



City of Stockton

Legislation Text

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ADOPT AN ORDINANCE AMENDING STOCKTON MUNICIPAL CODE, TITLE 3 REVENUE AND FINANCE, CHAPTER 3.16, BY ADDING SECTION 3.16.190 TO CREATE A USE TAX BUSINESS INCENTIVE PROGRAM

RECOMMENDATION

It is recommended that the City Council adopt an ordinance amending the Stockton Municipal Code, Title 3 Revenue and Finance, Chapter 3.16, by adding Section 3.16.190, to create a Use Tax Business Incentive Program.

Summary

One of the Council's Strategic Initiatives is to maximize tax revenues for the City of Stockton. To meet this goal, staff is recommending the adoption of an ordinance to create a Use Tax Business Incentive Program ("Program"). This is an effort that diverts local tax money to the City of Stockton rather than having it distributed throughout the County.

Under the proposed Program, businesses located within Stockton City limits will have the ability to identify the City of Stockton as the location where use will occur for purchases made out-of-state that exceed the statutory limits. This allows the City to receive the entire 1% of the use tax charged for the purchase. The business may then apply for a rebate of this net new use tax so long as certain criteria have been met.

The rebate would be based upon a percentage of net new tax revenue received by the City. In order to determine net new tax revenue, the City will establish a baseline of use tax revenue received over a three-year period from a business using the highest revenue received during that period of time. Any tax revenue generated above that baseline will be considered net new tax revenue. If Council approves, the Program would be in place for three years, with an option to extend it an additional two years.

DISCUSSION

Background

On May 17, 2011, the Stockton City Council adopted 38 Strategic Initiatives aimed at four key goals: fiscal sustainability, public safety, economic development, and organizational capacity. One of the initiatives under fiscal sustainability, specifically Strategic Initiative 1.3, included the development of guidelines to maximize the local allocation of sales and use tax that would otherwise be credited by the California State Board of Equalization to the San Joaquin County tax pool.

Approximately 25% of the City's General Fund tax revenue comes from its sales and use tax. When

a taxable transaction occurs in California, sales tax is applied. When taxable purchases occur out-of-state for consumption in California, use tax is applied. The same rate is paid whether it's a sales tax or use tax. Use tax is collected when entities in California make purchases of fixtures, tools, machinery, and materials from out-of-state companies. Often, out-of-state retailers do not have reasonable means to determine which California jurisdiction the goods are shipped to and where the first functional use occurs. As a result, the State of California allocates use tax into county pools rather than directly to the City. These pools are pots of tax money that are eventually allocated to local jurisdictions based on a ratio of actual point-of-sale receipts for each city and county, unlike traditional retail sales in California where the point of sale is easily determined.

The Bradley-Burns Uniform Sales and Use Tax Law provides for a city/county rate of 1.25%. One-quarter cent of the levy is sent to the countywide transportation fund, with the one-percent balance going to support local government general funds. Stockton's share of the County tax pool is, on average, approximately 42% of the one-percent Bradley-Burns tax. The Board of Equalization allows for direct reporting of use tax for out-of-state purchases over \$500,000 and for construction projects exceeding \$5 million. However, directing such tax to local jurisdictions is voluntary for the taxpayer and there is no incentive to the business owner or contractor to complete the necessary paperwork with the State. The City cannot mandate that a contractor, with whom it is doing business, direct its use tax to the City. A business would pay the same tax regardless of whether it goes to the County pool or directly to the City of Stockton.

Present Situation

Currently, if a business makes an out-of-state purchase exceeding \$500,000 (such as new manufacturing equipment, vehicles, or materials), the Bradley-Burns Uniform Sales and Use Tax levied against the purchase typically goes into the County pool and is then distributed to the various municipalities within San Joaquin County. Stockton's share, as mentioned above, is approximately 42% of the one-percent. The distribution of the County pool is based on the ratio of the City's actual point-of-sale receipts compared to the County-wide total, so the City's share will vary each quarter. This is the same for construction projects exceeding \$5 million.

