

File No. 201009

Committee Item No. 2

Board Item No. 4

# COMMITTEE/BOARD OF SUPERVISORS

## AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Committee

Date November 4, 2020

Board of Supervisors Meeting

Date November 10, 2020

### Cmte Board

- |                                     |                                     |                                              |
|-------------------------------------|-------------------------------------|----------------------------------------------|
| <input type="checkbox"/>            | <input type="checkbox"/>            | Motion                                       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Resolution                                   |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Ordinance                                    |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Legislative Digest                           |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Youth Commission Report                      |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form                            |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/>            | MOU                                          |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Budget                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Subcontract Budget                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Contract/Agreement                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Form 126 – Ethics Commission                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Application                                  |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Public Correspondence                        |

### OTHER (Use back side if additional space is needed)

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Completed by: Linda Wong

Date October 30, 2020

Completed by: Linda Wong

Date November 5, 2020

1 [Business and Tax Regulations Code - Temporary Suspension of Cannabis Business Tax,  
and Tax Reduction]

2

3 **Ordinance amending the Business and Tax Regulations Code to suspend the**  
4 **imposition of the Cannabis Business Tax through December 31, 2021; beginning**  
5 **January 1, 2022, to increase the exemption of gross receipts attributable to the City**  
6 **from cannabis business activities, from the first \$500,000 to the first \$1,000,000; and**  
7 **also beginning January 1, 2022, to increase the upper range of gross receipts**  
8 **attributable to the City from cannabis business activities subject to the 2.5% tax rate on**  
9 **gross receipts from retail sales and the 1% tax rate on gross receipts from other than**  
10 **retail sales, from \$1,000,000 to \$1,500,000.**

11

12 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
13 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
14 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.  
15 **Board amendment additions** are in double-underlined Arial font.  
16 **Board amendment deletions** are in ~~strikethrough Arial font~~.  
17 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
18 subsections or parts of tables.

16

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

18

19 Section 1. The Business and Tax Regulations Code is hereby amended by revising  
20 Section 3003 of Article 30, to read as follows:

21

22 **SEC. 3003. IMPOSITION OF TAX.**

23 (a) Except as otherwise provided in this Article 30, for the privilege of engaging in  
24 Cannabis Business Activities in the City, the City imposes an annual Cannabis Business Tax

25

1 on each person engaged in business in the City that receives gross receipts from Cannabis  
2 Business Activities attributable to the City.

3 (b) The Cannabis Business Tax shall be calculated in the following manner:

4 (1) The person or combined group's first ~~\$1,000,000~~\$500,000 of gross receipts  
5 attributable to the City from Cannabis Business Activities shall be exempt from the Cannabis  
6 Business Tax.

7 (2) The person or combined group's gross receipts attributable to the City from  
8 the Retail Sale of Cannabis or Cannabis Products, including the amount exempt under  
9 Section 3003(b)(1), shall be multiplied as follows:

10 (A) by 2.5% for gross receipts in excess of the amount exempt under  
11 Section 3003(b)(1) and up to and including ~~\$1,500,000~~\$1,000,000; and

12 (B) by 5% for gross receipts over ~~\$1,500,000~~\$1,000,000.

13 (3) The person or combined group's gross receipts attributable to the City from  
14 all Cannabis Business Activities other than the Retail Sale of Cannabis or Cannabis Products,  
15 including the amount exempt under Section 3003(b)(1), shall be multiplied as follows:

16 (A) by 1% for gross receipts in excess of the amount exempt under  
17 Section 3003(b)(1) and up to and including ~~\$1,500,000~~\$1,000,000; and

18 (B) by 1.5% for gross receipts over ~~\$1,500,000~~\$1,000,000.

19 (4) The Board of Supervisors may from time to time by an ordinance adopted by  
20 at least two-thirds of the members of the Board increase one or more of the rates provided for  
21 in Sections 3003(b)(2) and 3003(b)(3), except that no rate may increase more than 1%  
22 annually and no rate may exceed 7%. The Board of Supervisors may from time to time by an  
23 ordinance adopted by a majority of the members of the Board decrease one or more of the  
24 rates provided for in Sections 3003(b)(2) and 3003(b)(3). Any such adjustments in this  
25 Section 3003(b)(4) shall be effective no sooner than the tax year following the tax year in

1 which the ordinance adjusting the rate is effective. The Controller shall prepare and submit a  
2 market analysis and impact report to the Board before the Board adjusts any tax rate under  
3 this Section 3003(b)(4).

