

# MEMORANDUM

Agenda Item No. 7(F)

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**TO:** Honorable Chairwoman Rebeca Sosa  
and Members, Board of County Commissioners

**DATE:** (Second Reading 4-2-13)  
January 23, 2013

**FROM:** R. A. Cuevas, Jr.  
County Attorney

**SUBJECT:** Ordinance relating to Local  
Business Taxes; amending  
Chapter 8A of the Code

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The accompanying ordinance was prepared by the Finance Department and placed on the agenda at the request of Prime Sponsor the Economic Development and Port Miami Committee and Co-Sponsor Vice Chair Lynda Bell.



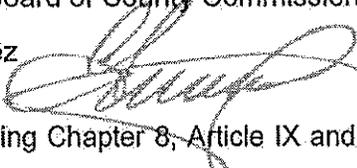
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R. A. Cuevas, Jr.  
County Attorney

RAC/jls

**Date:** April 2, 2013

**To:** Honorable Chairwoman Rebeca Sosa  
and Members, Board of County Commissioners

**From:** Carlos A. Gimenez  
Mayor 

**Subject:** Ordinance Amending Chapter 8, Article IX and Article X, Relating to Local Business Taxes

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**Recommendation**

It is recommended that the Board of County Commissioners (Board) approve and adopt the attached Ordinance amending Chapter 8, Articles IX and X of the Code of Miami-Dade County relating to Local Business Taxes. The Ordinance reflects recent revisions to Chapter 205, Florida Statutes, the enabling statute which authorized counties and municipalities to levy the local business tax. More specifically, the attached ordinance does the following:

- Adopts an exemption from local business taxation for real estate broker and sales associates as mandated by Section 205.067, Florida Statutes, enacted during the 2012 legislative session. The current Miami-Dade ordinance already exempts real estate salespersons, but through wording in a section addressing requirements for professionals.
- Amends the definition of the term "independent contractor" to reference the definition in State Statutes so that any future changes and refinements to this definition will automatically be incorporated into our code.
- Corrects a typographical error in our code regarding state issued pari-mutuel licenses.
- Widens an exemption to businesses selling locally produced farm and fish products to also include those selling any products grown in the State of Florida, and the word "aquacultural" is introduced in to the title in addition to existing terms of "fish farming", as set forth in Section 205.064, Florida Statutes.

**Scope**

The impact of this item is countywide in nature.

**Fiscal Impact/Funding Source**

There is no cost associated with the proposed changes and there is no impact to revenue, as the changes are being proposed so that the Local Business Tax Ordinances are consistent with statutory revisions.

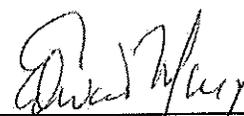
**Track Record/Monitor**

The Tax Collector is responsible for collecting all Local Business Taxes on behalf of the County.

**Background**

The Local Business Tax is a method by which a local governing authority grants the privilege of engaging in or managing any business, profession, or occupation within its jurisdiction. These taxes are strictly a source of revenue, are not regulatory in nature and do not provide certification or licensure for specific business activities.

The current practices of the Local Business Tax Section of the Tax Collector's Office already are consistent with recent statutory revisions, including the exemption of real estate sales associates and broker associates pursuant to relevant provisions of Chapter 475, Florida Statutes.

  
Edward Marquez  
Deputy Mayor 



**MEMORANDUM**  
(Revised)

**TO:** Honorable Chairwoman Rebeca Sosa  
and Members, Board of County Commissioners

**DATE:** April 2, 2013

**FROM:**   
R. A. Cuevas, Jr.  
County Attorney

**SUBJECT:** Agenda Item No. 7(F)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_ ) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 7(F)  
4-2-13

ORDINANCE NO. \_\_\_\_\_

ORDINANCE RELATING TO LOCAL BUSINESS TAXES; AMENDING CHAPTER 8A OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, TO MAKE PROVISIONS CONSISTENT WITH CHAPTER 205, FLORIDA STATUTES; AND TO CORRECT SCRIVENER'S ERROR; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

**WHEREAS**, Chapter 8A of the Code of Miami-Dade County, Florida, establishes the Local Business Tax levied countywide and in the unincorporated areas of Miami-Dade County, in accordance with Chapter 205, Florida Statutes; and