However, if a business completes the necessary forms with the State Board of Equalization (BOE) and identifies Stockton as the place where equipment and/or material will be used, then the City would receive the entire one-percent. The business pays the same tax rate whether it's allocated to the County pool or directly to the City. Below is a sample comparison of tax allocation from the County pool verses direct allocation to the City:

<u>Use Tax Allocation from County Pool</u>	
Purchase Price of Widget	\$5,000,000
City of Stockton Tax Rate	8.25%
Total Tax Collected by Seller	\$412,500
Use Tax Received by CA BOE	\$412,500
State of California's share (6.5%)	\$325,000
County share (58% of 1%)	\$29,000
City of Stockton's share (42% of 1%)	\$21,000
Measure K (0.5%)	\$25,000
Measure W (0.25%)	\$12,500

Direct Use Tax Allocation

Purchase Price of Widget	\$5,000,000
City of Stockton Tax Rate	8.25%
Total Tax Collected by Seller	\$412,500

Use Tax Received by CA BOE	\$412,500
State of California's share (6.5%)	\$325,000
City of Stockton's share (full 1%)	\$50,000
Measure K (0.5%)	\$25,000
Measure W (0.25%)	\$12,500

Amount rebated to Company \$7,500
(based on a 15% rebate as noted in the chart below)

Net Tax (of 1%) to City of Stockton \$42,500

The distinction in the examples above is that the \$29,000 County share is currently collected and distributed to the County and other cities within the County whereas, with the proposed program, those funds are diverted directly to the City with a portion being shared with the taxpayer in order to incentivize the transaction.

In order to encourage businesses and contractors to direct use tax to the City, staff is proposing an incentive program modeled after the City of San Jose's Business Cooperation Program. Many other cities throughout California have similar programs. The Use Tax Business Incentive Program would allow for a rebate of net new tax received by the City based on the following tier:

Net New Use Tax Received by the City of Stockton (based on 4 consecutive quarters)	Rebate Percentage
\$0 - \$200,000	15%
\$200,001 - \$500,000	20%
\$500,001 and greater	25%

Any person doing business within Stockton City limits is eligible to apply for a use tax rebate under the Program, so long as the following conditions have been satisfied:

1. The person or business has submitted a Use Tax Business Incentive Program application to the City's Economic Development Department.
2. The person or entity has obtained a State of California Use Tax Direct Payment Permit or a Sub Sellers Permit.
3. The City of Stockton is properly identified in the Permit as the jurisdiction in which the item(s) acquired under the permit will have its/their first functional use; or where the items will be stored or consumed.

In order to establish a baseline of use tax received from a business, the City will take the highest amount of use tax received from that taxpayer over a three-year period from the time of application submittal. The rebate would be paid bi-annually based on 15% of the net new use tax received up to \$200,000. After four consecutive quarters, the City will adjust the percentage, if warranted, based on the total net new use tax received over the four quarters (see chart above).

The Use Tax Business Incentive Program, if approved, will be a joint effort between the Economic Development and Administrative Services Department. The Economic Development Department will administer and market the Program, with Administrative Services providing financial analysis and administrative support. Other City departments, such as Public Works and Municipal Utilities, will work with their respective contractors with construction projects over \$5 million and vendors purchasing materials out of state that exceed \$500,000 in participating in the Program.

It is proposed that the Program remain in effect for a period of three years, with an option to extend for an additional two years. Staff believes that this time frame will allow sufficient time to market the program and evaluate its effectiveness. Approval of this ordinance requires a majority vote of the Council and will be effective thirty days after adoption.

PUBLIC NOTICE

A notice of this public hearing was published in The Record on October 10, 2013.

FINANCIAL SUMMARY

While the goal of the Use Tax Business Incentive Program is to generate additional tax revenue for the City, it is difficult to determine exactly how much new revenue will actually be received. In general, staff believes there is the potential to bring in approximately \$40,000-\$75,000 in additional tax revenue each year. This amount is expected to increase as the economy improves and construction and new business investment increases throughout the City. There is no cost to the General Fund for implementing the Program.

ORDINANCE **2013-10-22-1601**

AN ORDINANCE AMENDING THE STOCKTON MUNICIPAL CODE, CHAPTER 3.16, BY ADDING SECTION 3.16.190 TO CREATE A USE TAX BUSINESS INCENTIVE PROGRAM

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

SECTION I. AMENDMENT OF CODE.

