



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/21/2022

ITEM NO: 22

DATE: June 16, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Receive the Town of Los Gatos Business License Analysis and Ordinance Review, Direct Staff to Continue Research and Public Outreach, and Return to Town Council on August 2, 2022 with Proposed Ballot Measure Language to Modernize and Create a More Equitable Business License Tax Structure

RECOMMENDATION:

Receive the Town of Los Gatos Business License Analysis and Ordinance Review, direct staff to continue research and public outreach, and return to Town Council on August 2, 2022 with proposed ballot measure language to modernize and create a more equitable business license tax structure.

BACKGROUND:

On September 13, 2021, the Town Finance Commission reviewed the Town's Business License Tax Program and recommended that the Town Council authorize the Town Manager to issue a Request for Proposal (RFP) for consultant services to evaluate and recommend modernization options for the Town's Business License Tax Program. On October 19, 2021, the Town Council received the Finance Commission recommendation (Attachment 1) and directed staff to engage a consultant to review the Town's 1991 Business Tax Ordinance and recommend options for updating the Ordinance.

On December 17, 2021, the Town issued an RFP for Business License Tax consulting services. The Town received a single response from HdL Companies (HdL) by the January 26, 2022, submission deadline. HdL was selected given their significant experience in business license review and analysis including having performed dozens of tax study and modernization programs in California.

PREPARED BY: Arn Andrews
Assistant Town Manager

Reviewed by: Town Manager and Finance Director

BACKGROUND (continued):

HdL submitted their Business License Analysis and Ordinance Review (Report) to the Town on June 8, 2022 (Attachment 2). On June 13, 2022, the Finance Commission discussed the HdL report and voted unanimously to move forward to continue research and public outreach on business license tax modernization. The Commission requested a special meeting in July if Council voted to pursue a potential ballot measure.

DISCUSSION:

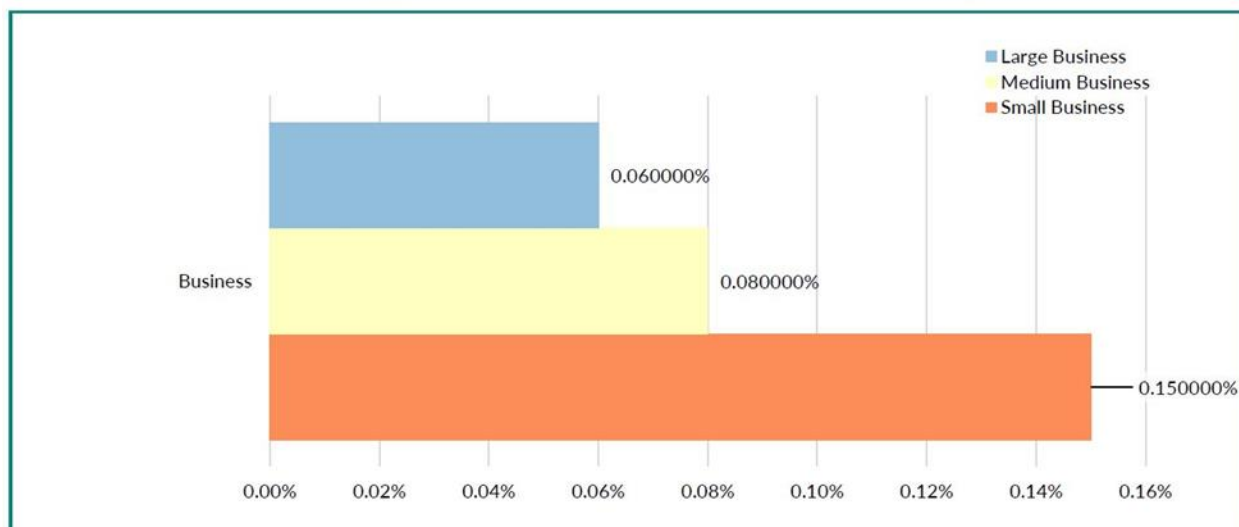
Consultant Study

The Report includes an executive summary, analysis of the Town's current business tax structure and comparative jurisdictions, options for modifying the Town's business tax rates and classifications, and appendix with administrative recommendations to simplify other elements of the Town's Ordinance.