**WHEREAS**, provisions of Chapter 205, Florida Statutes, are from time to time revised making it appropriate to likewise amend the Local Business Tax ordinances; and

**WHEREAS**, the revisions set forth herein, including the creation of a specific exemption from local business taxation for real estate broker associates and sales associates, conform to recent amendments to Chapter 205, Florida Statutes, and are consistent with current practice in implementing the Local Business Tax ordinances; and

**WHEREAS**, it is necessary to correct a scrivener's error in Sections 8A-183.1 and 8A-229.1 so that these sections conform to Section 849.086, Florida Statutes,

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:**

**Section 1.** Section 8A-173 subsection (9) of the Code of Miami-Dade County, Florida, is hereby created as follows:<sup>1</sup>

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<sup>1</sup> Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

**Sec. 8A-173. Definitions.**

\* \* \*

>>(9) Independent contractor has the same meaning as provided in Section 440.02(15) (d) (1) (a) and (b), Florida Statutes.<<

**Section 2.** Section 8A-225 subsection (9) of the Code of Miami-Dade County, Florida, is hereby created as follows:

**Sec. 8A-225. Definitions.**

\* \* \*

>>(9) Independent contractor has the same meaning as provided in Section 440.02(15) (d) (1) (a) and (b), Florida Statutes.<<

**Section 3.** Section 8A-178 of the Code of Miami Dade County, Florida, is hereby amended to add a new subsection (5) and to renumber all subsequent sections as follows:

**Sec. 8A-178. Issuance of local business tax receipt; application.**

\* \* \*

>>(5) Unless otherwise provided by state law, any person applying for, or renewing, a Miami-Dade County local business tax receipt to practice any profession or engage in or manage any business or occupation regulated by the Department of Business and Professional Regulation, the Florida Supreme Court, any other state regulatory agency, including any board or commission thereof, or a statewide or national professional association, must exhibit an active state and/or national certificate, registration, or license or proof of copy of the same, before such local business tax receipt may be issued, as required by Section 205.194, Florida Statutes, any other section of Chapter 205, or other provisions of Florida law as may from time to time be enacted. The Tax Collector shall have available those provisions of Chapter 205 which require the production of such regulatory certificates, registrations or licenses.<<

~~[(5)]~~>>(6)<<The failure of a person to file a written application for a local business tax receipt shall not affect the Tax

Collector's authority to assess the local business tax and issue a receipt in addition to the imposition of penalties provided for in this article, where a business or professional is found to be operating without the required receipt.

~~[[6]]~~>>(7)<<Any person who, in an original or renewal application to the Tax Collector for a local business tax receipt based upon capacity, number of persons employed, or any other contingency, makes a false statement under oath of capacity, number of persons employed, or other contingency, shall be deemed guilty of a misdemeanor and punished as provided by law.

**Section 4.** Section 8A- 227.3 of the Code of Miami Dade County, Florida, is hereby amended to add a new subsection (5) and to renumber all subsequent sections as follows:

**Sec. 8A-227.3. Issuance of local business tax receipt; application.**

\* \* \*

>>(5) Unless otherwise provided by state law, any person applying for, or renewing, a Miami-Dade County local business tax receipt to practice any profession or engage in or manage any business or occupation regulated by the Department of Business and Professional Regulation, the Florida Supreme Court, any other state regulatory agency, including any board or commission thereof, or a statewide or national professional association, must exhibit an active state and/or national certificate, registration, or license or proof of copy of the same, before such local business tax receipt may be issued, as required by Section 205.194, Florida Statutes, any other section of Chapter 205, or other provisions of Florida law as may from time to time be enacted. The Tax Collector shall have available those provisions of Chapter 205 which require the production of such regulatory certificates, registrations or licenses. <<

~~[[5]]~~>>(6)<<The failure of a person to file a written application for a local business tax receipt shall not affect the Tax Collector's authority to assess the local business tax and issue a receipt in addition to the imposition of penalties provided for in this article, where a business or professional is found to be operating without the required receipt.