Chapter 3.16 of the Stockton Municipal Code is amended to add a new section 3.16.190, to read as follows:

3.16.190 Use Tax Business Incentive Program

A. Eligibility for Use Tax Rebate

Any person doing business within the Stockton City limits is eligible for the Use Tax Rebate described herein if all of the following conditions have been satisfied:

1. The person or business has submitted a Use Tax Business Incentive Program application with the City of Stockton.
2. The person or entity has obtained a State of California Use Tax Direct Payment Permit pursuant to California Revenue and Taxation Code Section 7051.3 or a Sub Sellers Permit pursuant to State Board of Equalization Operation Memo No. 1023 ("Permit").
3. The City of Stockton is properly identified in the Permit as the jurisdiction in which the items acquired under the permit is the first functional use or where the items will be stored or consumed.

B. Rebate Claim Procedures

1. Within forty-five (45) days after the close of the State's tax reporting quarter, a person or entity doing business in Stockton may file a rebate claim with the City's Economic Development Department, via the Use Tax Business Incentive Program application form.
2. The application must contain evidence of the amount of Use Tax paid to the State of California. The Economic Development Department may request additional information from the applicant necessary to substantiate the rebate claim.

C. Calculations and Issuance of Use Tax Rebate

1. The Economic Development Department shall issue the rebate within ninety (90) days of verification that the City received the correct amount of funds from the State. The Use Tax Rebate shall be based upon the following chart:

Net New Use Tax Received by the City of Stockton (based on 4 consecutive quarters)	Rebate Percentage
\$0 - \$200,000	15%
\$200,001 - \$500,000	20%
\$500,001 and greater	25%

2. The rebate shall be paid by check directly to the applicant, but shall be increased or decreased in accordance with any adjustment made by the State to a prior Use Tax payment by the applicant.

3. Upon submitting a Use Tax Business Incentive Program application form to the Economic Development Department, the City will determine the baseline Use Tax received by the City from the taxpayer (applicant) as follows:

- a. For Direct Payment permittees, by averaging the amount of tax revenue received by the City from the taxpayer over the past three (3) consecutive years prior to applying for a use tax rebate.
- b. For Sub Sellers permittees, by averaging the amount of tax received from its construction site over the past three (3) consecutive years prior to applying for a use tax rebate.

4. "Net New Use Tax", for the purposes of this Chapter, shall mean the difference between the amount of taxes actually received by the City resulting from the taxpayer's Permit and the baseline amount as calculated for the taxpayer upon application to the Use Tax Business Incentive Program.

5. The rebate will be paid bi-annually based on 15 percent (15%) of the Net New Use Tax received during a six (6) month period. After four (4) consecutive quarters, the City will adjust the percentage, if warranted, based on the total Net New Use Tax received over the past year. The rebate amount for the four (4) consecutive quarters will reflect the amount attributed to the adjusted percentage, if applicable.

6. For the purposes of this calculation, the quarters are based on the taxpayer's tax reporting calendar, but the calculation is based on the four (4) consecutive quarters immediately following application to the Use Tax Business Incentive Program.

7. Once the rebate has been provided for the fourth consecutive quarter, the calculation of the rebate for the next four (4) quarters will begin again.

D. Amendment or Discontinuance

The City reserves the right to amend or discontinue any provision of this Use Tax Business Incentive Program without voter approval. Any amendment shall be made by ordinance and shall be applicable to any transaction made subsequent to the effective date of any ordinance.

E. Term of Use Tax Business Incentive Program

The Use Tax Business Incentive Program, as set forth in this Chapter, shall be in effect for a period of three years from the date of passage of this ordinance or until such time as the City Council takes action to modify this termination date. The City Manager shall have the discretion to extend the ordinance an additional two years from the termination date.

SECTION II. EFFECTIVE DATE

This ordinance shall take effect and be in full force thirty (30) days after its passage.

ADOPTED: October 22, 2013

EFFECTIVE: November 21, 2013



ANTHONY SILVA, Mayor
of the City of Stockton

ATTEST:



BONNIE PAIGE, City Clerk
of the City of Stockton

