

1 [Business and Tax Regulations Code - Miscellaneous Changes]

2
3 **Ordinance amending the Business and Tax Regulations Code by, among other things:**
4 **1) (Common Administrative Provisions) requiring monthly installment payments rather**
5 **than prepayments of hotel and parking taxes, eliminating the annual parking tax bond**
6 **renewal requirement; providing a due date for business registration fees, excluding**
7 **penalties from calculation of interest on tax determinations, adding an underreporting**
8 **penalty for failure to file a return when tax liability exceeds \$5,000, changing the**
9 **penalty for failure to register or update a registration, making misstatements in a**
10 **registration, failure to allow inspection or production of records, and failure to file a**
11 **return; 2) (Tax on Occupancy of Parking Space in Parking Stations) eliminating the**
12 **prepayment Revenue Control Equipment certification; 3) (Business Registration**
13 **Provisions) requiring a copy of the business registration certificate rather than a**
14 **business tax registration tag be displayed on company vehicles, eliminating the Tax**
15 **Collector’s authority to suspend a business registration certificate; 4) (Payroll Expense**
16 **Tax Ordinance) providing that interest applies to unpaid penalties but not unpaid fees**
17 **and interest, changing the date that the Office of Economic and Workforce**
18 **Development must provide the Tax Collector a list of persons eligible to claim the**
19 **Central Market Street and Tenderloin Area Payroll Expense Tax Exclusion; and,**
20 **5) (Parking Stations, Revenue Control Equipment) specifying the date the Revenue**
21 **Control Equipment Compliance Fee is due.**

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23 **NOTE: Unchanged Code text and uncodified text are in plain Arial font.**
24 **Additions to Codes are in *single-underline italics Times New Roman font.***
25 **Deletions to Codes are in *strikethrough italics Times New Roman font.***
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~strikethrough Arial font.~~

1 **Asterisks (* * * *)** indicate the omission of unchanged Code
2 subsections or parts of tables.

3 Be it ordained by the People of the City and County of San Francisco:

4
5 Section 1. Clarification regarding Proposition E (November 6, 2012) and Sections
6 6.9-1, 6.9-3, and 905-A. Article 6, Sections 6.9-1 and 6.9-3, and Article 12-A, Section 905-A
7 of the Business and Tax Regulations Code were amended by Proposition E, adopted by the
8 voters at the election on November 6, 2012. Proposition E amendments are set to become
9 operative on January 1, 2014. Because these Proposition E amendments are not yet
10 operative, they are not included in the currently codified version of the Business and Tax
11 Regulations Code. This ordinance, however, treats those three sections as if they are already
12 in the Business and Tax Regulations Code as amended by Proposition E. Accordingly, the
13 amendments in this ordinance shown in those sections as additions and deletions are
14 amendments of the text of Proposition E as amended by the voters, not the text of those
15 sections as they now appear in the Business and Tax Regulations Code.

16
17 Section 2. The Business and Tax Regulations Code is hereby amended by revising
18 Article 6, Sections 6.6-1, 6.8-1, 6.9-1, 6.9-3, 6.9-4, 6.9-5, 6.9-6, 6.11-1, 6.11-2, 6.11-3, 6.17-2,
19 6.17-3, and 6.21-1 to read as follows:

20
21 **SEC. 6.6-1. CERTIFICATE OF AUTHORITY FOR THIRD-PARTY TAXES.**

22 (a) These additional provisions shall apply to operators under the ~~transient hotel~~
23 ~~occupancy tax~~ Tax on Transient Occupancy of Hotel Rooms (hereinafter "Hotel Tax") (Article 7), the
24 Tax on Occupancy of ~~p~~Parking ~~s~~Space in ~~occupancy tax~~Parking Stations (hereinafter "Parking Tax")
25 (Article 9), the ~~u~~Utility ~~u~~Users ~~t~~Tax (Article 10) and the ~~a~~Access ~~l~~Line ~~t~~Tax (Article 10B).

1 (b) Every operator who is required to collect or remit any third-party tax must
2 possess
3 a valid certificate of authority issued by the Tax Collector.

4 (c) The application for a certificate of authority shall be on a form provided by the
5 Tax Collector and shall set forth the name under which the person transacts or intends to
6 transact business, the location of each of the person's places of business in the City, and
7 such other information as the Tax Collector may require. The application shall be signed by
8 the owner if a sole proprietor, by a member or partner, in the case of an association, or by an
9 executive officer or some person specifically authorized by the corporation to sign the
10 application in the case of a corporation. No person shall operate a business for which a
11 certificate of authority is required under subsection (b) unless and until the Tax Collector has
12 issued that person a certificate of authority. The holder of a certificate of authority must
13 promptly notify the Tax Collector of any changes to the information stated in the certificate of
14 authority application.

15 (d) Except as provided in subsections (f), (g), (h), ~~and (j), (l), and (m)~~ below, the Tax
16 Collector, within 45 days after the application is complete, shall issue a separate certificate of
17 authority to the operator to collect third-party taxes from customers for each location at which
18 the operator is required to collect such taxes. The certificate will expire on a date certain set
19 by the Tax Collector. The operator must apply for renewal of the certificate, before it expires,
20 if the operator intends to continue to engage in business in the City. Except as provided in
21 subsections (f), (g), (h), ~~and (j), (l), and (m)~~, the Tax Collector may issue successive, one-year
22 renewals of an operator's certificate. Each certificate shall state the location of the place of
23 business to which it applies and shall be prominently displayed at such location in plain view
24 of all customers. Certificates of authority may not be assigned or transferred. The operator
25

1 shall immediately surrender to the Tax Collector the certificate for that location upon the
2 operator's cessation of business at that location or upon the sale or transfer of the business.

3 (e) The holder of a certificate of authority to collect parking taxes under Article 9
4 shall
5 remain presumptively liable for the collection of parking taxes at the location named in the
6 certificate, and for the reporting and remittance of such taxes to the Tax Collector, unless and
7 until the holder of the certificate both

8 (1) notifies the Tax Collector in writing that the holder has ceased to conduct
9 a parking business at such location, and

10 (2) surrenders the certificate for that location to the Tax Collector.

11 (f) (1) The Tax Collector may refuse to issue the certificate where, within the 45-
12 day period referred to in subsection (d) above, the Tax Collector determines that the operator,
13 or any signatory to the application, or any person holding a 10 percent or greater legal or
14 beneficial interest in said operator ("10% owner") is not in compliance with any provision of
15 Articles 6, 7, 9, 10, 10B, 12, 12-A, 12-A-1, or 22, including but not limited to any failure to
16 timely collect, report, pay, or remit any tax imposed by this Code, or where any such person is
17 not in compliance with any provision of Sections 1215 through 1223 inclusive of Article 17 of
18 the Police Code.

19 (2) Solely for purposes of determining under this Section whether any such
20 operator, signatory or 10% owner is not in compliance with such Articles, the Tax Collector
21 may disregard any corporation or association owned or controlled, directly or indirectly, by any
22 such operator, signatory or 10% owner and consider such corporation or association's
23 operations and liabilities as conducted by or as owned by any one or more of such corporation
24 or association's officers, directors, partners, members or owners. For purposes of this
25 Section, (A) the term "owned" means ownership of 50 percent or more of the outstanding

1 ownership interests in such corporation or association, and (B) the term "controlled" includes
2 any kind of control, whether direct or indirect, whether legally enforceable, and however
3 exercisable or exercised over such corporation or association. A presumption of control
4 arises if the operator, signatory or 10% owner is (or was) an officer, director, partner or
5 member of such corporation or association.