[[~~(6)~~]]>>(7)<<Any person who, in an original or renewal application to the Tax Collector for a local business tax receipt based upon capacity, number of persons employed, or any other contingency, makes a false statement under oath of capacity, number of persons employed, or other contingency, shall be deemed guilty of a misdemeanor and punished as provided by law.

**Section 5.** Sections 8A-183.1 of the Code of Miami-Dade County, Florida, is hereby amended as follows:

**Sec. 8A-183.1. Pari-mutuel wagering.**

The board approves and authorizes all pari-mutuel wagering facilities within Miami-Dade County holding valid permits and ~~[[receipts]]~~ >>licenses<< issued by the Division of Pari-mutuel Wagering pursuant to Chapter 550, Florida Statutes to apply for and receive local business tax receipts and to conduct all card room activities authorized by Florida Law and in particular Section 849.086, Florida Statutes (Chapter 96-364, Laws of Florida, 1996) as may be amended from time to time. These facilities shall pay a local business tax as provided for in the schedule of taxes, Section 8A-223.1.

**Section 6.** Sections 8A-229.1 of the Code of Miami-Dade County, Florida, is hereby amended as follows:

**Sec. 8A – 229.1. Pari-mutuel wagering.**

The board approves and authorizes all pari-mutuel wagering facilities within Miami-Dade County holding valid permits and ~~[[local business tax receipts]]~~>>licenses<< issued by the Division of Pari-mutuel Wagering pursuant to Chapter 550, Florida Statutes to apply for and receive local business tax receipts and to conduct all card room activities authorized by Florida Law and in particular Section 849.086, Florida Statutes (Chapter 96-364, Laws of Florida, 1996) as may be amended from time to time. These facilities shall pay a local business tax as provided for in the schedule of taxes, Section 8A-223.1.

**Section 7.** Sections 8A-186 (1) of the Code of Miami-Dade County, Florida, is hereby amended as follows:

**Sec. 8A-186. Farm, >>aquacultural,<< grove, horticultural, floricultural, tropical piscicultural and tropical fish farm products; certain exemptions.**

- (1) ~~[[AH]]>>The selling of<< farm, >>aquacultural,<< grove, horticultural, floricultural, tropical piscicultural, and tropical fish farm products and products manufactured therefrom, except intoxicating liquors, wine, or beer, shall be exempt from County local business tax, when [[the same is being offered for sale or sold by the farmer or grower producing such products]]>>such products were grown or produced by any person in the state<<. The management of wholesale farmers' produce markets shall pay a local business tax as provided for in the schedule of taxes, Section 8A-223.1, that will entitle its stall tenants to deal in agricultural and horticultural products without obtaining individual receipts, but individual receipts shall be required of such tenants unless such receipt is obtained for the market.~~

\* \* \*

**Section 8. Sections 8A-230.2 (1) of the Code of Miami-Dade County, Florida, is**

hereby amended as follows:

**Sec. 8A-230.2. Farm, >>aquacultural,<< grove, horticultural, floricultural, tropical piscicultural and tropical fish farm products; certain exemptions.**

- (1) ~~[[AH]]>>The selling of<< farm, >>aquacultural,<< grove, horticultural, floricultural, tropical piscicultural, and tropical fish farm products and products manufactured therefrom, except intoxicating liquors, wine, or beer, shall be exempt from County local business tax, [[the same is being offered for sale or sold by the farmer or grower producing such products]]>>such products were grown or produced by any person in the state<<. The management of wholesale farmers' produce markets shall pay a local business tax as provided for in the schedule of taxes, Section 8A-223.1, that will entitle its stall tenants to deal in agricultural and horticultural products without obtaining individual receipts, but individual receipts shall be required of such tenants unless such receipt is obtained for the market.~~

\* \* \*

**Section 9.** Sections 8A-189.3 of the Code of Miami-Dade County, Florida, is hereby created, and the current 8A-189.3 is renumbered as follows:

>>**Sec. 8A-189.3.** **Exemption for broker associates and sales associates.**

- (1) An individual licensed and operating as a broker associate or sales associate under Chapter 475, Florida Statutes, is not required to apply for an exemption from a local business tax, pay a local business tax, or obtain a local business tax receipt.
- (2) An individual exempt under this section is not subject to penalties under this article for the failure of a principal or employer to apply for an exemption from a local business tax, pay a local business tax, or obtain a local business tax receipt. An individual exempt under this section may not be required by Tax Collector to apply for an exemption from a local business tax, otherwise prove his or her exempt status, or pay any tax or fee related to a local business tax.
- (3) A principal or employer who is required to obtain a local business tax receipt may not be required by Tax Collector to provide personal or contact information for individuals exempt under this section in order to obtain a local business tax receipt.<<

**Sec. 8A-189.3** >>**4**<<. **Exemptions, general.**

In addition to those exemptions set forth in this article, all exemptions from local business taxes provided for in the Florida Statutes are recognized and adopted.

**Section 10.** Section 8A-230.8 of the Code of Miami-Dade County, Florida, is hereby created, and the current 8A-230.8 is renumbered as follows:

>>**Sec. 8A-230.8.** **Exemption for broker associates and sales associates.**

- (1) An individual licensed and operating as a broker associate or sales associate under Chapter 475, Florida Statutes, is not required to apply for an exemption from a local business tax, pay a local business tax, or obtain a local business tax receipt.

- (2) An individual exempt under this section is not subject to penalties under this article for the failure of a principal or employer to apply for an exemption from a local business tax, pay a local business tax, or obtain a local business tax receipt. An individual exempt under this section may not be required by Tax Collector to apply for an exemption from a local business tax, otherwise prove his or her exempt status, or pay any tax or fee related to a local business tax.
- (3) A principal or employer who is required to obtain a local business tax receipt may not be required by Tax Collector to provide personal or contact information for individuals exempt under this section in order to obtain a local business tax receipt.<<

**Sec. 8A-230. ~~[[8]]>>9<<. Exemptions, general.~~**

In addition to those exemptions set forth in this article, all exemptions from local business taxes provided for in the Florida Statutes are recognized and adopted.

**Section 11.** Section 8A-212, subsections (3) and (5), of the Code of Miami-Dade County, Florida, are hereby deleted and subsection (4) is renumbered as follows:

**Sec. 8A-212. Professions, professional associations.**

\* \* \*

~~[[3)] Any person applying for the first time for a Miami-Dade County local business tax receipt to practice any profession regulated by the Department of Business and Professional Regulation, or any board or commission thereof, the Florida Supreme Court, or a statewide or national professional association, must exhibit an active state and/or national certificate, registration, or license or proof of copy of the same.]]~~

~~[[4)]>>(3)<<~~A member of one (1) of the professions who is employed by the United States Government, the State of Florida, or one (1) of its political divisions, and practices his profession solely as an employee thereof is not required to have a local business tax receipt.

~~[[5)] Nothing in this article shall be construed to require purchase of a local business tax receipt by real estate~~

~~salespersons as defined by F.S. 475.01(d) or any successor statute.]]~~

**Section 12.** Section 8A-241, subsections (3) and (5), of the Code of Miami-Dade County, Florida, are hereby deleted and subsection (4) is renumbered as subsection (3) as follows:

**Sec. 8A-241. Professions, professional associations.**

\* \* \*

~~[[3) Any person applying for the first time for a Miami-Dade County local business tax receipt to practice any profession regulated by the Department of Business and Professional Regulation, or any board or commission thereof, the Florida Supreme Court, or a statewide or national professional association, must exhibit an active state and/or national certificate, registration, or license or proof of copy of the same.]]~~

[[4)]>>(3)<<A member of one (1) of the professions who is employed by the United States Government, the State of Florida, or one (1) of its political divisions, and practices his profession solely as an employee thereof is not required to have a local business tax receipt.

~~[[5) Nothing in this article shall be construed to require purchase of a local business tax receipt by real estate salespersons as defined by F.S. 475.01(d) or any successor statute.]]~~

**Section 13.** If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

**Section 14.** It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 15. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as  
to form and legal sufficiency:

A handwritten signature in black ink, appearing to be the initials "RAC", written over a horizontal line.

Prepared by:

A handwritten signature in black ink, appearing to be the initials "MST", written over a horizontal line.

Melinda S. Thornton