

**CITY OF LOS ANGELES**  
INTERDEPARTMENTAL CORRESPONDENCE

Date: August 20, 2020

To: The Honorable Eric Garcetti, Mayor  
The Honorable Nury Martinez, Council President  
The Honorable Paul Krekorian, Chair, Budget and Finance Committee

From: Diana Mangioglu, Interim Director of Finance, Interim City Treasurer  
Office of Finance 

Subject: **TAX PENALTY AMNESTY PROGRAM FISCAL YEAR 2020 - 2021**

**SUMMARY**

The Office of Finance (Finance) is proposing that the City implement a tax penalty amnesty program (Amnesty Program) to assist taxpayers in meeting outstanding tax obligations during these current economic conditions while providing an opportunity to generate one-time General Fund revenue without raising taxes. This proposal is designed to provide businesses, both registered and unregistered, a voluntary opportunity to clear their tax records and avoid penalties for up to 40 percent of taxes due, and with essentially no questions asked. Should businesses fail to take advantage of the program, they risk detection or audit and the full range of penalties which would be assessed. The potential revenue of \$15 million to \$20 million estimated for the Amnesty Program is based on the performance of similar past programs administered through Finance. The proposed participation timeframe for the Amnesty Program would be from October 2020 through December 2020. This schedule would be most effective because it allows for Finance staff to administer and complete the Amnesty Program just in time to then redeploy staff to focus on the annual business tax renewal cycle that ramps up every January.

Finance anticipates that any revenues generated from the Amnesty Program would be collected during Fiscal Year 2020-21. Finance has implemented three successful tax penalty amnesty programs since 2001 each recovering over \$20 million in General Fund.

2001	\$26.0 million
2009	\$20.6 million
2013	\$24.3 million

It is uncertain how the current economic environment will impact the number of firms that would normally be able take advantage of the Amnesty Program. We estimate that 25 percent to 33 percent of firms could have been directly impacted by either closure or significantly reduced cash flow and that expected revenue from the Amnesty Program could be less than \$20 million.

In conjunction with approval of moving forward with the Amnesty Program, Finance will need additional resources to maximize the potential in generating General Fund revenue. This includes positions, and funding for public outreach and communication. Finance will be submitting an unfreeze request to fill 10 vacant Tax Compliance Officer positions.

#### Public Outreach & Communications

The success of the Amnesty Program is dependent on an aggressive public outreach campaign to inform the business community of this opportunity to clear their tax records. The proposed \$95,000 in funding will pay outreach expenses for publicity and a mailing to all delinquent taxpayers in our tax database. Approximately 150,000 taxpayers with outstanding liabilities would be notified about their eligibility for this amnesty program through mailings as either inserts to upcoming billings or by additional reminder billings. The public outreach funding will provide for radio, television, newspaper and Business Journal advertising; press releases; inclusion in the Department and City's websites; Channel 35; e-mail blasts; and any required translation services in languages such as Chinese, Japanese, Korean and Spanish. Finance will also work with outside collection agencies contracted by Finance for pursuing overdue tax billings to communicate the advantages of this program to resolve their liabilities. Finance proposes performing the outreach with existing staff.

#### Anticipated Revenue

Outlined below is a table detailing General Fund revenue sources of outstanding delinquencies that could potentially request amnesty.

Business Tax	\$140 million
Parking Tax	\$ 5 million
Transient Occupancy Tax	\$109 million
Utility Taxes	\$ 80 million

Many of these delinquencies are currently at various stages of collection, including litigation. The Amnesty Program will provide for a three-month period where taxpayers can clear their obligations to the City.

### Program Staffing

The Amnesty Program will be administered through Finance's Enforcement Unit. This unit oversees the discovery of unregistered businesses through research of various data sources, including State registered businesses provided on the annual AB63 listing, and also through field enforcement sweeps by staff canvassing commercial areas within the City seeking locations not identified in Finance's business database.

The Amnesty Program will require the need to review applications, research related tax accounts, approve and process applications in good standing or contact taxpayers for clarifications or additional information. Approximately 9,000 taxpayers submitted and were approved amnesty waivers during the 2009 and 2013 programs and it is anticipated that a similar number will submit and qualify for this program.

Currently the Enforcement Unit has over 17 vacancies comprising 29 percent of its organization. Additional vacancies due to staff eligible to participate in the Separation Incentive Program (SIP) program may increase the total number of vacant positions to 42 percent. An unfreeze request for 10 TCO positions will be submitted for consideration and is considered key in providing sufficient staffing for the Enforcement Unit to administer this program while continuing to perform a baseline amount of tax enforcement operations during the Amnesty Program timeframe.

### Conclusion

In order for Finance to meet the October to December window and to maximize the potential in generating General Fund revenue, there are several actions that are necessary for implementation. The City Attorney will need to prepare and present an ordinance for Council's consideration and approval to be in effect as of October 1. Attached (ATTACHMENT) to this report is a draft ordinance for City Attorney's consideration. Positions for 10 TCO's will need to be unfrozen immediately so that Finance may interview, hire and train staff in sufficient time. Finance will need funding in the amount of \$95,000 and authority to spend on a public outreach and communications campaign. Finance anticipates the Amnesty Program will generate approximately \$15 million to \$20 million for the 2020-21 Fiscal Year.