6 (g) Further, if any person subject to this Section violates any provision of Articles 6,
7 7, 9, 10, 10B, 12, 12-A, 12-A-1, or 22, or a rule or regulation promulgated by the Tax Collector,
8 including but not limited to any failure to timely collect, report, pay, or remit any tax imposed
9 by this Code, failure to maintain accurate registration information, failure to sign any return or
10 pay any tax when due, or failure to timely respond to any request for information, order for
11 records or subpoena, or for failure to comply with the requirements of Article 22 of the
12 Business and Tax Regulations Code or any provision of Sections 1215 through 1223 inclusive
13 of Article 17 of the Police Code, the Tax Collector may, after serving the person with written
14 notice of his or her determination in the manner provided in Section 6.11-2 and an opportunity
15 to be heard pursuant to the notice and review provisions of Section 6.13-1 *et seq.*, refuse to
16 issue that person a new certificate of authority or may revoke or suspend that person's
17 certificate of authority. The Tax Collector may refuse to issue that person a new certificate of
18 authority or to withdraw the suspension of an existing certificate until the person, signatory to
19 the application for the certificate revoked or suspended, signatory to the application for a new
20 certificate or withdrawal of the suspension, and all 10% owners have complied with the
21 provisions of Articles 6, 7, 9, 10, 10B, 12, 12-A, 12-A-1, and 22 and corrected the original
22 violation to the satisfaction of the Tax Collector. For any person applying for or holding a
23 certificate of authority to collect parking taxes, the Tax Collector shall promptly notify the Chief
24 of Police in writing that it has revoked a person's certificate of authority, refused to issue a
25 new certificate of authority, suspended an existing certificate of authority or determined that

1 the person is not in compliance with the Business and Tax Regulations Code. The Tax
 2 Collector shall in writing request that the Chief of Police refuse to issue a commercial parking
 3 permit to the person or suspend or revoke the person's existing commercial parking permit
 4 and immediately close the business, pursuant to Sec. 1215.3(b) of the Police Code.

5 (h) (1) Before any certificate of authority shall be issued to any applicant to engage
 6 in the business of renting parking space in a parking station in this City ~~and annually, for as long~~
 7 ~~as the business continues, such~~the applicant shall file with the Tax Collector a bond naming the
 8 City as exclusive beneficiary at all times the applicant engages in such business. The
 9 applicant shall maintain the~~Such~~ bond ~~shall be~~ in the following amounts for as long as the business
 10 continues:

Annual gross receipts for parking station	Bond amount
Less than \$100,000.00	\$20,000
\$100,000.00 to \$250,000.00	\$50,000
\$250,000.01 to \$500,000.00	\$100,000
\$500,000.01 to \$750,000.00	\$150,000
\$750,000.01 to \$1,000,000.00	\$200,000
\$1,000,000.01 to \$1,250,000.00	\$250,000
\$1,250,000.01 to \$1,500,000.00	\$300,000
\$1,500,000.01 to \$1,750,000.00	\$350,000
\$1,750,000.01 to \$2,000,000.00	\$400,000
\$2,000,000.01 to \$2,250,000.00	\$450,000
\$2,250,000.01 to \$2,500,000.00	\$500,000
\$2,500,000.01 to \$2,750,000.00	\$550,000
\$2,750,000.01 to \$3,000,000.00	\$600,000
\$3,000,000.01 to \$3,250,000.00	\$650,000

\$3,250,000.01 to \$3,500,000.00	\$700,000
\$3,500,000.01 to \$3,750,000.00	\$750,000
\$3,750,000.01 to \$4,000,000.00	\$800,000
\$4,000,000.01 and greater	\$800,000

(2) This bond requirement does not apply to an applicant that is a governmental entity.

(3) The Tax Collector may, in his or her discretion, independently establish the annual gross receipts for a parking station and set the bond amount pursuant to the schedule above, based on that determination. If, at the end of any calendar year, the gross receipts for a parking station have increased such that a larger bond amount would be required under the above schedule, the operator shall obtain a new bond in the increased amount by the following April 1. If at the end of any calendar year the gross receipts for the parking station have decreased, the operator may apply to the Tax Collector for a reduction of the bond amount.

(i) Upon application by the operator, the Tax Collector may, in his or her discretion, set the bond amount for a parking station at the following levels, provided the operator meets the following qualifications: (1) the operator has maintained a valid certificate of authority, including a bond for all locations, for the 3 years immediately preceding the date of the application; (2) the Tax Collector has not issued a deficiency determination against the operator for any business location for the 3 years immediately preceding the date of the application; and (3) the Tax Collector determines that it is in the best interest of the City. The reduced bond amount is applicable during the calendar year that it is approved. The Tax Collector may, in his or her discretion, approve renewal of the bond at the lower amount from year to year. If after approving an application for a reduced bond amount, the Tax Collector issues a deficiency determination against the operator for any business location, or the

operator fails to obtain a Certificate of Authority for any business location, the approval may be rescinded and the higher bond amount provided under subsection (h) may be required.

Annual gross receipts for qualified parking station	Bond amount
Less than \$100,000.00	\$10,000
\$100,000.00 to \$250,000.00	\$25,000
\$250,000.01 to \$500,000.00	\$50,000
\$500,000.01 to \$750,000.00	\$75,000
\$750,000.01 to \$1,000,000.00	\$100,000
\$1,000,000.01 to \$1,250,000.00	\$125,000
\$1,250,000.01 to \$1,500,000.00	\$150,000
\$1,500,000.01 to \$1,750,000.00	\$175,000
\$1,750,000.01 to \$2,000,000.00	\$200,000
\$2,000,000.01 to \$2,250,000.00	\$225,000
\$2,250,000.01 to \$2,500,000.00	\$250,000
\$2,500,000.01 to \$2,750,000.00	\$275,000
\$2,750,000.01 to \$3,000,000.00	\$300,000
\$3,000,000.01 to \$3,250,000.00	\$325,000
\$3,250,000.01 to \$3,500,000.00	\$350,000
\$3,500,000.01 to \$3,750,000.00	\$375,000
\$3,750,000.01 to \$4,000,000.00	\$400,000
\$4,000,000.01 and greater	\$400,000

(j) Such bond shall be executed by the applicant as principal, and by a corporation or association which is licensed by the Insurance Commissioner of this State to transact the business of fidelity and surety insurance, as surety. The applicant shall keep the bond in full

1 force and effect for the duration of the certificate of authority and all renewals thereof issued to
2 such applicant. If the bond provides that the term thereof shall be continuous until cancelled,
3 the applicant shall provide the Tax Collector with certification from the surety of the renewal or
4 continuation of the bond:

5 (1) when applying for renewal of an existing certificate of authority,

6 (2) when requesting the withdrawal of a suspension of an existing certificate
7 of authority,

8 (3) when applying for a reduced bond amount pursuant to subsection (i), or

9 (4) upon written request of the Tax Collector.

