

1 [Payroll Expense Tax Exclusion for Persons Who Hire the Disabled and the Indigent.]

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3 **Ordinance amending the Payroll Expense Tax Ordinance to establish a tax exclusion**
4 **retroactive to January 1, 2006 for persons who hire the disabled and the indigent, as**
5 **specified.**

6 Note: Additions are *single-underline italics Times New Roman*;
7 deletions are *strikethrough italics Times New Roman*.
8 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

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

10 Section 1. The San Francisco Business and Tax Regulations Code is hereby amended
11 by adding Sections 906.3 and 906.4 of Article 12-A (Payroll Expense Tax Ordinance), as
12 follows:

13 SEC. 906.3. DISABLED EMPLOYEE EXCLUSION.

14 (a) Any person engaging in business within the City may exclude from their payroll expense all
15 compensation paid to, on behalf of or for the benefit of any disabled employee of that person, subject to
16 the conditions and limitations set forth in this Section. For purposes of this Section, outside
17 independent contractors shall not be considered employees of the business.

18 (b) For purposes of this Section, "disabled" means a person who meets the definition of
19 disability under Section 12102(b) of Title 42 of the United States Code, known as the Americans with
20 Disabilities Act ("ADA").

21 (c) The Director of the Mayor's Office on Disability ("MOD") shall adopt a form entitled
22 "Verification of Employer's Right to Request Payroll Tax Exclusion" and provide the form to employers
23 upon request. Persons wishing to claim the exclusion authorized under this Section must:

24 (1) Provide the form "Verification of Employer's Right to Request Payroll Expense Tax
25 Exclusion" to each employee that has self-identified as a person with a disability.

1 (2) Provide the dollar amount of the total amount of compensation paid to qualifying
2 disabled employees on the employer's payroll expense tax return.

3 (3) Maintain a signed "Verification of Employer's Right to Request Payroll Expense Tax
4 Exclusion" form for each disabled employee for which the exclusion is claimed in a file separate from
5 the employee's personnel file. A signed form must be retained by the employer for each employee for
6 the entire period the payroll expense tax exclusion is claimed for that employee and for three years
7 thereafter.

8 (4) Provide information to the San Francisco Tax Collector upon request for the
9 purpose of verifying compliance with the Business and Tax Regulations Code.

10 (5) File an annual Payroll Expense Tax Return with the Tax Collector regardless of the
11 amount of tax liability shown on the return after claiming the exclusion provided for in this Section.

12 (d) The disabled employee exclusion authorized under this Section shall be available to and
13 may be taken by each person engaging in business in the City for a period of ten years from the
14 effective date of this Section or the commencement of the person's business in the City, whichever is
15 later. The date the Tax Collector received the person's application for a business registration
16 certificate for the person's business shall be presumed to be the date of commencement of such
17 business unless the person establishes a different commencement date to the satisfaction of the Tax
18 Collector.

19 (e) The exclusion authorized under this Section shall expire on the fifteenth anniversary of the
20 effective date of this Section. A person may not use or claim any unused portion of the ten-year
21 disabled employee exclusion after the expiration date of this Section. Unless exempted under
22 Section 906 of this Article, every person engaging in business in the City shall pay the tax imposed
23 under this Article on the full amount of the person's payroll expense attributable to the City from and
24 after the expiration of this Section.

1 (f) If a person's calculated liability for the Payroll Expense Tax does not exceed \$2,500 for the
2 tax year after applying the disabled employee exclusion under this Section, the person shall be exempt
3 from payment of the Payroll Expense Tax for that tax year as provided in Section 905-A.

4 (g) The disabled employee exclusion provided for in this Section shall be available for
5 compensation paid in tax years beginning on or after January 1, 2006.

6 (h) The Tax Collector shall submit an annual report to the Board of Supervisors for each year
7 for which the disabled employee exclusion authorized under this Section is available that sets forth
8 aggregate information on the dollar value of the disabled employee exclusions taken each year, the
9 number of businesses taking the exclusion, and any identifiable increase or decrease amount of
10 compensation paid to disabled employees compared to the amount of compensation paid to disabled
11 employees for the immediately preceding calendar year.

12 (i) The Controller, after five years from the enactment of this Ordinance, shall perform an
13 assessment and review of the effect of the disabled employee tax exclusion. Based on such assessment
14 and review the Controller shall prepare and submit an analysis to the Board of Supervisors. The
15 analysis shall be based on criteria deemed relevant by the Controller, and may include but is not
16 limited to, data contained in the annual reports to the Board of Supervisors as required by
17 subsection (h) of this Section.

18 (j) A misrepresentation or misstatement by any person regarding eligibility for the payroll
19 expense tax exclusion authorized by this Section that results in the underpayment or underreporting of
20 the payroll expense tax shall be subject to penalties as provided in Section 6.17-2 of Article 6 of the
21 San Francisco Business and Tax Administrative Code.