Following is a summary of the major findings and recommendation of the report:

Having not been updated in over 30 years and currently utilizing a blend of flat fees and decreasing gross-receipts tax rates, the Town's existing structure is regressive in nature. For example, a general retail business grossing \$50,000 a year (the small business in the chart below) would pay \$75.00, which is an effective tax rate of 0.15%. But a large business, grossing \$1 million in a year, will pay \$600 or 0.06%--less than half the effective tax rate of the small business. This is illustrated in Chart 4 of the report.

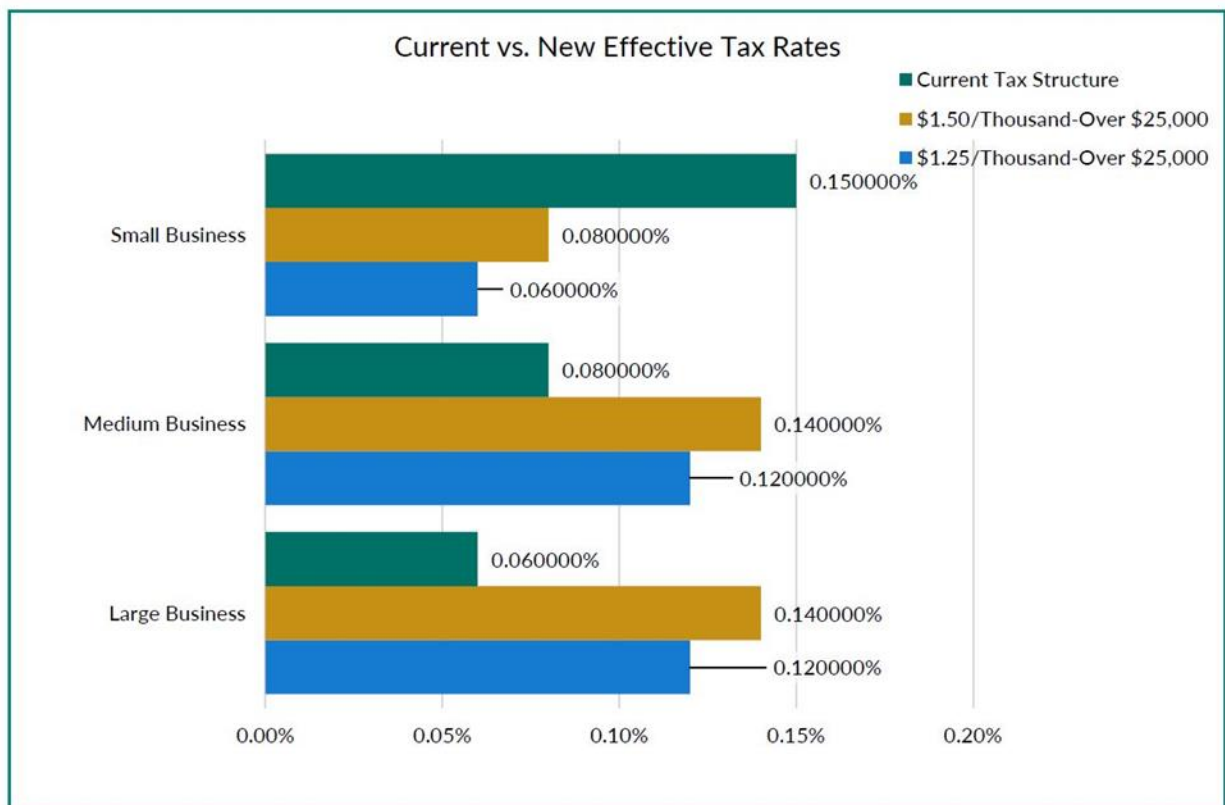
Chart 4: Examples of Current Tax Rate as Percent of Estimated Gross Receipts



DISCUSSION (continued):

Compared to other jurisdictions, the Town's total business tax revenue is relatively strong (Table 2 of the report) however as illustrated above the composition of those revenues is currently not equitable. Given the results of the analysis, HdL has recommended that the Town move to a single-rate, gross-receipts model (Model 2 in the report). Many California cities use some form of gross receipts tax structure and a standard rate multiplier to determine the tax amount owed.

