



CITY OF
**PALO
ALTO**

Business Tax Administrative Regulations

City of Palo Alto Municipal Code,
Chapter 2.37

Administrative Services Department
City of Palo Alto
250 Hamilton Avenue, Palo Alto, CA 94301

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Chapter 1: The Palo Alto Business Tax

In November 2022, Palo Alto voters approved Measure K, adopting a general tax on businesses operating in the City of Palo Alto. The business tax, codified at Chapter 2.37 of the Palo Alto Municipal Code, is based on the square footage of the business. The tax accrues as of January 1, 2023.

Notes on these Regulations

These Administrative Regulations are adopted by the Tax Administrator pursuant to Municipal Code section 2.37.260(a)¹, to aid in the application and enforcement of Chapter 2.37.

If there is a conflict between these Administrative Regulations and Chapter 2.37, the latter shall govern.

These Administrative Regulations are adopted by the Tax Administrator on October 16, 2023 and are effective immediately.

Subsequent amendments may supersede these Regulations, in whole or in part, as described in the amendment.

Administrative Regulations and other tax tools and information are posted at the Tax Administrator's webpage: www.cityofpaloalto.org/businessstax.

Dates and Years

If the last day for the performance of any act under Chapter 2.37 is a Saturday, Sunday, or holiday recognized by the City, then the date for the performance of that act is extended to the next day that is not a Saturday, Sunday, or holiday recognized by the City.

For purposes of these Administrative Regulations, tax filing and reporting will be based on Fiscal Year that begins July 1 and ends on June 30.

- First quarter (Q1) is July 1 to September 30
- Second quarter (Q2) is October 1 to December 31
- Third quarter (Q3) is January 1 through March 31
- Fourth quarter (Q4) is April 1 to June 30

Other Requirements that Apply to Businesses

Business Registration Certificate. The requirement to pay business tax is in addition to and separate from the requirement to obtain a business registration certificate under Palo Alto Municipal Code Section 4.60.030. Business operators using the City's online tax portal will be prompted to complete both submissions.

¹ Subsequent citations are to the Palo Alto Municipal Code, unless otherwise indicated.

Payment of Tax Does Not Excuse Other Code Requirements. The payment of business tax does not authorize the doing of any act which the person or business paying the business tax is not otherwise entitled to do and does not excuse the business from complying with other applicable code requirements.



Chapter 2: Businesses

What is a Business for Purposes of Chapter 2.37

A “business” is any commercial enterprise, trade, calling, art, vocation, profession, occupation, or means of livelihood, whether or not carried on for gain or profit.

Who is a Business Operator

A “business operator” is a person who transacts, maintains, manages, operates, controls, engages in, conducts, carries on, or owns a business in the City. It does not include the employee of a business who is not an owner or proprietor of the business.

When is a Business “Operating” in the City and Subject to Business Tax

A business is subject to business tax whenever it is operating in the City. This includes all stages of conducting a business, including initial planning to the wind-down of a business, whether or not sales or services are being provided to customers and whether or not a profit is being made.

New Businesses Operating in the City

When a business begins operating in the City for the first time, the business operator must provide the Tax Administrator, or their designee, with the following information, verified by the business operator as true and correct under penalty of perjury of the laws of the State of California, before beginning the operation of the business in the City:

- (a) The name of the business and the address, or addresses, at which it will be operating in the City;
- (b) The date on which the business will begin operating;
- (c) The nature of the business’s activities;
- (d) The square footage in which the business will be operating in the City, as defined in Section 2.37.020(m);
- (e) Any other information required by the Tax Administrator that is reasonably required to administer the business tax.

Changes in Business Operator or Square Footage in the City

A business operator must notify the Tax Administrator in writing within 30 days of any of the following:

- (a) A change in the identity of the business operator is expected or has occurred;
- (b) The business is expected to close all locations in the City;
- (c) There is a change in the business’ square footage, either expansion or contraction.

Proration for New or Departing Businesses and Changes in Square Footage

For the first quarter in which a business begins operating in the City, the business’s tax will be prorated for the number of days that the business was operating in the quarter.

For the last quarter in which a business operates in the City before closing, the business’s tax will be prorated for the number of days that the business was operating in the quarter.

For businesses that expand or reduce square footage during a quarter, the business's tax will be prorated to reflect the amount of square footage occupied each day during the quarter.