10 (k) The bond shall contain conditions that require the applicant to comply fully with
11 all the provisions of the Business and Tax Regulations Code concerning the collection of third-
12 party taxes from occupants of parking stations and the remittance of such taxes to the Tax
13 Collector. The bond shall be payable to the City in the amount of all unpaid parking taxes on
14 amounts of taxable rents collected by the applicant, together with all administrative collection
15 costs, interest, penalties, and other costs and charges applicable thereto; provided, however,
16 that the aggregate liability of the surety for any and all claims which may arise under such
17 bond shall in no event exceed the face amount of such bond regardless of the amount due
18 and owing to the City. The City may bring an action upon the bond for the recovery of any
19 unpaid parking taxes, administrative collection costs, interest, penalties and other costs and
20 charges at any time prior to the expiration of the period of limitations applicable to the
21 collection of such unpaid taxes by the Tax Collector.

22 (l) When there is a deficiency determination or jeopardy determination against an
23 operator for third-party taxes, the Tax Collector shall issue the deficiency determination or
24 jeopardy determination against the operator and the operator's surety. The liability of the
25 surety shall not exceed the face value of the bond(s) in effect during the period for which the

1 deficiency is assessed. The Tax Collector shall provide notice of such deficiency
2 determination or jeopardy determination to the operator and the bond surety. Either an
3 operator or a surety or both may file a petition for redetermination. An operator's petition for
4 redetermination shall be construed by the Tax Collector as a petition on behalf of both the
5 operator and the surety. The surety may request a hearing before the Tax Collector pursuant
6 to Section 6.13-2. The taxpayer and surety hearings may be consolidated at the discretion of
7 the Tax Collector. Upon the finality of such determination or decision on petition for
8 redetermination, the operator and the surety shall be liable to the Tax Collector in the amount
9 of the determination or decision on petition for redetermination. The surety's liability shall not
10 exceed the face value of the bond(s) in effect during the period for which the deficiency is
11 assessed. The surety shall be subject to the same requirements as the operator with regard
12 to payment of the tax liability and exhaustion of administrative remedies prior to seeking
13 judicial relief. The Tax Collector may exercise all remedies against the surety that are
14 available to the Tax Collector as to an operator or any other person determined to be liable for
15 a tax.

16 (m) Before any certificate of authority shall be issued to any applicant to engage in
17 the business of renting parking space in a parking station in this City, the applicant shall
18 comply with Article 22. The applicant shall reimburse the Tax Collector's costs to inspect the
19 parking station to confirm it complies with Article 22.

20
21 **SEC. 6.8-1. CITY, PUBLIC ENTITY AND CONSTITUTIONAL EXEMPTIONS.**

22 (a) Nothing in Articles 6, 7, 9, 10, 10B, 11, 12, ~~or 12-A~~, or 12-A-1 shall be construed
23 as imposing a tax upon:

24 (1) The City;

25

1 (2) The State of California, or any county, municipal corporation, district or
2 other political subdivision of the State, except where any constitutional or statutory immunity
3 from taxation is waived or is not applicable;

4 (3) The United States of America, or any of its agencies or subdivisions,
5 except where any constitutional or statutory immunity from taxation is waived or is not
6 applicable; or

7 (4) Any person exempted from the particular tax by the Constitution or
8 statutes of the United States or the Constitution or statutes of the State of California.

9 (b) The foregoing exemption from taxation does not relieve an exempt party from its
10 duty to collect, report, and remit third-party taxes.

11
12 **SEC. 6.9-1. DETERMINATIONS, RETURNS AND PAYMENTS; DUE DATE OF**
13 **TAXES.**

14 Except for jeopardy determinations under Section 6.12-2, and subject to
15 ~~prepayments~~remittances required under Section 6.9-2, all amounts of taxes and fees imposed
16 by Articles 6, 7, 9, 10, 10B, 11, 12, 12-A, and 12-A-1 are due and payable, and shall be
17 delinquent if not paid to the Tax Collector on or before the following dates:

18 (a) For the ~~transient~~Hotel ~~occupancy~~Tax (Article 7) and the ~~Parking space~~
19 ~~occupancy~~Tax (Article 9), for each ~~calendar quarter, on or before the last day of the month~~
20 ~~following each respective quarterly period~~month, on or before the last day of the following month;

21 (b) For the payroll expense tax (Article 12-A) and the gross receipts tax
22 (Article 12-A-1), on or before the last day of February of each year;

23 (c) For the utility users ~~taxes~~ (Article 10) and the access line tax (Article 10B), for
24 each monthly period, on or before the last day of the following month; ~~and~~

1 (d) For the stadium operator admission tax (Article 11), within 5 days after the
2 event, subject to the provisions of Section 804 of Article 11; and

3 (e) For the business registration certificate (Article 12), on or before the last day of May
4 preceding the registration year commencing July 1 of that year.

5
6 **SEC. 6.9-3. DETERMINATIONS, RETURNS AND PAYMENTS; ~~PREPAYMENTS.~~**

7 (a) ~~Prepayments and~~ Remittances. Notwithstanding the due dates otherwise provided
8 in Section 6.9-1, taxpayers shall make ~~prepayments and~~ remittances of taxes and third-party
9 taxes to the Tax Collector as follows:

10 (1) Hotel and Parking Taxes. The Hotel Tax (Article 7) and the Parking
11 Tax (Article 9) returns shall be filed monthly and taxes shall be remitted monthly. Such monthly
12 remittances shall be due and payable to the Tax Collector on or before the last day of the
13 month immediately following the month for which such remittance is due. ~~Taxes paid in the first~~
14 ~~2 monthly remittances of any quarterly period shall be a credit against the total liability for such third-~~
15 ~~party taxes for the quarterly period. The third monthly remittance of any quarterly period shall be in~~
16 ~~an amount equal to the total tax liability for the quarterly period, less the amount of any monthly~~
17 ~~remittance for such quarter actually paid.~~

18 (2) Payroll Expense Tax and Gross Receipts Tax. The payroll expense tax
19 (Article 12-A) and the gross receipts tax (Article 12-A-1) shall be paid in quarterly installments
20 as follows:

21 (A) Due Dates. Every person liable for payment of payroll expense tax
22 or gross receipts tax for any tax year shall pay such tax for the subject tax year in 4 quarterly
23 installments. The first, second and third quarterly installments shall be due and payable, and
24 shall be delinquent if not paid on or before, April 30, July 31, and October 31st, respectively,
25

1 of the subject tax year. The fourth installment shall be reported and paid on or before the last
2 day of February following the subject tax year.

3 (B) Payments.

4 (i) Installment Payments. The first, second, and third quarterly
5 installments shall be a credit against the person's total payroll expense tax or gross receipts
6 tax, as applicable, for the subject tax year in which such first, second, and third quarterly
7 installments are due. The fourth quarterly installment shall be in an amount equal to the
8 person's total payroll expense tax or gross receipts tax liability for the subject tax year, as
9 applicable, less the amount of the payroll expense tax or gross receipts tax first, second, and
10 third quarterly installments and other tax payments, if any, actually paid.