4 (5) If a person or combined group has gross receipts attributable to the City  
5 from the Retail Sale of Cannabis or Cannabis Products and from Cannabis Business Activities  
6 other than the Retail Sale of Cannabis or Cannabis Products, the person or combined group's  
7 Cannabis Business Tax shall be determined as follows:

8 (A) The person or combined group's taxable gross receipts shall be  
9 determined on an aggregate basis first for gross receipts attributable to the City from  
10 Cannabis Business Activities other than the Retail Sale of Cannabis or Cannabis Products,  
11 and then for gross receipts attributable to the City from the Retail Sale of Cannabis or  
12 Cannabis Products;

13 (B) The ~~\$1,000,000~~\$500,000 exemption in Section 3003(b)(1) shall be  
14 applied first to gross receipts attributable to the City from Cannabis Business Activities other  
15 than the Retail Sale of Cannabis or Cannabis Products, with any remaining portion of the  
16 exemption then applied to gross receipts attributable to the City from the Retail Sale of  
17 Cannabis or Cannabis Products;

18 (C) The rates applicable under Section 3003(b)(2) shall be determined  
19 by applying the rate scale commencing with the gross receipts attributable to the City from  
20 Cannabis Business Activities other than the Retail Sale of Cannabis or Cannabis Products;  
21 and

22 (D) The Cannabis Business Tax for the person or combined group shall  
23 be the sum of the liabilities calculated under Sections 3003(b)(2) and 3002(b)(3), determined  
24 in accordance with Sections 3003(b)(5)(A), 3003(b)(5)(B), and 3003(b)(5)(C).

1 (c) The imposition of the Cannabis Business Tax under this Section 3003 shall be suspended for  
2 the 2021 tax year.

3  
4 Section 2. Effective Date. This ordinance shall become effective 30 days after  
5 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
6 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
7 of Supervisors overrides the Mayor's veto of the ordinance.

8  
9 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
10 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
11 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
12 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
13 additions, and Board amendment deletions in accordance with the "Note" that appears under  
14 the official title of the ordinance.

15  
16 APPROVED AS TO FORM:  
17 DENNIS J. HERRERA, City Attorney

18 By: /s/  
19 KERNE H. O. MATSUBARA  
Deputy City Attorney

20 n:\legana\as2020\2100040\01474959.docx  
21  
22  
23  
24  
25

## LEGISLATIVE DIGEST

[Business and Tax Regulations Code - Temporary Suspension of Cannabis Business Tax, and Tax Reduction]

**Ordinance amending the Business and Tax Regulations Code to suspend the imposition of the Cannabis Business Tax through December 31, 2021; beginning January 1, 2022, to increase the exemption of gross receipts attributable to the City from cannabis business activities, from the first \$500,000 to the first \$1,000,000; and also beginning January 1, 2022, to increase the upper range of gross receipts attributable to the City from cannabis business activities subject to the 2.5% tax rate on gross receipts from retail sales and the 1% tax rate on gross receipts from other than retail sales, from \$1,000,000 to \$1,500,000.**

### Existing Law

At an election on November 6, 2018, San Francisco voters approved the Cannabis Business Tax. Effective January 1, 2021, the tax is imposed on persons for the privilege of engaging in cannabis business activities in the City. The tax is a general tax the revenues from which go to the General Fund and may be used for any lawful City purpose. The tax rate is:

- For gross receipts attributable to the City from the retail sale of cannabis or cannabis products:
  - 2.5% of gross receipts up to and including \$1,000,000, and
  - 5% of gross receipts over \$1,000,000; and
- For gross receipts attributable to the City from cannabis business activities other than the retail sale of cannabis or cannabis products:
  - 1% of gross receipts up to and including \$1,000,000, and
  - 1.5% of gross receipts over \$1,000,000.

The first \$500,000 of gross receipts attributable to the City from cannabis business activities are exempt from the tax.

### Amendments to Current Law

This ordinance would temporarily suspend the imposition of the Cannabis Business Tax through December 31, 2021. This ordinance would increase the upper range of gross receipts attributable to the City that are subject to the 2.5% and 1% rate for retail sales and other than retail sales, respectively, from \$1,000,000 to \$1,500,000. This ordinance also would increase the exemption of gross receipts attributable to the City from cannabis business activities from the first \$500,000 to the first \$1,000,000.