Supporting documentation must be attached to the quarterly filing. Acceptable documentation for changes in square footage are:

- (a) Executed copy of lease that includes square footage
- (b) Architectural plans that provide square footage information
- (c) Planning and building documents

Businesses That Have Multiple Locations

Square footage for businesses with multiple locations will be measured and the tax assessed will be calculated based on the aggregate square footage for the business for all locations in the City.

Two or More Businesses Operating in the Same Location or Sharing the Same Square Footage

- (a) Each business operator operating a business in a location where one or more other businesses are also operating is obligated to pay business tax measured by the square footage occupied by that business.
- (b) The payment of business tax by a business operator absolves any other business operator from having to pay business tax measured by the same square footage.
- (c) Two or more business operators that are operating businesses in the same square footage may contractually agree which business will pay the business tax measured by that square footage.

Exempt Businesses

The following businesses are exempt from business tax:

- (a) Any business exempt from the tax by the laws of the United States or the State of California, including:
 - i. Non-profit or charitable organizations.
 - ii. Religious organizations with no ancillary businesses on site.
 - iii. Banks or other financial institutions that pay the state-in-lieu tax.
 - iv. Small or large family daycare homes as defined in California Health & Safety Code sections 1596.78, 1597.465, and 1597.44. Specifically, a facility that meets all of the following requirements:
 - A facility that regularly provides care, protection, and supervision for children.
 - It is in the provider's own home.
 - It is for periods of less than 24 hours per day, while the parents or guardians are away.
 - There are no more than 14 children being cared for, including children under 10 who reside in the home.
 - At least one child is enrolled in and attending kindergarten or elementary school and a second child is at least six years of age.
 - No more than three infants are cared for during any time when more than 12 children are being cared for.

- (b) Grocery stores. A grocery store is a business that exists for the primary purpose of selling a range of food items to consumers for consumption off site, such as canned foods; dry goods; fresh produce; fresh meats, fish, and poultry; and any area that is not separately owned within the store where food is prepared and served, including a bakery, deli, and meat and seafood departments, or as otherwise defined in 14 CCR section 18982(a)(3), provided that any store that combines grocery items with other retail products or services is a grocery store for the purpose of this chapter only if two-thirds or more of the occupied space is designated to the sale of grocery items as listed in this section.
- (c) Businesses that occupy or use 10,000 square feet or less in the City. A business operator of a business that would otherwise owe business tax but for square footage of 10,000 or less must file a tax return for Q3 (due April 1) of each and every year indicating the business' square footage and the method used to calculate the square footage. If the business's square footage does not change, the business is excused from the obligation to file returns in Q1, Q2 and Q4.
- (d) Transitory businesses. A transitory is a business that operates in the City for less than 90 days in one calendar year.

If a business operator operates a single integrated business that has two or more parts, one or more of which could be exempt from the tax imposed by Chapter 2.37 if operated as a separate business, the Tax Administrator may, at the Administrator's discretion, exempt from the tax for any part of the business that would be exempt if operated as a separate business. If the Tax Administrator determines that the square footage cannot be reasonably allocated between the different parts of the business, then the entire business shall be taxed, unless to do so would violate a law of the United States or the State of California.

Example: Business Operator A operates a restaurant and an adjoining small grocery (not a take-out counter). The Tax Administrator may, at the Administrator's discretion, exempt the square footage of the grocery operation.

Chapter 3: Calculating and Paying Business Tax

Quarterly Tax Payments

Tax is due and shall be paid quarterly, unless the Tax Administrator has agreed in writing to an alternative payment schedule.

The tax for each quarter is due the first business day following the end of the quarter and is delinquent thirty (30) days later.

How to File a Return

Business operators may file their tax return and make required payments, using the following methods:

- (a) The City's online portal: <https://PaloAlto.hdlgov.com>, or
- (b) Mail a paper copy of their return and payment to:

City of Palo Alto Processing Center
8839 N. Cedar Ave., #212
Fresno, CA 93720

The tax return must be filed and payment must be submitted electronically on the City's payment portal or postmarked (if sent via mail) on or before the due date.

Tax Rate

No tax is owed for the first 10,000 square feet occupied by a business.

From January 1, 2023 through December 31, 2024, the annual tax rate is 3.75 cents per square foot for each square foot over 10,000 square feet.