The "single rate" method of taxing on gross receipts provides an even distribution of the effective tax rate because all businesses subject to the tax will pay the same rate. The benefits of gross receipts-based taxes are the equity of their effective tax rate, ease of calculation, and potential for capturing revenue from growth in the economy. Under this method, no cap is put in place, and therefore most of the revenues are received from the highest-grossing businesses. While the model does expand revenue, it does so by helping to decrease the effective tax rate on smaller businesses while asking larger businesses to pay their fair share. The model also lowers the annual base rate to a uniform \$25 (first \$25,000 gross receipts), to provide some additional tax relief for smaller businesses. The following chart (Chart 9 in the report) illustrates the redistribution of effective tax rates among small, medium, and large business's utilizing two different single-rate scenarios.



DISCUSSION (continued):

Table 8 from the report (below) illustrates the estimated revenues from implementing a gross receipts tax (Model 2) with two single-rate options, \$1.25 per thousand and \$1.50 per thousand. The model uses estimated gross receipts based on the business classification. It should be noted that in estimating the Total Gross Receipts, HdL exclude a significant outlier that would skew the models.

Number of Accts	Taxable Gross Receipts	Base Rate @ \$25 per Account	Tax Amount \$1.25/ thousand -Over \$25,000-	Tax Amount \$1.50/ thousand -Over \$25,000-
2,483	\$1.17 billion	\$62,075	\$1,382,939	\$1,659,527
		TOTAL	\$1,445,014	\$1,721,602

As illustrated above both single rate options are estimated to produce slightly more revenue than currently collected (FY 2021/22 \$1.3 million), excluding the outlier, but in a more equitable distribution.

Ballot Measures

A ballot measure to modernize the Business License Tax requires a 4/5 vote of the Town Council to place it on the ballot. A General Tax can be expended on any program, service, or capital need at the discretion of the local government's governing body. A simple majority vote (50 percent of voters plus one additional voter) is required for approval of a general tax.

With the November 2022 election scheduled, the last regular Council meeting to add an item on this ballot is at its August 2nd meeting. Should the Town Council choose to pursue a ballot measure, final approval including the ballot measure language will need to be submitted to the Santa Clara County Registrar of Voters by August 12, 2022. Provided below are ballot measure milestone dates:

- August 12, 2022: Last day for Resolutions calling a measure
- August 16, 2022: Deadline for submitting primary arguments in favor of or against a measure
- August 17, 2022: Last day to amend or withdraw a measure
- August 23, 2022: Deadline for submitting rebuttal arguments to primary arguments in favor of and against a measure and impartial analyses.

If the Town Council directs staff to continue pursuing a business tax modernization ballot measure, staff will return to Council on August 2, 2022 with draft ballot language, resolution, and ordinance.

DISCUSSION (continued):

Community Outreach

If the Town Council directs staff to continue pursuing a business tax modernization ballot measure, staff will implement a comprehensive business outreach plan during the summer, including the following elements:

- To provide information on the proposed business license tax measure, staff will create a webpage on the Town's website with background information for residents and businesses interested in the issue. In addition to a dedicated webpage, staff will utilize the Town's social media platforms to disseminate information.
- Staff intends to coordinate business outreach to the Los Gatos Chamber of Commerce and its member businesses. Since not all Los Gatos businesses are Chamber members, broader outreach will be needed in local newspapers and other modes.
- Staff will engage one-on-one with the Town's largest employers and business groups.
- The Town will publicize and host a virtual Business Forum event. To the extent it is feasible, staff would send out a postcard to all Business License holders inviting them to this event.
- Staff is available to meet with local service clubs and others to obtain additional input.
- As requested by the Finance Commission at its June 13, 2022 meeting, a special Commission meeting would be scheduled in July to review the results of the additional research and outreach.

CONCLUSION:

The Town Council should review the Town of Los Gatos Business License Analysis and Ordinance Review and direct staff to pursue a ballot measure to modernize and create a more equitable tax structure.

COORDINATION:

This staff report was coordinated with the Town Manager and Finance Director.

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SUBJECT: Business License Modernization

DATE: June 16, 2022

FISCAL IMPACT:

A single ballot measure costs approximately \$58,256 and the Proposed Fiscal Year 2022/23 Operating Budget includes funding for potential measures.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachments:

1. October 19, 2021 Town Council Staff Report
2. HdL Business License Analysis and Ordinance Review