11 (ii) Payroll Expense Tax Installments. A person's first, second,
12 and third quarterly installment payments of payroll expense tax for any tax year shall be
13 computed by using:

- 14 1. The person's taxable payroll expense (as defined
15 under Article 12-A) for each quarter; and
- 16 2. The rate of tax applicable to the tax year in which the
17 first, second, and third quarterly installments are due.
- 18 3. Notwithstanding the foregoing, and except for
19 taxpayers under Section 953.8 of Article 12-A-1, for tax years commencing after December
20 31, 2013, the first, second, and third quarterly installments shall be computed using the rates
21 set forth in the following table:

22

Tax Year	1st, 2nd and 3rd Installments
2014	1.350%
2015	1.125%

1	2016	0.750%
2	2017	0.375%
3	2018	0.000%

4 The fourth quarterly installment shall be in an amount equal to the person's total payroll
5 expense tax liability for the subject tax year, less the amount of the first, second, and third
6 quarterly installments and other tax payments, if any, actually paid. A person's total payroll
7 expense tax liability shall be computed using the rate for the subject tax year computed,
8 certified, and published by the Controller under Section 903.1 of Article 12-A or as otherwise
9 provided in this Article.

10 (iii) Gross Receipts Tax Installments. A person's first, second,
11 and third

12 quarterly installments of gross receipts tax for any tax year shall be computed by using:

- 13 1. The person's taxable gross receipts (as defined
14 under Article 12-A-1) for each quarter; and
- 15 2. The rate of tax applicable to the tax year in which the
16 first,
17 second, and third quarterly installments are due.

18 3. Notwithstanding the foregoing, and except for
19 taxpayers under Section 953.8 of Article 12-A-1, for tax years commencing after December
20 31, 2013, the first, second, and third quarterly installments shall be computed using the rates
21 applicable to the person's taxable gross receipts under Sections 953.1 through 953.7 of
22 Article 12-A-1, multiplied by the percentages set forth in the following table:

23	Tax Year	1st, 2nd and 3rd Installments
24	2014	10%
25	2015	25%

1	2016	50%
2	2017	75%
3	2018	100%

4 The fourth quarterly installment shall be in an amount equal to the person's total gross
5 receipts tax liability for the subject tax year, less the amount of the first, second, and third
6 quarterly installments and other tax payments, if any, actually paid. A person's total gross
7 receipts tax liability shall be computed using the rate for the subject tax year computed,
8 certified, and published by the Controller under Section 959 of Article 12-A-1, or as otherwise
9 provided in that Article.

10 (b) Tax ~~Prepayment~~Installment Penalties. Every person who fails to pay any tax
11 ~~prepayment~~installment required under this Section before the relevant delinquency date shall
12 pay a penalty in the amount of 5 percent of the amount of the delinquent tax
13 ~~prepayment~~installment per month, or fraction thereof, up to 20 percent in the aggregate, and
14 shall also pay interest on the amount of the delinquent tax ~~prepayment~~installment and penalties
15 from the date of delinquency at the rate of 1 percent per month, or fraction thereof, for each
16 month the ~~prepayment~~installment is delinquent, until paid.

17 (c) Hotel and Parking Taxes. An operator subject to the Hotel Tax (Article 7) or the
18 Parking Tax (Article 9) shall make monthly remittances in the amount of the actual tax owed.

19 (d) Forms and Adjustments. Tax ~~prepayments~~remittances required under this Section
20 shall be accompanied by a tax ~~prepayment~~remittance form prepared by the Tax Collector, but
21 failure of the Tax Collector to furnish the taxpayer with a tax ~~prepayment~~remittance form shall
22 not relieve the taxpayer from any tax ~~prepayment~~payment obligation. ~~The Tax Collector may, in~~
23 ~~writing, adjust the amount of a tax prepayment if the taxpayer can establish in writing by clear and~~
24 ~~convincing evidence that the first installment of semi-annual tax prepayments, or first, second or third~~
25

1 ~~monthly installment of a quarterly tax prepayment, will amount to more than one-half or one-quarter,~~
2 ~~respectively, of the person's total tax liability for the tax year in which the installment is due.~~

3
4 **SEC. 6.9-4. DETERMINATIONS, RETURNS AND PAYMENTS; EXTENSION OF**
5 **TIME FOR FILING A RETURN AND PAYING TAX.**

6 (a) For good cause, the Tax Collector, in his or her discretion, may extend, for a
7 period not to exceed 60 days, the time for filing any return pursuant to this Article or
8 regulations prescribed by the Tax Collector. For ~~prepayments of taxes or for~~ taxes required to
9 be deposited monthly, the Tax Collector may only extend the time for filing a return for a
10 period not to exceed 30 days. As a condition of such extension, the person seeking the
11 extension shall make a payment of not less than 90 percent of such person's estimated
12 liability for such period. For purposes of determining the amount of the conditional payment,
13 the Tax Collector may independently establish the taxpayer's estimated tax liability.

14 (b) Failure to make the required ~~estimated prepayment~~ installment payment will result in
15 the taxpayer being subject to penalties and interest under Section 6.17-1.

16 (c) Notwithstanding subsection (a) of this Section, the Tax Collector may extend
17 any time for filing any return or payment of tax or excuse penalties for any late filing or late
18 payment by a period not to exceed 60 days if billing or other administrative duties of the Tax
19 Collector cannot be performed in a timely manner.

20
21 **SEC. 6.9-5. DETERMINATIONS, RETURNS AND PAYMENTS; CREDITS AND**
22 **EXEMPTIONS.**

23 The credits and exemptions set forth in Articles 6, 7, 9, 10, 10B, 11, 12, 12-A, 12-A-1,
24 and 12-C are provided on the assumption that the City has the power to offer such credits and
25 exemptions. If a credit or exemption is invalidated by a court of competent jurisdiction, the

1 taxpayer must pay any additional amount that the taxpayer would have owed but for such
2 invalid credit or exemption. Amounts owed as a result of the invalidation of a credit or
3 exemption that are paid within 3 years after the decision of the court becomes final shall not
4 be subject to interest or penalties.

5
6 **SEC. 6.9-6. FILING AND PAYING BY MAIL.**

7 (a) **Filing by Mail.** Except as otherwise provided in this Section, taxpayers may file
8 any return or other document with or make any payment to, ~~including a prepayment to,~~ the Tax
9 Collector by United States mail.

10 * * * *

11
12 **SEC. 6.11-1. DEFICIENCY DETERMINATIONS; RECOMPUTATION; INTEREST.**

13 (a) If the Tax Collector determines that a taxpayer has failed to pay or has
14 underpaid a
15 tax, that an operator has failed to collect and remit all of a third-party tax, or that a person
16 other than the taxpayer is jointly and severally liable for any unpaid or underpaid tax, including
17 third-party taxes, the Tax Collector may compute and determine any tax deficiency upon the
18 basis of the return or returns or upon the basis of any other information with in the Tax
19 Collector's possession or that may come into the Tax Collector's possession. One or more
20 deficiency determinations ~~may be made~~ of the amount due may be made for one or for more than
21 one period.