From January 1, 2025 through June 30, 2026, the annual tax rate is 7.5 cents for each square foot over 10,000 square feet.

Beginning July 1, 2026, and on every subsequent July 1st, the annual tax rate is automatically increased by 2.5%.

Calculating Square Footage

Square footage is the rentable square footage used by a business as specified in a business's lease or, if the business floor space is owned by the business operator, as calculated in the same manner as if the area was rented using commonly accepted standards of measurement for leasing purposes such as the Standard Methods of Measurement published by the Building Owners and Managers Association (BOMA). Any method of measurement used must meet the following minimum standards:

- (a) It shall be computed by measuring to the inside finish of permanent outer building walls and shall include space used by columns and projections necessary to the building.

- (b) It shall include both the area used by the business and a proportionate share of the building service areas such as lobbies, corridors, and other common areas in a building unless assigned to another business for tax calculation purposes.
- (c) It shall not include vertical penetrations through the building such as stairs, elevators, or heating, ventilation, air conditioning, utility, or telephone systems, except on the lowest floor of stairs and elevators.

Businesses Engaged in Renting or Leasing Property. For business operators engaged in the business of renting or leasing property, the business' square footage shall include all areas used primarily for the business operator's offices and operational facilities.

Residential Uses. Square footage does not include residential uses, including multiple-family use as defined in Section 18.04.030(102), two-family use as defined in Section 18.04.030(141), single-family residential use as defined in Section 18.04.030(86)(A)), mobile home park as defined in Section 18.04.030(97), residential care homes as defined in Section 18.04.030(124), supportive housing as defined in Section 18.04.030(135.5), transitional housing as defined in Section 18.04.030(138), emergency shelter as defined in Section 18.04.030(50), and any equivalent residential use defined by the Tax Administrator.

Hotels. Square footage does include hotel as defined in Section 2.33.010.

Cap on Total Tax in a Fiscal Year

The maximum amount of tax a business must pay is capped at \$500,000 for fiscal years 2023, 2024, 2025, and 2026. Beginning fiscal year 2027 (July 1, 2026), the cap shall be automatically increased by 2.5%. The cap is applied only after \$500,000 of remittances have been paid in a fiscal year. Business that have reached the cap must still timely file a return each quarter, even though no further tax is due.

Example: Business Operator B occupies a consistent amount of square footage in Palo Alto in FY 2025 and no offsets apply. Business Operator B pays business tax of \$175,000 in 2025 Q1 and Q2. In Q3, Business Operator B pays business tax of \$150,000. In Q4, Business Operator B files a return and pays no additional tax.

Order of Calculations

Tax owed shall be determined by applying the terms of Chapter 2.37 in the following order:

- First, application of the tax rate in subdivisions (a) or (b) of Section 2.37.040 to the square footage of the business;
- Second, application of business tax offsets as set forth in Section 2.37.080, if any; and
- Third, application of the tax cap in subdivision (c) of Section 2.37.040, if applicable.

Example: In 2024, Business Operator C occupies 1,500,000 square footage in Palo Alto, resulting in a total \$167,625 quarterly gross tax obligation. Business Operator C also consistently had 200,000 vacant square footage available for immediate rent, resulting in a \$22,500 quarterly tax offset. The net tax obligation is \$145,125 for Q1, Q2, and Q3 of 2024 and \$64,625 for Q4.

Contents of the Quarterly Tax Return

With each quarterly tax payment, a business operator must submit a quarterly tax return which contains the following information. The return must be verified by the business operator as true and correct under penalty of perjury of the laws of the State of California. The Tax Administrator will provide a form to assist business operators to comply with this requirement.

All business operators must include the following information:

- (d) The name of the business and the address or addresses at which it is operating in the City;
- (e) Contact information for the business operator responsible for completing the tax return;
- (f) The square footage in which the business is operating in the City;
- (g) A short description of the Supporting Documentation used by the business operator to determine the business' square footage that is consistent with requirements described in the "Calculating Square Footage" section of this chapter. Examples of accepted documents that include square footage are:
 - (i) Executed copy of lease that includes square footage
 - (ii) Architectural plans that provide square footage information
 - (iii) Planning and building documents
- (h) The amount of tax due.