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**Item 2**  
**File 20-1009**

**Department:**  
Controller's Office

## EXECUTIVE SUMMARY

### Legislative Objectives

- The proposed ordinance would amend Section 3003 of the Business and Tax Regulations Code to temporarily waive the Cannabis Business Tax for one year through December 31, 2021.
- Beginning January 1, 2022, the gross receipts exemption would increase from \$500,000 to \$1 million. Currently, cannabis retailers pay a tax rate of (i) 2.5 percent for gross receipts from recreational cannabis between \$500,000 and \$1 million, and (ii) 5 percent for gross receipts over \$1 million. Under the proposed ordinance, these amounts would increase to between \$1 million and \$1.5 million, and over \$1.5 million respectively. Also, cannabis retailers currently pay a tax rate of (i) 1 percent for gross receipts for other cannabis business activities between \$500,000 and \$1 million, and (ii) 1.5 percent for gross receipts over \$1 million. Under the proposed ordinance, these amounts would increase to between \$1 million and \$1.5 million, and over \$1.5 million respectively.

### Key Points

- Proposition D (also known as the Cannabis Business Tax), which levies a gross receipts tax of 2.5 percent and 5 percent on recreational cannabis businesses earning over \$500,000 and \$1 million respectively, and exempts the first \$500,000 of gross receipts attributable to the City from cannabis business activities, goes into effect on January 1, 2021.
- Proposition D also allows the Board of Supervisors to adjust the tax within a range of 0 percent to 7 percent by an ordinance adopted by a two-thirds vote for any increase (limited to 1 percent annually) or an ordinance adopted by a majority vote for the Board for any decrease.

### Fiscal Impact

- The Cannabis Business Tax is expected to generate \$4.25 million in FY 20-21 and \$8.5 million in FY 2021-22, for an estimated two-year total of \$12.75 million in revenue for the City.
- The estimated loss in revenue due to the proposed ordinance is approximately \$7.1 million over two years.

### Recommendation

- Approval of the proposed ordinance is a policy matter for the Board of Supervisors.

## MANDATE STATEMENT

According to City Charter Section 2.105, all legislative acts shall be by ordinance and require the affirmative vote of at least a majority of the members of the Board of Supervisors.

The Business and Tax Regulations Code Section 3003(b)(4) of Article 30 states that the Board of Supervisors may from time to time by an ordinance adopted by at least two-thirds of the members of the Board increase one or more of the rates provided for in Sections 3003(b)(2) and 3003(b)(3), except that no rate may increase more than one percent annually and no rate may exceed 7 percent. The Board of Supervisors may from time to time by an ordinance adopted by a majority of the members of the Board decrease one or more of the rates provided for in Sections 3003(b)(3) and 3003(b)(3). Any such adjustments in Section 3003(b)(4) shall be effective no sooner than the tax year following the tax year in which the ordinance adjusting the rate is effective.

## BACKGROUND

### **Proposition D: San Francisco Cannabis Business Tax Increase**

In November 2018, approximately 66 percent of San Francisco voters approved Proposition D, the Cannabis Business Tax effective January 1, 2021.<sup>1</sup> The proposition levies a gross receipts tax of 1 percent to 5 percent on recreational cannabis businesses. The tax only applies to businesses that earn over \$500,000 in recreational cannabis revenue at a rate of 2.5 percent of gross receipts up to (and including) \$1 million, and 5 percent of gross receipts over \$1 million from the sale of cannabis products. The measure also imposes a tax of 1 percent of gross receipts up to (and including) \$1 million and 1.5 percent of gross receipts over \$1 million for gross receipts attributable to the City from cannabis business activities other than the retail sale of cannabis or cannabis products.<sup>2</sup> The first \$500,000 of gross receipts attributable to the City from cannabis business activities are exempt from the tax. The proposition allows the Board of Supervisors to adjust the tax within a range of 0 percent to 7 percent by an ordinance adopted by a two-thirds vote for any increase (limited to 1 percent annually) or an ordinance adopted by a majority vote for the Board for any decrease.

### **Cannabis Sales in San Francisco**

A 2019 report from the Controller's Office showed that in calendar year 2018, cannabis operators generated over \$220 million in revenue, of which the city received \$2.2 million in sales tax.<sup>3</sup> The

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<sup>1</sup> San Francisco Controller's Office Five-Year Financial Plan: FY 19-20 through FY 23-24.