22 (b) The amount of the determination, ~~inclusive~~ exclusive of penalties, shall bear
23 interest at the rate of 1 percent per month, or fraction thereof, from the 15th day after the
24 close of the month or the ~~quarterly~~ monthly period for third-party taxes, or from the last day of
25 February following the close of the annual period, for which the amount or any portion thereof

1 should have been ~~returned~~remitted until the date of payment in full, or, in the case of stadium
2 operator admission taxes, from the due dates of said tax as set forth in Article 11, Section
3 804.

4 (c) In making a determination, the Tax Collector may offset overpayments for a
5 period or periods together with interest on the overpayments, against underpayments for
6 another period or periods, against penalties, and against the interest on the underpayments.
7 The interest on underpayments and overpayments shall be computed in the manner set forth
8 in Section 6.17-1 for underpayments and in Section 6.15-2 for overpayments.

9
10 **SEC. 6.11-2. DEFICIENCY DETERMINATIONS; REVOCATION ~~AND SUSPENSION~~**
11 **DETERMINATIONS; NOTICE AND SERVICE.**

12 (a) Upon making a determination pursuant to Section 6.11-1, or upon making a
13 determination pursuant to Section 6.6-1 that a certificate shall not be issued or to ~~suspend or~~
14 revoke a registration, the Tax Collector shall give to the taxpayer or other person affected
15 written notice of the Tax Collector's determination. Except in the case of fraud, intent to
16 evade the Business and Tax Regulations Code or rules and regulations issued or
17 promulgated by the Tax Collector, or failure to file a return, in which case there is no statute of
18 limitations, every notice of a deficiency determination shall be served within 3 years after the
19 date that a return was due for a tax for the reporting period or 3 years after the return was
20 actually filed for that reporting period, whichever is later. ~~This limitations period shall apply only~~
21 ~~to tax periods commencing after December 31, 2007. The notice requirements specified in Board of~~
22 ~~Supervisors Ordinance No. 26-04 shall continue to apply to obligations arising in prior tax periods.~~
23 The Taxpayer may agree in writing to extend the period for service of a notice of a deficiency
24 determination otherwise provided in this paragraph.

1 (b) The notice of any determination under this Section may be served upon the
2 taxpayer or other affected person personally or by mail; if by mail, service shall be

3 (1) to the last known address that appears or is shown in the Tax Collector's
4 records, provided there is such an address in the Tax Collector's record, or

5 (2) to an address that the Tax Collector concludes in his discretion is the last
6 known address of the person(s).

7 (c) In case of service by mail of any notice required by this Article to be served upon
8 the taxpayer or other person, the service is complete at the time of deposit with the United
9 States Postal Service.

10
11 **SEC. 6.11-3. DETERMINATION IF NO RETURN MADE; ESTIMATE OF LIABILITY,**
12 **PENALTIES AND INTEREST.**

13 (a) If any taxpayer or person responsible for paying a tax or remitting a third-party
14 tax fails to make a timely return or ~~estimated tax prepayment~~remittance, the Tax Collector may
15 make a determination based upon an estimate of the amount of the total tax liability of the
16 taxpayer. The estimate shall be made for the period or periods in respect to which the person
17 failed to timely make a return, ~~failed to timely make a prepayment~~ or failed to timely remit a tax,
18 and may be based upon any information which is in the Tax Collector's possession or may
19 come into his or her possession. Upon the basis of this estimate, the Tax Collector shall
20 compute and determine the amount required to be paid to the City, adding to the sum thus
21 computed a penalty equal to 20 percent thereof. One or more determinations may be made
22 for one or more than one period. Any such determination shall be prima facie evidence of the
23 person's liability in any subsequent administrative or judicial proceeding.

24 (b) In making a determination, the Tax Collector may offset overpayments for a
25 period or periods, together with interest on the overpayments, against underpayments for

1 another period or periods, against penalties, and against the interest on the underpayments.
2 The interest on underpayments and overpayments shall be computed in the manner set forth
3 in Sections 6.17-1 and 6.15-2, respectively. The amount of the determinations, including
4 penalties, shall bear interest at the rate of one percent per month, or fraction thereof, from the
5 date of delinquency until the date of payment.

6 (c) The Tax Collector shall serve the person or persons determined to be liable for
7 the tax as determined under Section 6.11-3 with written notice of the determination and
8 penalty. The Tax Collector shall serve the notice upon such person(s) personally or by mail.
9 Service by mail shall be

10 (1) to the last known address as indicated in the Tax Collector's records,
11 provided there is such an address in the Tax Collector's record, or

12 (2) to an address that the Tax Collector concludes in his discretion is the last
13 known address of the person(s).

14

15 **SEC. 6.17-2. PENALTIES FOR UNDERREPORTING OF TAX.**

16 (a) **Penalties for Negligence.** If the Tax Collector determines that all or part of any
17 tax required to be reported on any return was underreported and that such underreporting
18 was attributable to negligence, the Tax Collector may impose a penalty in the amount of
19 5 percent of the amount of the underreported tax, in addition to the tax or amount of tax, if the
20 negligence is for not more than 1 month, with an additional 5 percent for each month or
21 fraction of a month during which such negligence continues, up to 20 percent in the
22 aggregate.

23 (b) **Penalties for Intentional Disregard of Rules, Fraud, or Inten~~dt~~ to Evade Tax.**

24 When it is determined by the Tax Collector that all or part of any tax required to be reported
25 on any return was underreported and such underreporting was attributable to fraud or an

1 intent to evade the Business and Tax Regulations Code, the Tax Collector may impose a
2 penalty in the amount of 50 percent of the amount of the underreported tax. The taxpayer or
3 other person determined to be liable for penalties pursuant to this Section is entitled to a
4 notice of deficiency determination or jeopardy determination and to the appeal rights as to
5 such determinations.

6 (c) **Additional Penalty for Substantial Underreporting.**

7 (1) For purposes of this section, "substantial underreporting of tax" means
8 the tax finally determined by the Tax Collector under Articles 7, 9, 10, 10B, 11, ~~or 12-A~~, or 12-
9 A-I of this Business and Tax Regulations Code exceeds the amount of tax reported on a
10 taxpayer's original or amended return for a taxable period by 25 percent or more, or if no return
11 is filed, the tax liability determined by the Tax Collector pursuant to Section 6.11-1 exceeds \$5000.

12 (2) If the Tax Collector determines that a taxpayer has made a substantial
13 underreporting of tax for any taxable period, the Tax Collector may impose an additional
14 penalty in an amount equal to 50 percent of the tax attributable to the substantially
15 underreported amount. The penalty for substantial underreporting is in addition to any other
16 penalty imposed under this Article 6.

17 (3) The additional penalty for substantial underreporting applies to all taxable
18 periods ending on or after June 19, 2010.

