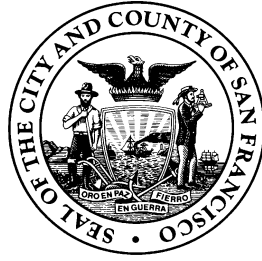


BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

# MEMORANDUM

TO: Regina Dick-Endrizzi, Director  
**Small Business Commission, City Hall, Room 448**

FROM: John Carroll, Assistant Committee Clerk,  
Government Audit and Oversight Committee, Board of Supervisors

DATE: November 19, 2018

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS  
Government Audit and Oversight Committee

The Board of Supervisors' Government Audit and Oversight Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

**File No. 181082**

**Ordinance amending the Business and Tax Regulations Code to provide a credit against the Early Care and Education Commercial Rents Tax for the operation of certain child care facilities, and to exclude from the Early Care and Education Commercial Rents Tax base amounts subject to the hotel tax or parking tax.**

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

\*\*\*\*\*  
**RESPONSE FROM SMALL BUSINESS COMMISSION - Date:** \_\_\_\_\_

\_\_\_\_\_ **No Comment**  
\_\_\_\_\_ **Recommendation Attached**

\_\_\_\_\_  
**Chairperson, Small Business Commission**

1 [Business and Tax Regulations Code - Early Care and Education Commercial Rents Tax  
2 Credit and Exclusions]

3 **Ordinance amending the Business and Tax Regulations Code to provide a credit**  
4 **against the Early Care and Education Commercial Rents Tax for the operation of**  
5 **certain child care facilities, and to exclude from the Early Care and Education**  
6 **Commercial Rents Tax base amounts subject to the hotel tax or parking tax.**

7 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
8 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
9 **Deletions to Codes** are in ~~*italics Times New Roman font*~~.  
10 **Board amendment additions** are in Arial font.  
11 **Board amendment deletions** are in ~~Arial font~~.  
12 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
13 subsections or parts of tables.

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

15 Section 1. Article 21 of the Business and Tax Regulations Code is hereby amended by  
16 revising Section 2105 and adding Section 2106.1, to read as follows:

17 **SEC. 2105. EXEMPTIONS AND EXCLUSIONS.**

18 \* \* \* \*

19 (e) For purposes of this Article 21, gross receipts from the lease of Commercial Space shall not  
20 include rent that is subject to the tax imposed under Articles 7 or 9 of the Business and Tax Regulations  
21 Code.

22  
23 **SEC. 2106.1. CREDIT FOR CHILD CARE FACILITIES.**

24 (a) Any person subject to the Early Care and Education Commercial Rents Tax imposed under  
25 this Article 21 that leases or provides Commercial Space in a property in the City for a Qualifying

1 Child Care Facility that operates for more than six months in a tax year shall be allowed a credit  
2 against the Early Care and Education Commercial Rents Tax for that tax year. If a person entitled to  
3 the credit under this Section 2106.1 is required to file an Early Care and Education Commercial Rents  
4 Tax return on a combined basis under Section 2107, the credit may be claimed against the Early Care  
5 and Education Commercial Rents Tax liability required to be reflected on the combined return for that  
6 tax year. In no event shall the credit allowed under this Section 2106.1 reduce a person or combined  
7 group's Early Care and Education Commercial Rents Tax liability for any tax year to less than zero,  
8 and no credit shall be allowed as a carryforward to a subsequent tax year.

9 (b) For purposes of this Section 2106.1, the credit for a tax year shall be based on the total  
10 number of Infants, Toddlers, and Preschool-Age Children for which the Qualifying Child Care Facility  
11 is licensed by the California Department of Social Services to provide care and shall be in the amount  
12 prescribed in the table below.

<u>Number of Infants, Toddlers, and Preschool-Age Children</u>	<u>Amount of Credit</u>
<u>1 to 49</u>	<u>\$7,200</u>
<u>50 to 99</u>	<u>\$16,000</u>
<u>100 or more</u>	<u>\$36,000</u>

13  
14  
15  
16  
17 (c) The following definitions shall apply for purposes of this Section 2106.1.