<https://sfcontroller.org/sites/default/files/Documents/Budget/Five-Year%20Financial%20Plan%20FY19-20%20through%20FY23-24%20FINAL.pdf>

<sup>2</sup> Medical marijuana retail sales are exempt. San Francisco, California, Proposition D, Marijuana Business Tax Increase (November 2018).

[https://ballotpedia.org/San\\_Francisco,\\_California,\\_Proposition\\_D,\\_Marijuana\\_Business\\_Tax\\_Increase\\_\(November\\_2018\)](https://ballotpedia.org/San_Francisco,_California,_Proposition_D,_Marijuana_Business_Tax_Increase_(November_2018))

<sup>3</sup> Cannabis in San Francisco. A Review Following Adult-Use Legalization. City & County of San Francisco. Office of the Controller. December 5, 2019.



industry has steadily increased in sales each year since 2015 (from \$123 million in 2015 to \$228 million in 2018) until 2019, which saw a decrease of 16% (from \$61 million in Q2 2018 to \$51 million in Q1 2019). From 2015 to 2018, the total number of cannabis retailers in San Francisco increased from 20 to 64, which resulted in an average revenue decrease earned per retailer. In 2015, the average cannabis retailer earned \$6.3 million in sales, compared to an average of \$3.5 million in 2018. According to the Office of Cannabis, there are currently 80 permitted cannabis retailers in San Francisco. Of this total, 40 operate storefront businesses and 40 are delivery only.<sup>4</sup>

**DETAILS OF PROPOSED LEGISLATION**

The proposed ordinance amends Section 3003 of the Business and Tax Regulations Code to temporarily waive the Cannabis Business Tax for one year in 2021 through December 31, 2021. Beginning January 1, 2022, this proposed ordinance would also increase the gross receipts exemption from \$500,000 to the first \$1,000,000 of gross receipts earned for each person or group that receives gross receipts from Cannabis Business Activities.

The proposed ordinance increases by \$500,000 the upper range of gross receipts attributable to the City from the retail sale of cannabis or cannabis products, including the exempt amount, that are subject to the 2.5 percent and 5 percent tax rate. Specifically, the ordinance would apply the 5 percent tax rate to retailers earning over \$1.5 million, as opposed to the existing law which applies the 5 percent rate to retailers earning over \$1 million. Retailers earning under \$1.5 million would be subject to the 2.5 percent tax rate.

The proposed ordinance also increases by \$500,000 the upper range of gross receipts attributable to the City from business activities other than retail sales of cannabis products, including the exempt amount, that are subject to the 1 percent and 1.5 percent tax rate. The ordinance would apply the 1.5 percent tax rate to retailers earning over \$1.5 million from cannabis business activities other than sales, as opposed to the existing law which applies the 1.5 percent rate to retailers earning over \$1 million from non-retail business activities. Individuals or groups earning less than \$1.5 million are subject to the 1 percent rate. See Table 1 for a summary of the proposed changes.

**Table 1. Overview of Proposed Changes to Cannabis Tax**

<b>Proposed Change</b>	<b>Existing Law</b>	<b>Proposed Ordinance</b>
Effective Date	January 1, 2021	January 1, 2022
Initial Exempt Amount	\$500,000	\$1,000,000
<b>Retail Sales Only</b>		
2.5% Tax Rate	≤ \$1,000,000	≤ \$1,500,000
5% Tax Rate	> \$1,000,000	> \$1,500,000

[https://sfcontroller.org/sites/default/files/Documents/Auditing/Cannabis%20in%20San%20Francisco\\_A%20Review%20Following%20Adult-Use%20Legalization\\_FINAL%20REPORT.pdf](https://sfcontroller.org/sites/default/files/Documents/Auditing/Cannabis%20in%20San%20Francisco_A%20Review%20Following%20Adult-Use%20Legalization_FINAL%20REPORT.pdf)

<sup>4</sup> San Francisco Office of Cannabis. Permitted cannabis retail locations. <https://officeofcannabis.sfgov.org/retail/permitted-locations>

<b>Proposed Change</b>	<b>Existing Law</b>	<b>Proposed Ordinance</b>
<b>Non-Retail</b>		
1% Tax Rate	≤ \$1,000,000	≤ \$1,500,000
1.5% Tax Rate	> \$1,000,000	> \$1,500,000

## FISCAL IMPACT

### Existing Law

According to the Controller's Office, the Cannabis Business Tax is expected to generate \$4.25 million in FY 2020-21 and \$8.5 million in FY 2021-22, for an estimated two-year total of \$12.75 million in revenue for the City. Table 2 below shows the anticipated revenue earned due to this tax for FY 20-21 and FY 21-22.