19
20 **SEC. 6.17-3. NEGLIGENCE PENALTIES FOR FAILURE TO REGISTER,**
21 **MISSTATEMENTS IN REGISTRATION, FAILURE TO TIMELY UPDATE REGISTRATION,**
22 **FAILURE TO ALLOW INSPECTION OF RECORDS UPON REQUEST, AND FAILURE TO**
23 **FILE A RETURN; SANCTION FOR FAILURE TO PRODUCE REQUESTED RECORDS.**

24 (a) Any person who fails to register, fails to amend a registration within 7 days of a
25 material change or who makes a material misrepresentation in a registration or who fails to

1 comply with a rule or regulation promulgated by the Tax Collector in a timely manner shall
2 pay, in addition to any other liability that may be imposed under the provisions of this Article, a
3 penalty in an amount equal to ~~the penalized taxpayer's annual fee for obtaining a registration~~
4 ~~certificate as set forth in Article 12~~either \$100 or the penalty assessed pursuant to Section 6.17-1,
5 whichever is greater.

6 (b) The Tax Collector may impose a penalty upon any person who fails to file a
7 return or returns required under this Article on or before the date prescribed for filing up to ~~the~~
8 ~~amount of~~ \$500 for each such failure. The penalty under this provision shall be in addition to
9 any other liability that may be imposed under the provisions of this Article. Filing a return that
10 the Tax Collector determines to be incomplete in any material aspect may be deemed failure
11 to file a return in violation of this Section.

12 (c) Any person who fails to allow a full inspection of records pursuant to a request
13 made by the Tax Collector within the time prescribed by the Tax Collector shall pay, in
14 addition to any other liability that may be imposed under the provisions of this Article, a
15 penalty in the amount of \$500 for each such failure.

16 (d) Unless the failure to allow inspection was due to reasonable cause and not
17 willful neglect, any person who fails to provide records pursuant to a written request made by
18 the Tax Collector may not contest the Tax Collector's decision regarding the amount of such
19 person's liability for any taxes, administrative collection costs, interest, penalties or other costs
20 and charges imposed under the Business and Tax Regulations Code, or oppose the collection
21 of such amount, in any subsequent administrative or judicial proceeding, on the basis of any
22 record the Tax Collector previously requested in writing that such person failed to make
23 available to the Tax Collector on or before the earliest to occur of the following:

24 (1) The conclusion of the hearing on a petition for redetermination held
25 pursuant to Sections 6.12-5 or 6.13-2;

1 (2) The date the jeopardy determination became final under Section 6.12-5 if
2 such person did not request hearing thereon;

3 (3) The date the deficiency determination became final under Section 6.13-4
4 if such person did not request a hearing thereon.

5
6 **SEC. 6.21-1. TRANSFEREE AND SUCCESSOR LIABILITY.**

7 (a) No person shall purchase or acquire an interest in a business subject to any tax
8 imposed under the Business and Tax Regulations Code without first obtaining either a receipt
9 from the Tax Collector showing that all of the seller's taxes on the business have been paid,
10 or a certificate stating that no amount is due. For purposes of this Section, "purchase" shall
11 include any other voluntary transfer for consideration of a business, except for purchase of
12 stock of a publicly-traded company.

13 (b) The Tax Collector shall issue such a receipt or certificate, or a notice of the
14 amount that must be paid as a condition of issuing the certificate, to the buyer within 30 days
15 after receiving a written request. However, failure of the Tax Collector to timely mail the
16 notice will not release the buyer from his or her obligations under this Section, except to the
17 extent of penalties and interest in the event that the Tax Collector enforces the buyer's
18 obligation in a civil action authorized pursuant to the Business and Tax Regulations Code.

19 (c) If the buyer purchases or acquires an interest in a business owing any taxes,
20 interest or penalties imposed under Articles 7, 9, ~~or 12-A~~, or 12-A-1, the buyer shall withhold
21 from the purchase price and pay to the Tax Collector a sufficient amount to satisfy said taxes,
22 interest and penalties.

23 (d) If the buyer purchases or acquires an interest in a business in violation of this
24 Section, the buyer shall become personally liable for the amount of taxes, interest and
25 penalties owed on the business.

1 (e) The buyer's obligations shall accrue at the time the business is purchased or the
2 interest acquired, or at the time the Tax Collector determines the seller's final liability,
3 whichever is later.

4 (f) The liability at law or in equity of a successor, transferee or alter ego of any
5 taxpayer or other person determined to be liable for any tax, interest, cost or penalty subject
6 to this Article, imposed upon a taxpayer may be determined, collected and paid in the same
7 manner and subject to the same provisions and limitations as a deficiency determination
8 pursuant to Sections 6.11-1, 6.11-2, and 6.13-1 *et seq.* Nothing in this subsection shall be
9 construed to limit the rights or procedures available to the Tax Collector to collect from any
10 successor, transferee or alter ego, at law or in equity, as may be provided by law.

11
12 Section 3. The Business and Tax Regulations Code is hereby amended by revising
13 Article 9, Section 607 to read as follows:

14
15 **SEC. 607. OPERATOR CERTIFICATION OF REVENUE CONTROL EQUIPMENT,**
16 **RCE RECORD REVIEW, AND UNACCOUNTED TICKET RATIO.**

17 (a) **Definitions.** The terms used in this Section shall have the meaning given to
18 them in Section 2201 of this Code.

19 (b) **Operator's RCE Certification.** Concurrent with remittance of Parking Taxes to
20 the City pursuant to Business and Tax Regulations Code Section 6.7-1, an Operator shall
21 certify in writing under penalty of perjury that it has utilized RCE that complies with the
22 applicable provisions of Article 22 of this Code during the period for which the Operator remits
23 the Parking Taxes. If the Operator remits Parking Taxes to the City on a monthly basis, then
24 the Operator shall certify that during the immediately preceding month it utilized RCE that
25 complies with all applicable provisions of this Article. ~~*If the Operator prepays estimated Parking*~~

1 ~~Taxes, then the Operator shall certify with its prepayment that it has utilized RCE that complies with all~~
2 ~~applicable provisions of this Article during the preceding prepayment period.~~

3 (c) **Operator's RCE Records Review Certification.** Concurrent with remittance of
4 Parking Taxes to the City pursuant to Business and Tax Regulations Code Section 6.7-1, an
5 Operator shall also certify in writing under penalty of perjury that it has reviewed the RCE
6 Records, as defined at Section 2201(b) of this Code, as to amounts of gross revenue, Rent
7 received, Parking Tax collected and remitted, discounts provided, and Unaccounted Ticket
8 Ratio for each Parking Station that it operated in the period reported. The Operator shall
9 further certify that it has reconciled those RCE Records with its books and records of accounts
10 of Rent received and Parking Tickets used, such that the Operator's certifications made under
11 this Article are informed and correct.

12 (d) **Operator's Unaccounted Ticket Ratio Certification.** Concurrent with
13 remittance of Parking Taxes to the City pursuant to Business and Tax Regulations Code
14 Section 6.7-1, on a form provided by the Tax Collector, an Operator shall state the
15 Unaccounted Ticket Ratio for the reporting period, and shall certify in writing under penalty of
16 perjury that the stated ratio is accurate. The Unaccounted Ticket Ratio shall be calculated as
17 follows. The number of Unaccounted Tickets for a reporting period is calculated separately
18 for each Parking Station operated by the Operator as the sum of Inventory at the start of the
19 reporting period and the Issued Tickets for that period, less the Voided Tickets for that period,
20 less the Collected Tickets for that period. The Unaccounted Ticket Ratio is calculated as the
21 number of Unaccounted Tickets for a particular Parking Station for that period divided by the
22 number of Issued Tickets for that period, with the resulting quotient multiplied by 100 and
23 expressed as a percentage of Issued Tickets.