If applicable, business operators must also include the following additional information:

- (a) If the business operator claims an offset under Section 2.37.080, the business operator shall include sufficient information and documentation to establish the business's right to the offset and the amount of the offset.
- (b) A business operator making a late payment shall include a calculation of the penalties and interest:
 - (i) Interest due. On the first of each month that a tax is delinquent, interest in the amount of 1.5% of the delinquent amount, excluding penalties and interest, must be added to the amount of tax due.
 - (ii) Late payment penalties. When a tax becomes delinquent, a penalty of 10% of the amount of the delinquent tax must be added to the amount of tax due. If the tax remains unpaid sixty (60) days after becoming delinquent, an additional penalty of 25% of the amount of the delinquent tax (excluding accrued interest and the initial penalty) must be added to the amount of tax due.

A business operator may apply to the Tax Administrator for a reduction or waiver of any accrued penalties or interest. An application for waiver does not toll the accrual of penalties or interest, unless agreed to by the Tax Administrator in writing. The Tax Administrator may reduce or waive any accrued penalties or interest upon a finding of good cause.

Parent Companies and Subsidiary Companies

A parent or holding company may file and remit payment separately from subsidiaries. A subsidiary is a separate legal entity that is fully or partially owned and controlled by the parent company.

Chapter 4: Tax Offsets

Under Chapter 2.37, eligible businesses may be able to offset some or all of their business tax obligation.

Transient Occupancy Tax

A business operator that operates a hotel in the City may deduct transient occupancy tax (TOT) that it has paid to the City, consistent with the procedures in Chapter 2.37.

- (a) **Definition of Hotel.** A hotel is any structure, or any portion of any structure, in the City of Palo Alto which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, morning house, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location, or other similar structure or portion thereof, even if such structure is also used for other purposes, including residential purposes.
- (b) **Calculating the TOT Offset.** A business operator that operates a hotel in Palo Alto may deduct from the business tax it owes for a quarter the amount equal to the total TOT collected and remitted to the City in the same quarter of the previous fiscal year from transients staying at the hotel. TOT that exceeds business tax owed may not be carried over to subsequent quarters.

Example: Hotel Operator D calculates that they owe \$7,250 in business tax, based on square footage occupied in Q1 2025. In Q1 2024, Hotel Operator D paid TOT totaling \$3,250. Hotel Operator D may exempt the TOT paid in Q1 2024 from their Q1 2025 business tax, resulting in a net business tax payment of \$4,000.

Example: Hotel Operator E calculates that they owe \$7,250 in business tax, based on square footage occupied in Q1 2025. In Q1 2024, Hotel Operator E paid TOT totaling \$8,250. Hotel Operator E may exempt the TOT paid in Q1 2024 from her Q1 2025 business tax, resulting in no business tax owed in Q1 2025, however must file a business tax return in Q1 2025 and may not carry over TOT that exceeded the Q1 business tax obligation to any subsequent business tax quarter.

Discretionary Sales or Use Tax

The business operator of a business that has discretion to determine the location of the place of sale, place of use, or principal place of negotiation for sales or use tax purposes and which exercises that discretion and designates the City of Palo Alto as the place of sale, place of use, or principal place of negotiation for sales or use tax purposes which results in the city receiving sales or use tax revenues that it would not otherwise have received, but for the business's exercise of its discretion to designate the City as the place of sale, place of use, or principal place of negotiation for sales or use tax purposes ("Discretionary Sales or Use Tax") may deduct from the business tax it owes for a quarter an amount equal to one half of the total sales tax or use tax received by the City from the Discretionary Sales or Use

Tax of that business in the same quarter of the previous fiscal year. This amount can offset up to, but no more than, 75% of the business's quarterly business tax. If a business operator believes they are eligible for this offset, the business operator must schedule a consultation appointment with the Tax Administrator to discuss implementation of this section before claiming this offset. The City and a business operator may enter into an agreement implementing this section. For more information, Business Operators should consult the Factsheet on Discretionary Sales and Use Tax Offsets.

Vacant Square Footage

A business operator of a business that has rights to property due to property ownership, a ground lease, or a lease that permits subleasing, and that is offering that property for sale or rent, may deduct from the business tax owed for the business an amount equal to the business tax associated with the square footage being offered for sale or rent, provided that the area to be sold or rented is completely vacant and available for immediate occupancy. For the purposes of this offset, "vacant" means a severable portion of the physical location that a business is occupying, such as an entire floor, a building, or a portion of a floor with independent entrance and exit, that is free from any use, fixtures, furniture, and equipment, and is immediately available for use by a new tenant or owner.