**Table 2. Total Estimated Revenue from Cannabis Tax**

Year	Estimated Revenue from Cannabis Business Tax
FY 20-21 (July 1 2020 to June 30 2021)	\$4,250,000
FY 21-22 (July 1 2021 to June 30 2022)	\$8,500,000
<b>Total</b>	<b>\$12,750,000</b>

The above revenue estimates are based on analysis conducted by the Controller's Office in 2018.<sup>5</sup> See Table 3 for the estimated impact of waiving the Cannabis Business Tax for one year and adjusting the tax rate thresholds as described in the proposed ordinance.

### Impact of Proposed Ordinance

**Table 3. Estimated Impact of Proposed Ordinance on Tax Collections<sup>6</sup>**

Estimated Impact	Fiscal Year 20-21	Fiscal Year 21-22	Total
Estimated Revenue from Existing Law	\$4,250,000	\$8,500,000	\$12,750,000
Estimated Revenue with Ordinance	0	5,640,000	5,640,000
Estimated Revenue Lost with Proposed Ordinance	(\$4,250,000)	(\$2,860,000)	<b>(\$7,110,000)</b>

The estimated loss in tax revenue due to the proposed ordinance is approximately \$4.25 million for FY 2020-21 and \$2.86 million for FY 2021-22, for an overall total of \$7.1 million over two years.

<sup>5</sup> According to the Controller's Office, the model relies on San Francisco cannabis sales tax data between 2015 to 2017, as well as data from Seattle and King County for the same time period. The Controller's Office has indicated that they will provide an updated estimate in November 2020.

<sup>6</sup> Based on estimates provided by the Controller's Office.

**RECOMMENDATION**

Approval of the proposed ordinance is a policy matter for the Board of Supervisors.

# Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp  
or meeting date

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):

Supervisor Rafael Mandelman

Subject:

Business and Tax Regulations Code - Temporary Suspension of Cannabis Business Tax, and Tax Reduction

The text is listed:

Ordinance amending the Business and Tax Regulations Code to suspend the imposition of the Cannabis Business Tax through December 31, 2021; beginning January 1, 2022, to increase the exemption of gross receipts attributable to the City from cannabis business activities, from the first \$500,000 to the first \$1,000,000; and also beginning January 1, 2022, to increase the upper range of gross receipts attributable to the City from cannabis business activities subject to the 2.5% tax rate on gross receipts from retail sales and the 1% tax rate on gross receipts from other than retail sales, from \$1,000,000 to \$1,500,000.

Signature of Sponsoring Supervisor: [ ]

For Clerk's Use Only



CITY AND COUNTY OF SAN FRANCISCO  
LONDON BREED, MAYOR

OFFICE OF SMALL BUSINESS  
REGINA DICK-ENDRIZZI, DIRECTOR

November 5, 2020

Ms. Angela Calvillo, Clerk of the Board  
City Hall Room 244  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

RE: BOS File No. 201009 – Business and Tax Regulations Code - Temporary Suspension of Cannabis Business Tax, and Tax Reduction

Small Business Commission Recommendation to the Board of Supervisors: **Support.**

Dear Ms. Calvillo,

On October 26, 2020 the Small Business Commission (SBC or Commission) heard BOS File No. 201009 – Business and Tax Regulations Code - Temporary Suspension of Cannabis Business Tax, and Tax Reduction. Tom Temprano, Legislative Aide to Supervisor Rafael Mandelman provided the SBC with an overview of the legislation. After discussion, the SBC voted (5-0, with one absent and one recused) to recommend that the Board of Supervisors support the legislation.

Mr. Temprano provided a thorough review of the legislation and the legislative intent for the Commission. In particular, he cited that this legislation was written in order to support a nascent industry in San Francisco and to ensure that cannabis operators can continue to support a growing workforce. Moreover, he shared that the genesis of the legislation originated from cannabis operators, the Office of Cannabis, and the City Attorney's Office, and attempts to be directly responsive to economic challenges related to the pandemic. He also acknowledged that this legislation would support this industry while it continues to be subject to extraordinarily high State taxes.