18 (1) "Qualifying Child Care Facility" means a facility that is licensed by the California  
19 Department of Social Services, or any successor agency, to provide non-medical care to Infants,  
20 Toddlers, Preschool-Age Children, or any combination thereof in need of personal services,  
21 supervision, or assistance essential for sustaining the activities of daily living or for the protection of  
22 the individual on less than a 24-hour basis in a group setting.

23 (2) "Infants" means children under two years of age.

24 (3) "Toddlers" means children between the ages of 18 months and 30 months.  
25

1                   (4) "Preschool-Age Children" means children who are enrolled in a child day care  
2 center licensed by the California Department of Social Services, or any successor agency, and who are  
3 not enrolled in a child care center or part of a child care center where less than 24-hour per day non-  
4 medical care and supervision are provided to Infants or School-Age Children.

5                   (5) "School-Age Child" means a child who has entered the first grade or above or who  
6 is in a child care program providing care and supervision exclusively to children enrolled in  
7 kindergarten and above.

8                   (d) To be eligible for the credit authorized under this Section 2106.1, persons wishing to claim  
9 the credit must:

10                   (1) Maintain a reasonable method of documentation that can be reviewed or verified  
11 objectively that demonstrates that the person is eligible for the credit provided for in this  
12 Section 2106.1, and provide such documentation to the Tax Collector upon request; and

13                   (2) File a timely annual Early Care and Education Commercial Rents Tax return  
14 regardless of the amount of liability, if any, shown on the return after claiming the credit provided for  
15 in this Section 2106.1.

16                   (e) The Tax Collector shall verify that any credit claimed pursuant to this Section 2106.1 is  
17 correct. The Office of Early Care and Education, or any successor agency, shall provide to the Tax  
18 Collector upon request such information that the Tax Collector may require to verify that a Qualifying  
19 Child Care Facility for which the credit is claimed meets the eligibility requirements of this Section  
20 2106.1, and the Tax Collector may share taxpayer information with the Office of Early Care and  
21 Education, or any successor agency, for this purpose. To the extent permitted by law, the Office of  
22 Early Care and Education, or any successor agency, shall maintain the confidentiality of any such  
23 information that the Tax Collector provides, and shall be subject to Section 6.22-1 of Article 6 of the  
24 Business and Tax Regulations Code with respect to such information.

1           (f) The Tax Collector shall submit an annual report to the Board of Supervisors for each year  
2 for which the credit authorized under this Section 2106.1 is available, that sets forth aggregate  
3 information on the dollar value of the credits taken each year and the number of persons taking the  
4 credit.

5           (g) The Controller, not later than four years after the effective date of the ordinance in Board  
6 of Supervisors File No. \_\_\_\_\_ establishing this Section 2106.1, shall perform an assessment and  
7 review of the effect of the credit provided by this Section 2106.1. Based on such assessment and review  
8 the Controller shall prepare and submit an analysis to the Board of Supervisors. The analysis shall be  
9 based on factors that the Controller deems relevant, and may include, but shall not be limited to, data  
10 contained in the annual reports to the Board of Supervisors as required by subsection (f) of this Section  
11 2106.1.

12           (h) The credit provided by this Section 2106.1 shall be allowable in tax years ending after  
13 December 31, 2018, and shall expire by operation of law on December 31, 2023. No person may use  
14 or claim the credit provided for under this Section 2106.1 after the expiration date of this Section.

15  
16           Section 2. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
17 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
18 numbers, letters, punctuation marks, charts, diagrams, or any other constituent parts of the  
19 Business and Tax Regulations Code that are explicitly shown in this ordinance as additions,  
20 deletions, Board amendment additions, and Board amendment deletions in accordance with  
21 the "Note" that appears under the official title of the ordinance.


1 Section 3. Effective Date; Retroactivity.

2 (a) Effective Date. This ordinance shall become effective 30 days after enactment.

3 Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance  
4 unsigned or does not sign the ordinance within ten days of receiving it, or the Board of  
5 Supervisors overrides the Mayor's veto of the ordinance.

6 (b) Retroactive Date. This ordinance shall be retroactive to January 1, 2019.