Example: Business Operator F has a long-term lease on an 80,000 square foot four-floor office building, where it operates its business. Throughout the entirety of Q3 of 2025, Business Operator F had 20,000 vacant square feet of the location, consisting of the entire second floor of the building. The second floor was completely vacant and unused by Business Operator F during Q3 and is available for immediate occupancy by a sublessee. Business Operator F may deduct the business tax associated with the vacant 20,000 square feet.

Procedures for Claiming an Offset

The City's online tax form includes space for qualifying businesses to claim an offset. Supporting documentation must be attached to the quarterly tax return filing. Examples of supporting documentation include:

- (a) Executed copy of lease that includes square footage
- (b) Architectural plans that provide square footage information
- (c) Planning and building documents

A business claiming an offset must claim the offset with its tax filing for the quarter for which the offset is claimed.

If the information necessary for a business to claim an offset is not available, the business may defer claiming an offset for up to one year or for another period of time set by written agreement with the Tax Administrator.

The Tax Administrator may require a business claiming an offset to submit additional information to support the claim of the offset. The Tax Administrator will make the request for additional information in writing. The subject business must provide the needed information within thirty (30) days unless time is extended by written agreement with the Tax Administrator. A business that fails to provide the

requested information within 30 days or the period provided by written agreement will forfeit the offset for that quarter.

If the Tax Administrator determines that an offset claimed by a business is incorrect, the Tax Administrator may make an initial determination of the amount, if any, of the offset and the amount of tax due.



Chapter 5: Appeals, Administrative Remedies & Refunds

Administrative Procedure to Assess or Correct Tax

If the Tax Administrator determines that a business operator has incorrectly reported any information to the City or has not paid all or any of the tax, penalties, or interest that are due, the Tax Administrator may, using any information available to the Tax Administrator, issue an Initial Determination stating what the Tax Administrator believes to be the correct information and, if new or additional tax, penalties, or interest are due, how much tax, penalties, or interest are due. The Initial Determination shall be served on the business operator either personally or by U.S. mail to the most recent address for the business operator in the Tax Administrator's records.

A business operator affected by an initial determination may, within thirty (30) days of service of an initial determination, contest the initial determination and request a hearing before the Tax Administrator by filing a written request for a hearing with the Tax Administrator. The further accrual of penalties and interest shall be tolled upon the filing of a request for a hearing. If a business operator does not contest an initial determination and request a hearing with the Tax Administrator within thirty (30)² days of service of the initial determination, the initial determination shall become final and cannot be appealed.

At the hearing the business operator may present evidence and argument regarding the initial determination to show why the initial determination is incorrect and to show what the determination of the Tax Administrator should be. Within sixty (60) day after the close of the hearing, the Tax Administrator shall serve a final determination, setting forth the Tax Administrator's determination of the facts and issues that were the subject of the initial determination. The final determination shall be served on the business operator either personally or by U.S. mail to the most recent address for the business operator in the Tax Administrator's records. Service is effective upon deposit of the final determination in the U.S. mail. Unless an appeal of a final determination is filed under Section 2.37.170, any penalties or interest tolled under subdivision (b) of this section will resume accruing ten (10) days after the service of the final determination.

General Administrative Remedy

Any person affected by a decision of the Tax Administrator ("the challenger"), except for initial determinations as described above, may challenge that decision by filing a written objection to the decision with the Tax Administrator. The objection must be filed within thirty (30) days of the issuance of the decision being challenged. If the Tax Administrator was required to provide notice of the decision, then the time to file an objection to the decision begins to run from the date of service of the notice of the decision. The Tax Administrator shall serve a written response to the objection within thirty (30) days of the filing of the objection, which period can be extended by the Tax Administrator for an additional thirty (30) days. The Tax Administrator's response to the objection shall be served on the

² Section 2.37.150(b) states, in error, that the initial determination becomes final after 15 days. The Tax Administrator will administrator will consider the initial determination final at 30 days. The City Council will consider an ordinance to correct the error.

challenger either personally or by U.S. mail to the most recent address for the challenger in the Tax Administrator's records.