1 Section 4. The Business and Tax Regulations Code is hereby amended by revising
2 Article 12, Sections 859 and 860 to read as follows:

3
4 **SEC. 859. BUSINESS ~~TAX~~ REGISTRATION TAG CERTIFICATE REQUIRED ON**
5 **CERTAIN VEHICLES.**

6 (a) The Tax Collector shall require persons engaged in the businesses listed in
7 subsection (b) to display prominently upon each vehicle which is registered as a commercial
8 vehicle with the California Department of Motor Vehicles, and which is used by the person in
9 the conduct of his or her business, a ~~registration tag~~ copy of the person's business registration
10 certificate in such form and color and containing such information as the Tax Collector shall
11 determine. An employee's personally owned vehicles are exempt from this requirement. ~~The~~
12 ~~Tax Collector shall charge an annual fee of \$30 for each tag issued to cover the cost of issuing the tag.~~
13 ~~The registration tag shall be valid for the year of issuance, or 1 year, whichever ends later.~~

14 ~~It is unlawful for any person, required to display a registration tag pursuant to this Section, to~~
15 ~~use or cause to be used any company vehicle which is registered as a commercial vehicle with the~~
16 ~~California Department of Motor Vehicles in the conduct of the person's business within the City and~~
17 ~~County that does not have a business tax registration tag attached thereto or to remove or deface or~~
18 ~~cover up the registration tag, or to place such registration tag upon any vehicle other than a vehicle~~
19 ~~used by the person in his or her business, or to use or cause to be used any such vehicle more than 30~~
20 ~~days after the expiration of the period for which the registration tag was issued. An employee's~~
21 ~~personally owned vehicles are exempt from this requirement.~~

22 ~~Each person required to display a registration tag on vehicles used in conduct of his or her~~
23 ~~business shall keep the registration tag(s) issued by the Tax Collector firmly affixed upon each vehicle~~
24 ~~for which a registration tag was issued at such location upon the vehicle as is designated by the Tax~~
25 ~~Collector.~~

1 ~~Subsequent to the issuance of any business tax registration certificate and prior to the~~
2 ~~expiration date, any person seeking to use any company vehicle which is registered as a commercial~~
3 ~~vehicle with the California Department of Motor Vehicles in his or her business, for which a tag has~~
4 ~~not been issued, shall procure a tag for such vehicle from the Tax Collector. Upon the payment of a fee~~
5 ~~for such tag, the Tax Collector shall deliver the tag to the person, which tag shall be securely affixed to~~
6 ~~the vehicle upon the location designated by the Tax Collector.~~

7 (b) Persons engaged in the following business(es) shall be required to display a
8 ~~registration tag~~copy of the person's business registration certificate on company vehicles which are
9 registered as commercial vehicles with the California Department of Motor Vehicles and which
10 are used in the conduct of his or her business:

11 Roofing contractor and any other contractor performing work for which a reroofing
12 permit is required.

13
14 **SEC. 860. REGISTRATION CERTIFICATE – ~~SUSPENSION AND~~ REVOCATION.**

15 If a person fails to comply with any provision of this Article or any rule or regulation
16 adopted pursuant thereto, the Tax Collector, after giving such person 15 days notice in writing
17 specifying the time and place of the hearing and requiring such person to show cause why his
18 or her registration certificate or registration certificates should not be revoked, may revoke ~~or~~
19 ~~suspend~~ any one or more of the registration certificates held by such person. The notice shall
20 be served in the same manner prescribed for the service of a notice of a deficiency
21 determination under Article 6. The Tax Collector shall not issue a new registration certificate
22 after the revocation of a registration certificate unless the registrant complies with the
23 provisions of the Business and Tax Regulations Code and the rules and regulations adopted
24 thereunder.

1 Section 5. The Business and Tax Regulations Code is hereby amended by revising
2 Article 12-A, Sections 905-A and 906.3 to read as follows:

3
4 **SEC. 905-A. SMALL BUSINESS TAX EXEMPTION.**

5 (a) Notwithstanding any other provisions of this Article, a "small business
6 enterprise" as hereinafter defined, shall be exempt from payment of the payroll expense tax;
7 provided, however, that a small business enterprise shall pay the annual registration fee
8 pursuant to Section 855 of Article 12.

9 (b) The term "small business enterprise" shall mean and include any taxpayer:

10 (1) Whose tax liability under this Article, but for this exemption provision,
11 would not exceed \$2,500 or, effective January 1, 2009 whose taxable payroll expense does
12 not exceed \$250,000; and

13 (2) Who has filed a tax return by the last date of February for the preceding
14 tax year. If the taxpayer fails to file a return by that date, the taxpayer shall be subject to a
15 penalty as specified in subsection (d).

16 (c) For the 2011 tax year, and each second succeeding tax year the Tax Collector
17 shall increase the ceiling for the small business tax exemption (rounded to the nearest
18 \$10,000 increment) to reflect increases in the United States Department of Labor's Bureau of
19 Labor Statistics consumer price index for all urban customers for the San Francisco-Oakland-
20 San Jose area for each of the preceding two tax years.

21 (d) In lieu of the penalty specified in Section 6.17-3 of Article 6 for failing to file a
22 return, any person who otherwise qualifies for the small business tax exemption set forth in
23 this Section who fails to file a return by the last date of February shall pay a penalty as
24 follows:
25

1 (1) If the person's payroll expense tax liability under this Article, but for the
2 small business tax exemption under this Section, would be \$2,250 or more, the penalty shall
3 be 5 percent of the amount of such liability, for each month, or fraction thereof, that the
4 ~~return~~amount due is delinquent, plus an additional 5 percent each month, or fraction thereof,
5 that the ~~return~~amount due is delinquent, up to a maximum of 20 percent of the tax liability. Any
6 penalties remaining unpaid for a period of 90 days or more shall be subject to an additional
7 penalty of 20 percent of the amount of the tax liability excluding penalties and interest.

8 (2) Penalties are due and payable when assessed. Unpaid penalties,~~interest~~
9 ~~and fees~~ shall accrue interest at the rate of 1 percent per month, or fraction thereof, from the
10 date that they are assessed through the date of payment. The total amount of the penalties,
11 interest and fees shall not exceed the amount of the person's payroll expense tax liability for the
12 period but for the small business tax exemption.

13 (e) The Tax Collector may, in his or her discretion, reduce the penalty set forth in
14 subsection (d) to not less than \$100 upon a showing that the late filing of the return was due
15 to reasonable cause and not due to willful neglect.

