

CITY OF OAKLAND

OFFICE OF FINANCE

REVENUE DIVISION

DIRECTOR OF FINANCE RULING NO. 33

PARKING TAX ORDINANCE DOES NOT APPLY TO AIRCRAFT PARKED AT THE AIRPORT AND ASSOCIATED FACILITIES, BOATS DOCKED IN SLIPS IN THE WATER, OR SHIPPING CONTAINERS; PARKING TAX ORDINANCE DOES APPLY TO RENTAL OF PARKING STATIONS FOR TRUCKS, TRAILERS AND OTHER MOTOR VEHICLES WHETHER OR NOT CARRYING CARGO OF ANY KIND

Reference: Chapter 4.16 of the Oakland Municipal Code (“OMC”), the Parking Tax Ordinance

PURPOSE

The purpose of this Administrative Ruling is to clarify that the Parking Tax Ordinance (which applies to the rental of parking stations for motor vehicles, including trucks and trailers whether or not carrying cargo) does not apply under the circumstances more specifically delineated below, including: (i) at facilities on Port Lands, which includes the “Port Area” (as defined by the City Charter and ordinances) and includes other property operated by the Port, its tenants or its contractors, where the primary operations concern the loading or unloading of cargo to and from ships or motor vehicles and no discrete rental fee is charged for use of the parking space for a motor vehicle; (ii) at facilities on Port Lands at which the operator stores trailers or other motor vehicles for its own use or for lease or rental to third parties; (iii) to boats in slips, berths or dry-docks; or (iv) to containers.

BACKGROUND

The Ordinance includes the following definitions at section 4.16.020:

“Motor vehicle” means and includes, but is not limited to, any truck, automobile, trailer, motorcycle, boat or transportable structure.

“Parking Station” means and includes, but is not limited to:

1. Any outdoor space or uncovered plot, place, lot, parcel, yard or enclosure, or any portion thereof, where motor vehicles may be parked, stored, housed or kept, for which any charge is made;
2. Any building or structure, or any portion thereof, in which motor vehicles may be parked, stored, housed or kept, for which any charge is made.

“Rent” means the consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits and property or services of any kind or nature and also the amount for which credit is allowed by the operator to the occupant without any deduction therefrom whatsoever.

The Ordinance imposes a 10% tax and an 8.5% surtax, pursuant to sections 4.16.030 and 4.16.031, which provide, respectively:

Subject to the provision of this chapter, there is imposed a tax at the rate of ten percent of the rental of every parking space in a parking station in the city....

Subject to the provisions for the collection of taxes and definitions in this chapter, there shall be an additional tax of eight and one-half percent imposed on the rental of every parking space in a parking station in the city.....¹

Finance & Management Agency (“FMA”) staff have considered in recent years whether the Ordinance applies to boats docked or berthed at a marina, aircraft parked at Oakland International Airport, and shipping containers stored at or near the Port of Oakland (before or after being transported to or from cargo ships operating at the Port of Oakland). This Revenue Ruling clarifies the applicability of the Ordinance in such circumstances.

RULING

Definitions exclude from taxation boats in slips; berths or dry-docks; trailers or other motor vehicles stored for lease to third parties, or for the use of the operator of the facility at which they are stored; aircraft and shipping container; and consideration which is not paid in exchange for parking in a parking station under the following circumstances:

1. “Parking station” does not include:
 - A. A boat slip, berth or dry-dock;
 - B. A space in a facility on Port Lands at which a motor vehicle parks where (i) the principal purpose of the facility is to engage in stevedore or drayage operations, e.g., to load and unload cargo from ships onto trucks, and vice versa, and (ii) the parking of motor vehicles at the facility is incidental to the stevedore or drayage operations and no discrete rental is charged for use of the parking space;
 - C. A space in a facility on Port Lands where motor vehicles are stored as cargo as part of domestic or international trade;

¹ The 8.5% surcharge is imposed pursuant to Measure Y, the Violence Prevention and Public Safety Act of 2004, which expires at the end of 2014.

D. A space in a facility on Port Lands at which the facility operator stores trailers or other motor vehicles for its own use or for lease to third parties, and third parties do not pay a charge to park or store trailers at said space.

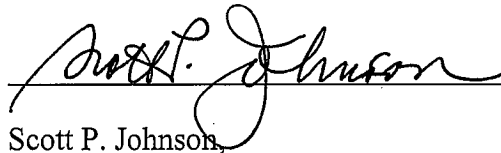
Thus, the Ordinance does not apply to the parking of motor vehicles in the above-described circumstances.

2. "Rent" does not include a payment, or portion of a payment, made to or by a shipping company, marine terminal operator, drayage operator or other party sending or receiving cargo through Port facilities that is not a discrete payment made in exchange for parking in a parking station. Thus, the Ordinance does not apply to parking of motor vehicles where "rent" is not paid under the Ordinance.

3. Neither aircraft nor shipping containers are "motor vehicles" as defined by the Ordinance. Thus, the Ordinance does not apply:

A. To aircraft, e.g., aircraft parked, stored or tied-down at the Oakland International Airport or an associated facility; nor

B. To shipping containers, e.g., containers stored at or near the Port of Oakland (before or after being transported to or from cargo ships operating at the Port of Oakland).

A handwritten signature in cursive script, reading "Scott P. Johnson", is written over a solid horizontal line.

Scott P. Johnson,

Assistant City Administrator

Date: September 27, 2012