## RECOMMENDATIONS:

That the City Council, subject to the approval of the Mayor approve the following:

1. Instruct the Office of Finance to move forward with implementing a Tax Penalty Amnesty Program with a window of October 1, 2020 through December 18, 2020;
2. Request the Office of the City Attorney to draft, and present an ordinance, similar to the ATTACHMENT, to effectuate the Tax Penalty Amnesty Program as proposed by the Office of Finance;
3. Instruct the Office of the City Administrative Officer to immediately evaluate the request to unfreeze 10 Tax Compliance Officer positions; and,
4. Authorize Office of Finance to spend \$95,000 on a public outreach and communications campaign.

## FINANCIAL IMPACT

The Office of Finance anticipates the Tax Penalty Amnesty Program will have a positive General Fund impact of approximately \$15 million to \$20 million during the 2020-21 Fiscal Year.

## Attachment

cc: Richard H. Llewelyn Jr., City Administrative Officer  
Sharon Tso, Chief Legislative Analyst  
Miguel Sangalang, Deputy Mayor of Budget and Innovation  
Beverly Cook, Office of the City Attorney

# **ATTACHMENT**

**ORDINANCE NO. \_**

An ordinance amending Article 1.12 of Chapter 2 of the Los Angeles Municipal Code to provide an amnesty for tax penalties with respect to taxes imposed pursuant to Article I (Business Taxes), Article 1.1 (Telephone, Electricity, and Gas Users Taxes), Article 1.3 (Commercial Tenant's Occupancy Tax), Article 1.7 (Transient Occupancy Tax) and Article 1.15 (Parking Occupancy Tax).

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

Section 1, Article 1.12 of Chapter 2 of the Los Angeles Municipal Code is hereby amended in its entirety to read as follows:

**ARTICLE 1.12**

**TAX PENALTY AMNESTY**

**SEC. 21.12.1. DEVELOPMENT AND ADMINISTRATION OF PROGRAM.**

The Director of Finance shall develop and administer a tax penalty amnesty program as authorized and provided in this Article.

**SEC. 21.12.2. DURATION AND APPLICATION OF PROGRAM.**

The tax penalty amnesty program shall be conducted during the period of October 1, 2020 through December 18, 2020. The program shall apply to penalties for delinquent tax liabilities for tax periods ending on or before December 18, 2020, with respect to Business Taxes (Article I), Telephone, Electricity, and Gas Users Taxes (Article 1.1), Commercial Tenant's Occupancy Taxes (Article 1.3), Transient Occupancy Taxes (Article 1.7) and Parking Occupancy Taxes (Article 1.15).

### **SEC. 21.12.3. ELEMENTS OF PROGRAM.**

For any taxpayer who meets the requirements of Section 21.12.5 of this Article:

(a) The tax penalties imposed under Article I (Business Taxes), Article 1.1 (Telephone, Electricity, and Gas Users Taxes), Article 1.3 (Commercial Tenant's Occupancy Tax), Article 1.7 (Transient Occupancy Tax) and Article 1.15 (Parking Occupancy Tax) of this Chapter shall not apply to any taxes for the tax periods for which tax penalty amnesty is requested.

(b) No criminal action based upon the nonreporting or underreporting of tax liabilities or the nonpayment of any taxes shall be brought against the taxpayer for any tax period for which the taxpayer has complied with the provisions of Section 21.12.5 of this Article.

### **SEC. 21.12.4. PREVIOUS ASSESSMENTS, PAYMENTS, AND LITIGATION.**

The tax penalty shall apply and no refund or credit shall be granted of any penalty if, prior to the time the taxpayer makes a request for tax penalty amnesty pursuant to Section 21.12.5 of this Article, the penalty has been paid by the taxpayer.

### **SEC. 21.12.5. REQUISITES FOR COMPLIANCE WITH PROGRAM.**

(a) The provisions of this Article shall apply to any taxpayer who, on or after October 1, 2020, and on or before December 18, 2020, files an application for tax penalty amnesty and complies with the following conditions:

1. Files completed tax statements or returns for all periods and taxes for which the taxpayer has not previously filed a tax statement or return, and files completed amended tax statements or returns for all periods for which the taxpayer underreported the taxes due;

2. Pays in full all taxes and interest due; and

3. Pays all costs and fees incurred and due with respect to the collection of any delinquent taxes.

(b) For any taxes subject to amnesty under this program, the Director of Finance may enter into an installment payment agreement, as provided for in Section 21.18 of Article I of this Chapter, in lieu of the complete payment required under Subdivision 2 of Subsection (a) of this section. Failure of the taxpayer to fully comply with the terms of the installment payment agreement shall render the waiver of any penalty applicable thereto null and void, unless the Director of Finance determines that the failure was due to reasonable cause.

#### **SEC. 21.12.6. SUBSEQUENT DEFICIENCIES.**

If, subsequent to December 18, 2020, the Director of Finance issues a billing, deficiency determination or assessment based upon a statement or return filed pursuant to Section 21.12.5 of this Article, penalties shall be imposed only with respect to the difference between the amount paid and the correct amount of tax. This section shall not invalidate any waiver granted under Section 21.12.3 of this Article.

#### **SEC. 21.12.7. IMPLEMENTATION OF ARTICLE.**

The Director of Finance shall adequately publicize the tax penalty amnesty program, issue forms and instructions, and take other actions needed to implement this Article. No later than April 30, 2021, the Director of Finance shall report to Council the number of taxpayers for whom penalties were waived and the total amount of penalties waived pursuant to this Article.

Sec. 2. 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 \_\_\_\_\_