16
17 **SEC. 906.3. CENTRAL MARKET STREET AND TENDERLOIN AREA PAYROLL**
18 **EXPENSE TAX EXCLUSION.**

19 * * * *

20 (c) In order to be eligible for the payroll expense tax exclusion authorized under this
21 Section, persons wishing to claim the exclusion must:

22 (1) Complete and submit an initial application to the Office of Economic and
23 Workforce Development for review and evaluation. The Office of Economic and Workforce
24 Development will use this application to verify that applicants claiming the payroll expense tax
25 exclusion under this Section meet the eligibility requirements outlined in this subsection (~~bc~~) of

1 ~~this Section~~. The Office of Economic and Workforce Development and the Office of the
2 Treasurer and Tax Collector shall prescribe the form of the application and, consistent with
3 this ordinance, the rules and regulations regarding eligibility for the Central Market Street and
4 Tenderloin Area payroll expense tax exclusion, which shall include participation in the City's
5 First Source Hiring Program as defined in Section 83.4 of the Administrative Code.

6 (2) File an annual affidavit with the Office of Economic and Workforce
7 Development affirming that they continue to meet the eligibility criteria as determined by the
8 Office of Economic and Workforce Development. The annual affidavit should detail the total
9 number of individuals hired during the year, the number of individuals who were referred by
10 the San Francisco Workforce Development System during the year, and the duration of
11 employment for each individual hired during the year. The affidavit must be filed with the
12 Office of Economic and Workforce Development on or before ~~January~~December 31 of each
13 year subsequent to the Office of Economic and Workforce Development's initial approval of
14 the application.

15 (3) Maintain records and documents in a manner acceptable to the Tax
16 Collector. Such records and documents must objectively substantiate any exclusion claimed
17 under this Section and be provided to the Tax Collector upon request.

18 (4) File ~~an~~a timely annual Payroll Expense Tax Return and affidavit with the
19 Tax
20 Collector regardless of the amount of tax liability, if any, shown on the return after claiming the
21 exclusion provided for in this Section.

22 (5) Any person whose annual payroll expense exceeds one million dollars
23 (\$1,000,000) shall enter into a binding Community Benefit Agreement with the City
24 Administrator in order to be eligible for the payroll expense tax exclusion under this Section.
25 Such Community Benefit Agreement may include commitments to engage in community

1 activities in the Central Market Street and Tenderloin Area as well as participation in
2 workforce development opportunities.

3 (d) The Office of Economic and Workforce Development shall:

4 (1) Together with the Office of the Treasurer and Tax Collector, adopt rules,
5 regulations and forms regarding eligibility and the application process for the Central Market
6 Street and Tenderloin Area payroll expense tax exclusion. The rules, regulations and forms
7 may be amended from time to time as necessary.

8 (2) Review all applications for completeness and upon approval, issue a
9 certificate of eligibility to the applicant. The decision of the Office of Economic and Workforce
10 Development regarding eligibility for the exclusion may not be appealed by an applicant.

11 (3) Provide the Tax Collector with a list of persons eligible to claim the tax
12 exclusion authorized under this Section for the preceding tax year by March 1 of each year.

13 (e) The Tax Collector shall verify that any exclusion claimed pursuant to this Section
14 is appropriate.

15 (f) The Central Market Street and Tenderloin Area exclusion authorized under this
16 Section shall be available to and may be taken by each person for each tax year that person
17 holds a valid certificate of eligibility for a period not to exceed six years from the effective date
18 of this ordinance or the commencement of the person's business in the Central Market Street
19 and Tenderloin Area, whichever is later. The date the Tax Collector first received the person's
20 application for a business registration certificate for the person's Central Market Street and
21 Tenderloin Area business shall be presumed to be the date of commencement of such
22 business unless the person establishes a different commencement date to the satisfaction of
23 the Tax Collector.

24 (g) The Central Market Street and Tenderloin Area exclusion authorized under this
25 Section shall expire on the eighth anniversary date of the effective date of this Section. A

1 person may not use or claim any unused portion of the Central Market Street and Tenderloin
2 Area exclusion after the expiration date of this Section. Unless exempted under Section 906
3 of this Article, every person engaging in a business in the Central Market Street and
4 Tenderloin Area in the City shall pay the tax imposed under this Article on the full amount of
5 the person's payroll expense attributable to the City from and after the expiration of this
6 Section.

7 * * * *

8
9 Section 6. The Business and Tax Regulations Code is hereby amended by revising
10 Article 22, Section 2219.6 to read as follows:

11
12 **SEC. 2219.6. COLLECTION AND ENFORCEMENT.**

13 (a) The Revenue Control Equipment Compliance Fee shall be due ~~annually~~ to the
14 Tax Collector annually on December 31 and shall be remitted by the Operator ~~as a part of the last~~
15 ~~quarterly parking tax return.~~

16 (b) The Fee is payable, when due, at the office of the Tax Collector, and if not paid
17 within 30 days after the same becomes due, the Tax Collector shall add 10 percent to the
18 amount of the Fee as a penalty for nonpayment. If the Fee is not paid within 60 days after the
19 same becomes due, the Tax Collector shall add 15 percent to the amount of the Fee as a
20 penalty for nonpayment. If the Fee is not paid within 90 days after same becomes due, the
21 Tax Collector shall add 25 percent to the amount of the Fee, as a penalty for nonpayment;
22 provided, however, when an Operator has failed for a period of six months or more to pay the
23 ~~f~~Fee, and has allowed the ~~f~~Fee to become delinquent for this or a longer period, the Tax
24 Collector shall, in such instance, impose a penalty of 25 percent on the total amount of the
25

1 Fee delinquent and refer the Operator to the Bureau of Delinquent Revenue for further
2 collection and enforcement.

3
4 Section 7. Effective and Operative Date.

5 (a) Effective Date. This ordinance shall become effective 30 days after enactment.
6 Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance
7 unsigned or does not sign the ordinance within ten days of receiving it, or the Board of
8 Supervisors overrides the Mayor's veto of the ordinance.

9 (b) Operative Dates. This ordinance shall become operative on its effective date,
10 except for those provisions of Sections 6.9-1, 6.9-3, and 905-A, that are (1) amendments
11 contained in Proposition E (November 6, 2012) or (2) additional amendments shown in this
12 ordinance. Both categories of amendments to those sections shall become operative on
13 January 1, 2014.

14
15 Section 8. Severability of Ordinance Provisions; Construction of Ordinance.

16 (a) If any section, sentence, clause, phrase, or portion of this ordinance is for any
17 reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining
18 sections, sentences, clauses, phrases, or portions of this ordinance shall nonetheless remain
19 in full force and effect. The Board of Supervisors of the City and County of San Francisco
20 hereby declares that it would have adopted each section, sentence, clause, phrase, or portion
21 of this ordinance, irrespective of the fact that any one or more sections, sentences, clauses,
22 phrases, or portions of this ordinance be declared invalid or unenforceable and, to that end,
23 the provisions of this ordinance are severable.

1 (b) No section, clause, part or provision of this ordinance shall be construed as
2 requiring the payment of any tax that would be in violation of the Constitution or laws of the
3 United States or of the Constitution or laws of the State of California.

4
5 Section 9. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
6 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
7 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
8 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
9 additions, and Board amendment deletions in accordance with the “Note” that appears under
10 the official title of the ordinance. In accordance with Section 1 of this ordinance, it is the
11 Board’s intent to amend the text of Section 6.9-1, 6.9-3, and 905-A.

12
13 APPROVED AS TO FORM:
14 DENNIS J. HERRERA, City Attorney

15 By: _____
16 JEAN H. ALEXANDER
17 Deputy City Attorney

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