

CITY ATTORNEY IMPARTIAL ANALYSIS OF MEASURE \_\_\_\_\_  
TWO AND A HALF PERCENT (2.5%) BUSINESS TAX ON GROSS  
RECEIPTS FROM RENTING RESIDENTIAL UNITS

This ordinance, proposed by the City Council, amends section 5.08.120 and section 5.08.125 of the East Palo Alto Municipal Code. Section 5.08.120 currently requires landlords of all residential rentals to pay an annual license fee as set forth in the fee schedule. Section 5.08.125 imposes an annual general tax of 1.5% on gross residential rental receipts and applies to owners of five or more rental residential units who lease the units to tenants in the city. The proposed ordinance raises the general tax from 1.5% to 2.5% and removes the exemption for landlords renting less than five units.

A landlord paying the tax under section 5.08.125 does not have to pay the tax under section 5.08.120 for the same rentals. It is illegal to pass the tax on to tenants.

Several types of residential rental units are not subject to the existing 1.5% gross receipts tax, but are subject to the annual license fee. These are:

- 1) Dwelling units owned by a nonprofit corporation whose primary purpose is providing affordable housing;
- 2) Dwelling units whose rents are controlled at rental rates affordable to households earning no more than 80% of Average Median Income and whose tenants must be income qualified.
- 3) Units occupied by tenants receiving monthly rental assistance from the County of San Mateo Department of Housing;
- 4) Any dwelling unit during the first ten years after the issuance of the certificate of occupancy.

This ordinance would alter the exemptions listed above by:

Revising:

- a. The provision related to nonprofits to apply to all dwelling units owned by a nonprofit corporation renting affordable housing, not solely nonprofits where affordable housing is the entity's primary purpose.
- b. The provision related to new units to decrease from ten years to three years the exempt period after certificate of occupancy issuance.

Adding as exempt from tax:

- 5) An individual room without kitchen facilities rented in a residential dwelling unit.
- 6) An Accessory Dwelling Unit or Junior Accessory Dwelling Unit.

Hardship exemptions from payment of the tax may be applied for when there are exceptional circumstances. Applications may be approved by the Rent Stabilization Administrator for good cause. Any hardship exemption is effective for one tax year only. Taxpayers who seek hardship exemptions must reapply every year.

The City Council may reduce the tax rate and may terminate any such reductions without voter approval.

This is a general tax which may be used for any purposes deemed necessary and appropriate for the residents of the City, including increasing the supply of affordable housing and protecting residents from displacement and homelessness, including the provision of rental assistance

A “yes” vote would revise section 5.08.120 and section 5.08.125 of the East Palo Alto Municipal Code to impose a 2.5% gross receipts tax on residential rentals.

A “no” vote would leave section 5.08.120 and section 5.08.125 of the East Palo Alto Municipal Code unchanged, which would mean the tax rate will remain at 1.5% and only apply to rentals of five units or more.

Valerie J. Armento

Interim City Attorney