The Commission cited that, in addition to high tax rates, the cannabis industry is also challenged by significant regulatory hurdles. They noted that regulatory process improvements are needed and Mr. Temprano concurred.

The Commissioners also expressed a lack of understanding of the precise economic health of the cannabis industry as a whole and the need for such a tax relief measure. Mr. Temprano reiterated that this tax suspension would provide needed relief for a burgeoning industry, especially for equity applicants. Additionally, he noted that with respect to cannabis products, studies have shown that as they are taxed at higher rates, the cost of the product goes up as well. This has the unintended consequence of shifting consumer activity to the illicit marketplace rather than the safe and well-regulated marketplace. Should this pass, there is an anticipated \$8.3 million loss to the general fund over the next year. The Commission contemplated that this tax suspension

would be most beneficial to equity applicants and operators.

Ultimately, the Commission voted unanimously to support the legislation as presented with one Commissioner absent and one Commissioner recused.

Thank you for considering the Commission's recommendation. Please feel free to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Regina Dick-Endrizzi". The signature is written in a cursive, flowing style.

Regina Dick-Endrizzi  
Director, Office of Small Business

cc: Jose Cisneros Treasurer, City County San Francisco  
Sophia Kittler, Mayor's Liaison to the Board of Supervisors  
Lisa Pagan, Office of Economic and Workforce Development  
Linda Wong, Clerk, Budget and Finance Committee

BOARD of SUPERVISORS



City Hall  
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  
**Small Business Commission, City Hall, Room 448**

FROM: Linda Wong, Assistant Clerk  
Budget and Finance Committee

DATE: September 16, 2020

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS  
Budget and Finance Committee

The Board of Supervisors' Budget and Finance 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. 201009**

**Ordinance amending the Business and Tax Regulations Code to suspend the imposition of the Cannabis Business Tax through December 31, 2021; beginning January 1, 2022, to increase the exemption of gross receipts attributable to the City from cannabis business activities, from the first \$500,000 to the first \$1,000,000; and also beginning January 1, 2022, to increase the upper range of gross receipts attributable to the City from cannabis business activities subject to the 2.5% tax rate on gross receipts from retail sales and the 1% tax rate on gross receipts from other than retail sales, from \$1,000,000 to \$1,500,000.**

Please return this cover sheet with the Commission's response to Linda Wong 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

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: Marisa Rodriguez, Director, Office of Cannabis  
Jose Cisneros, Treasurer, Office of the Treasurer and Tax Collector  
Ben Rosenfield, City Controller, Office of the Controller

FROM: Linda Wong, Assistant Clerk  
Budget and Finance Committee

DATE: September 16, 2020

SUBJECT: LEGISLATION INTRODUCED

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The Board of Supervisors' Budget and Finance Committee has received the following proposed legislation, introduced by Supervisor Mandelman on September 1, 2020:

**File No. 201009**

**Ordinance amending the Business and Tax Regulations Code to suspend the imposition of the Cannabis Business Tax through December 31, 2021; beginning January 1, 2022, to increase the exemption of gross receipts attributable to the City from cannabis business activities, from the first \$500,000 to the first \$1,000,000; and also beginning January 1, 2022, to increase the upper range of gross receipts attributable to the City from cannabis business activities subject to the 2.5% tax rate on gross receipts from retail sales and the 1% tax rate on gross receipts from other than retail sales, from \$1,000,000 to \$1,500,000.**

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: [linda.wong@sfgov.org](mailto:linda.wong@sfgov.org).

c: Ray Law, Office of Cannabis  
Amanda Kahn Fried, Office of the Treasurer and Tax Collector  
Todd Rydstrom, Office of the Controller  
Peg Stevenson, Office of the Controller



**From:** [Temprano, Tom \(BOS\)](#)  
**To:** [BOS Legislation, \(BOS\)](#)  
**Cc:** [Mandelman, Rafael \(BOS\)](#)  
**Subject:** FW: Cannabis Business Tax Suspension -- ATTORNEY-CLIENT PRIVILEGE/CONFIDENTIAL  
**Date:** Tuesday, September 1, 2020 3:30:26 PM  
**Attachments:** [ORD Cannabis Tax Suspension 01474959.docx](#)  
[LEG DIG Cannabis Tax Suspension 01468880.docx](#)  
[Introduction FormCannabisBusinessTax.pdf](#)

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Hello BOS Legislation,

Attached please find the materials for Supervisor Mandelman's introduction of Business and Tax Regulations Code - Temporary Suspension of Cannabis Business Tax, and Tax Reduction. Supervisor Mandelman is CC'd here and can confirm his signature on the Introduction Form.