7  
8 APPROVED AS TO FORM:  
9 DENNIS J. HERRERA, City Attorney

10 By:   
11 KERNE H. O. MATSUBARA  
Deputy City Attorney

12 n:\egana\as2018\1800712\01316737.docx

**LEGISLATIVE DIGEST**

[Business and Tax Regulations Code - Early Care and Education Commercial Rents Tax Credit and Exclusions]

**Ordinance amending the Business and Tax Regulations Code to provide a credit against the Early Care and Education Commercial Rents Tax for the operation of certain child care facilities, and to exclude from the Early Care and Education Commercial Rents Tax base amounts subject to the hotel tax or parking tax.**

Existing Law

The Early Care and Education Commercial Rents Tax ("Commercial Rents Tax") was passed by voters at the June 5, 2018 election and becomes operative on January 1, 2019. The Commercial Rents Tax generally is imposed at the rate of 3.5% on the amounts a business receives from the lease of commercial space in the City, with a lower 1% rate on amounts from the lease of warehouse space. The Commercial Rents Tax generally does not apply to businesses exempt from Gross Receipts and Payroll Expense Taxes and provides for certain other exemptions and exclusions. Revenues from the Commercial Rents Tax will fund early care and education for young children and other public purposes. The City also imposes a 14% tax on the rental of hotel rooms ("Hotel Tax") and a 25% tax on the rental of parking spaces ("Parking Tax") in the City.

Amendments to Current Law

This ordinance would provide a credit against the Commercial Rents Tax for businesses that lease or provide commercial space in the City for certain licensed child care facilities that provide care to infants, toddlers, and/or preschool-age children. The amount of the credit would be based on the total number of infants, toddlers, and preschool-age children for which the child care facility is licensed to provide care, as follows:

Number of Infants, Toddlers, and Preschool-Age Children	Amount of Credit
1 to 49	\$7,200
50 to 99	\$16,000
100 or more	\$36,000

FILE NO. 181082

The credit would be allowed on an annual basis and would be neither refundable nor allowed to be carried forward to a subsequent tax year. The credit would be allowed for tax years ending after December 31, 2018 and expire on December 31, 2023.

Effective January 1, 2019, this ordinance also would exclude from gross receipts subject to the Commercial Rents Tax rent that is subject to the Hotel Tax or the Parking Tax.

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President, District 10  
BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102-4689

Tel. No. 554-7670  
Fax No. 554-7674  
TDD/TTY No. 544-5227

305-1  
Joby/Adas,  
BGF Clerk,  
690 Clerk,  
Mayor's Office  
Dep. City Atty

Malia Cohen

**PRESIDENTIAL ACTION**

Date: 11/13/18  
To: Angela Calvillo, Clerk of the Board of Supervisors

Madam Clerk,  
Pursuant to Board Rules, I am hereby:

Waiving 30-Day Rule (Board Rule No. 3.23)

File No. 181082 Kim  
(Primary Sponsor)

Title. Business and Tax Regulations Code - Early Care and Education  
Commercial Rents Tax Credit and Exclusions

Transferring (Board Rule No 3.3)

File No. 181082 Kim  
(Primary Sponsor)

Title. Commercial Rents Tax Credit and Exclusions

From: Budget & Finance Committee

To: Government Audit & Oversight Committee

Assigning Temporary Committee Appointment (Board Rule No. 3.1)

Supervisor \_\_\_\_\_

Replacing Supervisor \_\_\_\_\_

For: \_\_\_\_\_ Meeting  
(Date) (Committee)

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SAN FRANCISCO  
2018 NOV 19 AM 10:40

Malia Cohen, President  
Board of Supervisors

# Introduction Form

By a Member of the Board of Supervisors or Mayor

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO

2019 APR 16 PM 2:07  
Time stamp  
or meeting date AK

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor [ ] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [ ] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. [ ]
- 9. Reactivate File No. [ ]
- 10. Topic submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

**Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.**

Sponsor(s):

Kim; Yee

Subject:

Business and Tax Regulations Code - Early Care and Education Commercial Rents Tax Credit and Exclusions

The text is listed:

Attached

Signature of Sponsoring Supervisor:



For Clerk's Use Only