22 **SEC. 906.4. INDIGENT EMPLOYEE EXCLUSION.**

23 (a) Any person engaging in business within the City may exclude from their payroll expense all
24 compensation paid to, on behalf of or for the benefit of any indigent employee of that person, subject to
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1 the conditions and limitations set forth in this Section. For purposes of this Section, outside
2 independent contractors shall not be considered employees of the business.

3 (b) For purposes of this Section, "indigent" means an indigent person who qualifies for, and is
4 receiving, public assistance under the Personal Assisted Employment Program ("PAES"), the
5 CALWORKS Program, the Food Stamps Program, or other similar public assistance program.

6 (c) The Human Services Agency ("HSA") shall adopt a form entitled "Verification of Employer's
7 Right to Request Payroll Tax Exclusion" and provide the form to employers upon request. The form
8 shall include written authorization from the indigent individual for the public assistance program to
9 share this information with their employer and the Tax Collector for the limited purpose of securing a
10 tax exclusion under this Chapter. Persons wishing to claim the exclusion authorized under this Section
11 must:

12 (1) Provide the form "Verification of Employer's Right to Request Payroll Expense Tax
13 Exclusion" to each employee that has self-identified as an indigent person.

14 (2) Provide the dollar amount of the total amount of compensation paid to qualifying
15 indigent employees on the employer's payroll expense tax return.

16 (3) Maintain a signed "Verification of Employer's Right to Request Payroll Expense Tax
17 Exclusion" form for each indigent employee for which the exclusion is claimed in a file separate from
18 the employee's personnel file. A signed form must be retained by the employer for each qualifying
19 employee for the entire period the payroll expense tax exclusion is claimed for that employee and for
20 three years thereafter.

21 (4) Provide information to the San Francisco Tax Collector upon request for purposes of
22 verifying compliance with the Business and Tax Regulations Code.

23 (5) File an annual Payroll Expense Tax Return with the Tax Collector regardless of the
24 amount of tax liability shown on the return after claiming the exclusion provided for in this Section.

1 (d) The indigent employee exclusion authorized under this Section shall be available to and may
2 be taken by each person engaging in business in the City for a period of ten years from the effective
3 date of this Section or the commencement of the person's business in the City, whichever is later. The
4 date the Tax Collector received the person's application for a business registration certificate for the
5 person's business shall be presumed to be the date of commencement of such business unless the
6 person establishes a different commencement date to the satisfaction of the Tax Collector.

7 (e) The exclusion authorized under this Section shall expire on the fifteenth anniversary of the
8 effective date of this Section. A person may not use or claim any unused portion of the ten-year
9 indigent employee exclusion after the expiration date of this Section. Unless exempted under
10 Section 906 of this Article, every person engaging in business in the City shall pay the tax imposed
11 under this Article on the full amount of the person's payroll expense attributable to the City from and
12 after the expiration of this Section.

13 (f) If a person's calculated liability for the Payroll Expense Tax does not exceed \$2,500 for the
14 tax year after applying the indigent employee exclusion under this Section, the person shall be exempt
15 from payment of the Payroll Expense Tax for that tax year as provided in Section 905-A.

16 (g) The indigent employee exclusion provided for in this Section shall be available for
17 compensation paid in tax years beginning on or after January 1, 2006.

18 (h) The Tax Collector shall submit an annual report to the Board of Supervisors for each year
19 for which the indigent employee exclusion authorized under this Section is available that sets forth
20 aggregate information on the dollar value of the indigent employee exclusions taken each year, the
21 number of businesses taking the exclusion, and any identifiable increase or decrease in the
22 compensation paid to indigent employees compared to the compensation paid to indigent employees for
23 the immediately preceding calendar year.

24 (i) The Controller, after five years from the enactment of this Ordinance, shall perform an
25 assessment and review of the effect of the indigent employee tax exclusion. Based on such assessment

1 and review the Controller shall prepare and submit an analysis to the Board of Supervisors. The
2 analysis shall be based on criteria deemed relevant by the Controller, and may include but is not
3 limited to, data contained in the annual reports to the Board of Supervisors as required by
4 subsection (h) of this Section.

5 (j) A misrepresentation or misstatement by any person regarding eligibility for the payroll
6 expense tax exclusion authorized by this Section that results in the underpayment or underreporting of
7 the payroll expense tax shall be subject to penalties as provided in Section 6.17-2 of Article 6 of the
8 San Francisco Business and Tax Administrative Code.

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10 APPROVED AS TO FORM:
11 DENNIS J. HERRERA, City Attorney

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12 By: _____
13 Carol A. Boardman
14 Deputy City Attorney

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