Best,

**Tom Temprano** 譚盼龍

Legislative Aide

Office of Supervisor Rafael Mandelman

City Hall, 1 Dr. Carlton B. Goodlett Place, Room 284

San Francisco, California 94102

(415) 554-6987 | [tom.temprano@sfgov.org](mailto:tom.temprano@sfgov.org)

*Pronouns: he, him, his*

---

**From:** Matsubara, Kerne (CAT) <Kerne.Matsubara@sfcityatty.org>  
**Sent:** Tuesday, September 1, 2020 11:26 AM  
**To:** Mandelman, Rafael (BOS) <rafael.mandelman@sfgov.org>; Temprano, Tom (BOS) <tom.temprano@sfgov.org>  
**Cc:** Fried, Amanda (TTX) <amanda.fried@sfgov.org>; PEARSON, ANNE (CAT) <Anne.Pearson@sfcityatty.org>; REIBER, SCOTT (CAT) <Scott.Reiber@sfcityatty.org>; ZAREFSKY, PAUL (CAT) <Paul.Zarefsky@sfcityatty.org>; BUTA, ODAYA (CAT) <Odaya.Buta@sfcityatty.org>; SAPERSTEIN, ALLIE (CAT) <Allie.Saperstein@sfcityatty.org>  
**Subject:** Cannabis Business Tax Suspension -- ATTORNEY-CLIENT PRIVILEGE/CONFIDENTIAL

PRIVILEGED AND CONFIDENTIAL

Supervisor Mandelman,

Attached are Word versions of the legislation to suspend the cannabis business tax and the accompanying legislative digest which have been prepared for introduction to the Board of Supervisors today, September 1, 2020.

This email confirms that my use of the /s/ symbol is intended to have the same effect as my signature and my intent to approve the document as to form.

Regards,

Kerne

**Kerne H. O. Matsubara**

Deputy City Attorney  
Office of City Attorney Dennis Herrera  
(415) 554-4631 Direct

[www.sfcityattorney.org](http://www.sfcityattorney.org)

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**From:** [Mandelman, Rafael \(BOS\)](#)  
**To:** [Temprano, Tom \(BOS\)](#); [BOS Legislation. \(BOS\)](#)  
**Subject:** RE: Cannabis Business Tax Suspension -- ATTORNEY-CLIENT PRIVILEGE/CONFIDENTIAL  
**Date:** Tuesday, September 1, 2020 7:27:43 PM

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Confirmed.  
Rafael

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**From:** Temprano, Tom (BOS) <tom.temprano@sfgov.org>  
**Sent:** Tuesday, September 01, 2020 3:30 PM  
**To:** BOS Legislation, (BOS) <bos.legislation@sfgov.org>  
**Cc:** Mandelman, Rafael (BOS) <rafael.mandelman@sfgov.org>  
**Subject:** FW: Cannabis Business Tax Suspension -- ATTORNEY-CLIENT PRIVILEGE/CONFIDENTIAL

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**Tom Temprano** 譚盼龍

Legislative Aide

Office of Supervisor Rafael Mandelman

City Hall, 1 Dr. Carlton B. Goodlett Place, Room 284

San Francisco, California 94102

(415) 554-6987 | [tom.temprano@sfgov.org](mailto:tom.temprano@sfgov.org)

