

What's New in Government Affairs

Labor and Taxes: Special Edition!

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LOCAL

IMPORTANT INFORMATION ABOUT BUSINESS TAXES: In mid-August, the City of Manhattan Beach once again announced it would levy a business tax on REALTORS®. Called a “punitive tax” by a member of the Manhattan Beach City Council, this tax comes at a bad time in the economy – and even in a good economy, the City has no legal authority to impose this tax.

If you live or do business in Manhattan Beach, come to the September 21 City Council hearing or watch for an action alert coming from SBAOR in advance of the meeting. *If you live or do business in another city*, remember that a change in business taxes could affect you too. Different cities have different ways of collecting business taxes, however we urge cities to remember these key points:

- REALTORS® in California cannot legally work without a broker, and as such cannot operate as independent contractors. REALTORS® should not be taxed as independent contractors for the purpose of a business license.
- New taxes on REALTORS® may need voter approval, according to Proposition 218. Cities do not have the authority to simply impose a new business tax.

SBAOR has been at the forefront of this issue since it first emerged last April. It received coverage in the media, including the *Daily Breeze* (August 29) and the *Beach Reporter* (August 26).

Establishment of status in case law



A number of court cases have established the broker/agent relationship and the status of real estate salespersons as employees for the purpose of real estate law. These cases include *Gipson v. Davis Realty Co.*, (1963); *Grubb and Ellis Company v. Spengler*, (1983); *Payne v. White House Properties*, (1980); and *Payne v. White House Properties*, (1980). In addition, certain sections of the California

Business and Professions Code (Sec. 10131, 10132, 10137, 10160) establish that real estate salespersons are employees.

Given these important legal precedents, it is clear that REALTORS® cannot be considered independent businesses for the purposes of local business license taxes. We have called on the City of Manhattan Beach to withdraw the current proposal.

Share with us!

Do you have additional questions or concerns about business taxation? Please contact SBAOR Government Affairs at (310)326-3010 or david@southbayaor.com.

Next: *How do you know if certain taxes are at risk of double taxation? We look at some real estate cases that address this issue.*

Why Government Affairs?

Every city makes decisions on taxes, point-of-sale, signs, rent control, property rights, and more. This impacts your client's ability to buy, sell, or develop their properties and your ability to do business. The South Bay Association of REALTORS® Government Affairs Program protects and advocates for you. For more information, call SBAOR Government Affairs at (310)326-3010 ext. 715