The challenger may request a hearing on the Tax Administrator's response to the objection by filing a request for a hearing with the Tax Administrator within thirty (30) days of service of the response to the objection. If a timely request for a hearing on a response to the objection is filed with the Tax Administrator, the Tax Administrator shall set a hearing within sixty (60) days of the filing of the request for a hearing. Notice of the hearing shall be served on the challenger either personally or by U.S. mail to the most recent address for the challenger in the Tax Administrator's records.

At the hearing the challenger may present evidence and argument regarding the decision being challenged to show why the decision is incorrect and to show what it should be. Within sixty (60) days after the close of the hearing, which the Tax Administrator may extend for an additional sixty (60) days, the Tax Administrator shall serve a final determination on the decision, setting forth the Tax Administrator's determination of the decision that was challenged. The final determination shall be served on the challenger either personally or by U.S. mail to the most recent address for the challenger in the Tax Administrator's records. Service is effective upon deposit of the final determination in the U.S. mail.

Appeals

A final determination of the Tax Administrator to assess or correct a tax, or to resolve a general administrative matter, as described above, can be appealed to the City Manager by filing a written notice of appeal with the City Manager within thirty (30) days of service of the notice of the final determination being appealed.

Only a business operator who files a timely request for a hearing on an initial determination under Section 2.37.150 and participates in the hearing or a challenger who files an objection to a decision and files a request for a hearing on the response to the objection under Section 2.37.160 and participates in the hearing can file an appeal under this section.

If a timely appeal is filed with the City Manager, the City Manager, or the City Manager's designee, shall set a hearing within sixty (60) days of the filing of the appeal, which may be extended by the City Manager for an additional thirty (30) days. Notice of the hearing shall be served on the appellant either personally or by U.S. mail to the most recent address for the appellant in the Tax Administrator's records. The tolling of the accrual of penalties or interest under Section 2.37.150, subdivision (b), shall continue upon the timely filing of an appeal under this section. The City Manager may, at their discretion, refer the matter to the City's independent hearing officer to conduct a hearing and make a recommendation to the City Manager.

At the hearing the appellant and the Tax Administrator may present evidence and argument regarding the decision being appealed to show why the decision is correct or incorrect and to show what it should be. Within sixty (60) days after the close of the hearing, which the City Manager or the City Manager's designee may extend for an additional sixty (60) days, the City Manager or the City Manager's designee shall serve a written decision, setting forth the resolution of the appeal. The decision shall be served on the appellant either personally or by U.S. mail to the most recent address for the appellant in the City Manager's records. Service is effective upon deposit of the decision in the U.S. mail. Any penalties and

interest that were tolled under Section 2.37.150, subdivision (b), shall resume accruing ten (10) days after the service of the decision.

A decision of the City Manager, or the City Manager's designee, served under subdivision (d) of this section is subject to judicial review under Sections 1094.5 and 1094.6 of the Code of Civil Procedure with a writ petition filed in the appropriate court within ninety (90) days of the service of the written decision. Any tax, penalties, or interest determined by the decision to be owed to the City by the appellant must be paid to the City as a precondition to filing a writ petition challenging the decision, but a claim for a refund under Section 2.37.190 does not have to be filed before filing a writ petition.

Constitutional Apportionment

No tax imposed by this chapter shall be applied to a business operator so as to constitute an undue burden on interstate commerce or intercity commerce or be violative of the equal protection or due process clauses of the United States or California constitutions.

A business operator who contends that the application of a tax imposed by this chapter on the business operator constitutes an undue burden on interstate commerce or intercity commerce or violates the equal protection or due process clauses of the United States or California constitutions may apply to the Tax Administrator for an apportionment of the tax imposed on the business operator that would remove the constitutional violation by filing a written request with the Tax Administrator that explains the factual and legal basis for the claimed constitutional violation and proposes a method of apportionment that would resolve the alleged constitutional violations.

The Tax Administrator, in consultation with City Attorney, shall review the application and within sixty (60) days of the filing of the application, which deadline may be extended for an additional sixty (60) days, issue a decision on the application. The decision on the application shall be served on the business operator either personally or by U.S. mail to the most recent address for the challenger in the Tax Administrator's records. The decision can be challenged under General Administrative Remedy, above.

