project with another person who is licensed by the State of California as a contractor or architect or registered civil engineer acting solely in his professional capacity, who in any capacity other than as an employee of another with wages as the sole compensation, undertakes to, or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does himself or by or through others construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, highway, road, railroad, excavation, or other structure, project, development or improvement, or to do any part of those actions, including the erection of scaffolding, or other structures or works in connection with that work.

2. The meaning of the term "gross receipts," as used here, shall be that set forth in Section 21.00(a) and shall also include the total cost of the job or project covered by the contract to which the contractor is a party, without deduction for subcontracts, and irrespective of whether the contract is one on a fixed price or on a cost plus basis or one under the terms of which the contractor acts as agent for the owner. The term "gross receipts," however, shall include only receipts from jobs or projects located within the City limits of the City of Los Angeles.

Sec. 26. Section 21.193 of the Los Angeles Municipal Code is amended to read:

SEC. 21.193. SALE OF REAL PROPERTY.

For every person engaged in the business of developing and selling real property in which the person has equity or title, the tax shall be $165.60 per year or fractional part for the first $60,000.00 or less of gross receipts, plus $2.76 per year for each additional $1,000.00 of gross receipts or fractional part in excess of $60,000.00.

1. Real Property Seller means a person engaged in the business of developing and selling real property in which the person has equity or title.

2. A person shall be deemed to be engaged in the business of Real Property Sales if the person:

   (i) As a subdivider, as that term is defined in Section 11508 of the Business and Professions Code, has recorded a subdivision map
respecting the property sold in accordance with the Subdivision Map Act of California, provided, however, that a person filing or joining in the filing of a subdivision map for the sole purpose of accomplishing a street vacation shall not be considered a subdivider; or

(ii) Has prior to sale, divided the property held pursuant to the “lot-split” regulations of the Los Angeles Municipal Code (commencing at Section 17.50); or

(iii) Sells two or more pieces of real property within a calendar year and upon each of which a building was constructed or caused to be constructed by the seller, provided the sales were within three years of the recordation by anyone of a subdivision map respecting the property sold pursuant to the Subdivision Map Act; or

(iv) Sells any real property upon which he has constructed or caused to be constructed an apartment house or commercial building, provided the sale is either prior to or within three years after the issuance of a Certificate of Occupancy or its equivalent respecting the property sold.

3. For purposes of this section, the term “gross receipts” shall not include:

(i) proceeds realized from the sale of property:

a. through foreclosure; or

b. to an agency proposing to take the land under eminent domain proceedings; or

c. through the exercise of a power of sale contained in a deed of trust or mortgage; or

d. through bankruptcy; or

e. through assignment for the benefit of creditors; or

f. through court order; or

(ii) the unpaid balance on the date of sale of any encumbrance of record upon the property;

(iii) existing prior to the sale and remaining in existence between the same parties following the sale;

(iv) existing of record 180 days prior to the date of sale; or
(v) existing prior to the sale and with respect to which a deficiency judgment is prohibited under the provisions of California Code of Civil Procedure Section 580b, whether or not it is extinguished by reason of the sale.

4. No person shall engage in this business or perform any act required to be taxed under this section during any tax period without first obtaining a registration certificate and paying a tax in the minimum amount of $165.60.

5. At the close of each tax period, the person shall file a statement with the Director of Finance setting forth the amount of gross receipts derived from the business for that period, and shall pay on or before the last day of February in the next subsequent tax period any additional tax that may be due under this article for the preceding expired tax period.

6. In the event the business is discontinued, dissolved or otherwise terminated before the close of the tax period, the required statement of gross receipts shall then be filed, and any additional tax due under this section shall be paid on or before the close of business on the last day of the month following the month in which discontinuance, dissolution or termination occurred.

7. When any person's activities occurring both within and without the City contribute to the production of receipts from the business taxed under this section, the person's gross receipts shall be apportioned in a manner that is fairly calculated to determine the amount of gross receipts derived from or attributable to engaging in business in the City. The apportionment shall be made on the basis of payroll, value and situs of tangible property, general expense, or by reference to any of these or other factors, or by another method of apportionment that will fairly determine the amount of gross receipts derived from or attributable to engaging in business in the City. In the absence of substantial information to the contrary, 80% of the total gross receipts shall be deemed attributable to activities conducted in the jurisdiction in which the subject real property is located and 20% of the total gross receipts shall be deemed attributable to activities conducted in the jurisdiction in which is located a place or premises, other than the subject real property, from which business activities are conducted. The percentages may be increased or decreased by the Director of Finance where after consideration of all of the facts, circumstances warrant the deviation.

8. The sale of any real property, which would not subject the owner to taxation under the provisions of this section, shall not subject the owner to taxation under the provisions of Section 21.49, Professions and Occupations, of this article.
Sec. 27. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of ____________________

FRANK T. MARTINEZ, City Clerk

By ____________________ Deputy

Approved ____________________

________________________________ Mayor

Approved as to Form and Legality

ROCKARD J. DELGADILLO, City Attorney

By ____________________ BEVERLY COOK
Deputy City Attorney

Date __10/12/00________________

File No. ____________________