

ORDINANCE NO. 183419

An ordinance amending Subsection (f) of Section 21.33 of the Los Angeles Municipal Code (1) to lower the business tax rate on professions and occupations over time and (2) to amend Sections 21.41 and 21.43 while repealing Sections 21.42, 21.44, and 21.45 so as to consolidate several business classifications into two sections.

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

Section 1. Subsection (f) of Section 21.33 of the Los Angeles Municipal Code is amended to read as follows:

(f) Tax Rate F shall be \$5.07 for each \$1,000 of gross receipts or fractional part. For tax years beginning after December 31, 2015, the rate shall be reduced from this maximum rate as follows:

1. For the tax year beginning on January 1, 2016, Tax Rate F shall be \$4.75 for each \$1,000 of gross receipts or fractional part;

2. For the tax year beginning on January 1, 2017, Tax Rate F shall be \$4.50 for each \$1,000 of gross receipts or fractional part;

3. For tax years beginning after December 31, 2017, Tax Rate F shall be \$4.25 for each \$1,000 of gross receipts or fractional part.

Sec. 2. Section 21.41 of the Los Angeles Municipal Code is amended in its entirety to read as follows:

SEC. 21.41. GROSS RECEIPTS FUND CLASS 1.

For every person engaged in business as a Child Care Provider, Multimedia Business, Internet-based Application Service Provider, Internet-based Data Manipulation Businesses, Telephone Company, or Tugboat and/or Barge Operator, or engaged in Wholesale Sales, Tax Rate A, set forth in Section 21.33(a), shall be applicable.

(a) **CHILD CARE PROVIDERS.**

1. A child care provider means 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 earned by:

(i) Community chests, funds, foundations and/or corporations: (A) that are organized and operated for religious, hospital or charitable purposes; (B) that are not conducted for profit; and (C) for which no part of the organization's net earnings inures to the benefit of any private shareholder or individual;

(ii) Non-profit secondary schools which are duly accredited by the University of California;

(iii) 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) Rotary, Kiwanis and Lions Clubs;

(v) Non-profit automobile clubs, chambers of commerce, and other community service organizations; and

(vi) Trade associations such as the Merchants Plumbers Association, Merchants and Manufacturers Association, and labor organizations.

(b) **MULTIMEDIA BUSINESSES.**

1. A multimedia business means 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; radio or television broadcasters; or an adult entertainment business, as defined in Section 12.70 B. of this Code.

(c) INTERNET-BASED APPLICATION SERVICE PROVIDERS.

1. An internet-based application service provider (ASP) means a business that provides its customers access, exclusively through the internet, to electronic applications that are available exclusively on computer devices operated by or on behalf of the ASP. An "electronic application" is a computer program that provides the user with the ability to accomplish a specific task. An ASP shall not include a business that provides electronic applications, including but not limited to computer software, for customers to download through the internet. A business does not qualify as an ASP unless its internet-based electronic application provides information to the user directly without any substantial intermediation by any person except for technical support related to the use of the electronic application. An ASP shall not include a business that sells electronic applications through the internet, or any business that obtains its income from the use of its electronic applications by itself, on its behalf, or by any related entity as defined in section 21.00(a).

2. An ASP business shall not include: a business that utilizes an application to sell goods or further its business; motion picture, television or radio producers; telephone companies; radio or television broadcasters; or an adult entertainment business as defined in Section 12.70 B of this Code.

3. The ASP business tax classification shall apply only for the 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017 and 2018 tax years unless the Council acts by ordinance to amend this Section and extend the length of time for which this classification shall apply.

(d) **INTERNET-BASED DATA MANIPULATION.**

1. An internet-based data manipulation business means a business that exclusively provides access to internet-based applications that allow a user to search, compile, and otherwise manipulate data, including but not limited to a business that operates or provides access to one or several "search engines". A "search engine" is an internet-based application that retrieves documents or files or data from the internet, a computer network, a database, or other data sources. "Data" includes visual, numerical, and written information. A business does not qualify as an Internet-based Data Manipulation Business unless its internet-based application provides information to the user directly without any substantial intermediation by any person except for technical support related solely to the use of the internet-based application.

2. An internet-based data manipulation business shall not include: a business that utilizes internet-based data manipulation to sell goods or further its business; motion picture, television or radio producers; telephone companies; radio or television broadcasters; or an adult entertainment business as defined in Section 12.70 B of this Code.

3. The internet-based data manipulation business tax classification shall apply only for the 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017 and 2018 tax years unless the Council acts by ordinance to amend this Section and extend the length of time for which this classification shall apply.

(e) **TELEPHONE COMPANIES.**

1. A person engaged in the business of providing telephone services means a telephone company as the term is used in Article XIII, Section 19 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.

(f) **TUGBOAT AND BARGE OPERATORS.**

Tugboat and barge operator means any person engaged in the business of operating a tugboat or barge.

(g) **WHOLESALE SALES.**

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.

(1) A blind person, within the meaning of this section, means 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.

(2) 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.

(3) For the purpose of this section, newspapers, magazines, periodicals, books and other printed matter is deemed to be included in the term "goods, wares or merchandise" and the term "gross receipts" means 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. 3. Section 21.42 of the Los Angeles Municipal Code is hereby repealed;

Sec. 4. Section 21.43 of the Los Angeles Municipal Code is hereby amended to read as follows:

SEC. 21.43. GROSS RECEIPTS FUND CLASS 2.

For every person engaged in business: as an Antique Show or Collectors Exchange Show Promoter; as a Swap Meet Operator; in the Rental of Accommodations or Residences; in the Rental of Office, Commercial Buildings, etc.; in Retail Sales; in the Laundry, Cleaning or Service, or Shoe Repair field; as a Radio or Television Broadcaster; or as a Theater Operator; Tax Rate B, as set forth on Section 21.33(b), shall be applicable.

(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.

4. 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.

(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.

4. 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.

(c) RENTING ACCOMMODATIONS OR RESIDENTIAL RENTALS.

1. Renting accommodations or residential rentals means 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.

5. 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.

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

1. Commercial Rental means 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 means 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.

5. 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.

(e) **RETAIL SALES.**

1. A retail sale or sale at retail means 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, means 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 of blindness has been 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" means 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.

(f) LAUNDRY, CLEANING OR SERVICE AND SHOE REPAIR.

Laundry, cleaning and dyeing agent, collector, linen supply and shoe repair means 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.

(g) RADIO AND TELEVISION BROADCASTER.

1. Radio Broadcaster means 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 means 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.

(ii) **THEATER OPERATOR.**

Theater Operator means 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. 5. Section 21.44 of the Los Angeles Municipal Code is hereby repealed.

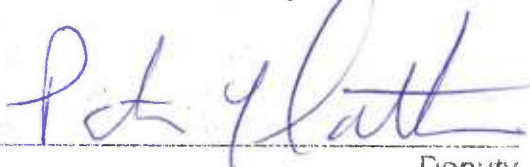
Sec. 6. Section 21.45 of the Los Angeles Municipal Code is hereby repealed.

Sec. 7. 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 FEB - 3 2015

HOLLY L. WOLCOTT, City Clerk

By



Deputy

Approved

FEB 11 2015



Mayor

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By



DANIEL M. WHITLEY
Deputy City Attorney

Date

12/12/14

File No.

14-0400-5253