Refunds

A business operator who believes that any tax, penalty, or interest has been illegally, erroneously, or mistakenly paid to, collected by, or otherwise received by the City may file a claim for a refund of the amount of tax, penalty, or interest claimed to have been improperly received by the City.

The claim must be filed with the Tax Administrator and signed under penalty of perjury by the business operator. The claim must state:

- (a) The legal and factual basis for the refund claim;
- (b) The amount of tax, penalty, or interest allegedly improperly received by the City;
- (c) The date or dates that the improper payments were made to the City; and
- (d) The address of the claimant.

The claim must be filed with the Tax Administrator within two (2) years of the date of the allegedly improper payment to the City.

The Tax Administrator shall provide a written decision on the claim within thirty (30) days of the filing of the claim by serving the decision on the claimant either personally or by U.S. mail to the address provided in the claim. Service is effective upon deposit of the response in the U.S. mail.

A claimant may challenge the Tax Administrator’s decision on a refund claim under General Administrative Remedy, above.

This section does not apply to:

- (a) A claim for a refund arising out of a decision of the Tax Administrator, City Manager, or City Manager’s designee under Procedure to Correct or Assess a Tax, General Administrative Remedy, Appeals, or Constitutional Apportionment; or
- (b) A claim that could have been asserted by the claimant, but was not, under Procedure to Correct or Assess a Tax, General Administrative Remedy, Appeals, or Constitutional Apportionment.



Chapter 6: Audits and Records

Audits

The Tax Administrator may conduct an audit of any business operator to ensure proper compliance with the requirements of Chapter 2.37.

To initiate an audit the Tax Administrator shall provide written notice to the business operator that is the subject of the audit of the initiation of the audit by serving the notice personally or by U.S. mail to the most recent address for the business operator in the Tax Administrator's records. The notice shall state the period of time subject to the audit.

Time periods for initiating an audit:

- Notice of the initiation of an audit for a quarter for which either a business tax filing for a new business or quarterly tax return was submitted under Section 2.37.100 or Section 2.37.110 must be served within three (3) years of the last day of the quarter to which the filing or return applied.
- Notice of the initiation of an audit for a quarter for which neither a business tax filing for a new business nor a quarterly tax return was submitted under Section 2.37.100 or Section 2.37.110, but for which the business was registered as a business under Section 4.60.030 (Business Registry Certificate), must be served within five (5) years of the last day of the quarter for which the filing or return should have been filed.
- Notice of the initiation of an audit for a quarter for which neither a business tax filing for a new business nor a quarterly tax return was submitted under Section 2.37.100 or Section 2.37.110, and for which the business was not registered as a business under Section 4.60.030 (Business Registry Certificate) must be served within seven (7) years of the last day of the quarter for which the filing or return should have been filed.

Upon completion of an audit, the Tax Administrator may make an initial determination under subdivision (a) of Section 2.37.150 of any taxes, penalties, and interest determined to be owed and not paid for the audit period. The initial determination must be issued within ninety (90) days of the completion of the audit. If a business operator subject to audit is unable or unwilling to provide sufficient records to enable the Tax Administrator to verify compliance with this chapter, the Tax Administrator is authorized to make a reasonable estimate of the amount of tax due and the reasonable estimate shall be entitled to a rebuttable presumption of correctness.

Maintenance and Review of Records

- (a) Business operators must maintain for six (6) years records of square footage and information necessary to calculate the tax. If the Tax Administrator serves notice of the initiation of an audit, the information pertinent for the quarters subject to the audit must be maintained until the conclusion of the audit.
- (b) The Tax Administrator may with reasonable notice inspect the premises and records of the business operator.

- (c) The Tax Administrator may request the City Council to issue an administrative subpoena for records of a business operator or other persons with relevant information.

Confidentiality

All documents submitted to the City by a business in compliance with Chapter 2.37, including a business's tax return, supporting documentation, and documents provided pursuant to an audit are presumed to be confidential and will not be subject to public inspection to the fullest extent allowed by law. Confidential documents may be shared with consultants retained by the City to aid in the administration of Chapter 2.37, provided the consultants agree to maintain the confidentiality of the documents. However, nothing in this section precludes the City from aggregating information and releasing it in a manner that does not identify any particular business or connect any information with a particular business.