*Pronouns: he, him, his*

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**From:** Matsubara, Kerne (CAT) <[Kerne.Matsubara@sfcityatty.org](mailto:Kerne.Matsubara@sfcityatty.org)>  
**Sent:** Tuesday, September 1, 2020 11:26 AM  
**To:** Mandelman, Rafael (BOS) <[rafael.mandelman@sfgov.org](mailto:rafael.mandelman@sfgov.org)>; Temprano, Tom (BOS) <[tom.temprano@sfgov.org](mailto:tom.temprano@sfgov.org)>  
**Cc:** Fried, Amanda (TTX) <[amanda.fried@sfgov.org](mailto:amanda.fried@sfgov.org)>; PEARSON, ANNE (CAT) <[Anne.Pearson@sfcityatty.org](mailto:Anne.Pearson@sfcityatty.org)>; REIBER, SCOTT (CAT) <[Scott.Reiber@sfcityatty.org](mailto:Scott.Reiber@sfcityatty.org)>; ZAREFSKY, PAUL (CAT) <[Paul.Zarefsky@sfcityatty.org](mailto:Paul.Zarefsky@sfcityatty.org)>; BUTA, ODAYA (CAT) <[Odaya.Buta@sfcityatty.org](mailto:Odaya.Buta@sfcityatty.org)>; SAPERSTEIN, ALLIE (CAT) <[Allie.Saperstein@sfcityatty.org](mailto:Allie.Saperstein@sfcityatty.org)>  
**Subject:** Cannabis Business Tax Suspension -- ATTORNEY-CLIENT PRIVILEGE/CONFIDENTIAL

PRIVILEGED AND CONFIDENTIAL

Supervisor Mandelman,

Attached are Word versions of the legislation to suspend the cannabis business tax and the

accompanying legislative digest which have been prepared for introduction to the Board of Supervisors today, September 1, 2020.

This email confirms that my use of the /s/ symbol is intended to have the same effect as my signature and my intent to approve the document as to form.

Regards,

Kerne

**Kerne H. O. Matsubara**

Deputy City Attorney  
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sfchamber.com • twitter: @sf\_chamber

September 24, 2020

Supervisor Mandelman and Board of Supervisors  
San Francisco City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

Re: Support File #201009

Dear Supervisors,

I offer our **support of File #201009 Business and Tax Regulations Code - Temporary Suspension of Cannabis Business Tax, and Tax Reduction**. Cannabis businesses are struggling, like so many industries amidst COVID-19. Our Cannabis Working Group, made up of cannabis business owners and advocates, have voiced their financial difficulties due to COVID-19, along with a series of very unfortunate break-ins and robberies that they are still recovering from.

The suspension of the Cannabis Business Tax through December 31, 2021 and increased exemption threshold is exactly the policy and leadership we need right now. This suspension will help cannabis businesses keep their doors open, and start to save for their recovery post-pandemic. With so much uncertainty this year, we have to continue to provide means for our essential local businesses to continue to operate and serve their communities.

On behalf of our members, we thank you Supervisor Mandelman for this imperative legislation. We offer our support of File #201009, and urge the Board of Supervisors' support as well.

Thank you for your time and consideration.

Sincerely,

Rodney Fong  
San Francisco Chamber of Commerce

Berner's on Haight

John Delaplane  
SF Cannabis Retailers Alliance

Kyndra Miller, Esq.  
CannaBusiness Law, Inc.

Lara L. DeCaro  
Leland, Parachini, Steinberg, Matzger & Melnick LLP

Nicole Howell  
Clark Howell LLP

Tony Bowles  
Chair, Bay Area, Americans for Safe Access

CC: Board of Supervisors, Mayor London Breed



Osiris Ventures, Inc.  
dba NorCal Cannabis Company  
77 Van Ness Avenue  
Suite 101, Box 1604  
San Francisco, CA 94102

---

November 3, 2020

City and County of San Francisco, Budget and Finance Committee  
submitted via email: [linda.wong@sfgov.org](mailto:linda.wong@sfgov.org)

**RE: Support- File# 201009 (Mandelman) Temporary Suspension of Cannabis Business Tax**

Supervisors Fewer, Walton and Mandelman,

On behalf of NorCal Cannabis, we strongly support Supervisor Mandelman's proposal to temporarily suspend the cannabis business tax, and tax reduction (File #201009).

We have operated in the legal San Francisco cannabis space since 2015 and appreciate this opportunity to provide our insights in an effort to ensure positive progress for the industry, our communities and the city at large.

COVID-19 has been tremendously challenging in our cultivation and distribution environment. We have worked diligently to create new safety protocols and have paid financial support to staff to weather this pandemic. This has come at a high cost. We currently contribute the same taxes to San Francisco as all other businesses. We are not in an economic position to take on additional taxes that other businesses are not subject to in the midst of the pandemic. Based on the already high costs of operation in the City, any increase in taxes could cause us to close or force us to relocate out of the City.

By delaying the implementation of the cannabis business tax, the City can avoid the loss of PDR jobs in the already tough COVID-19 induced economy.

For additional context on the complicated tax environment in cannabis, legal CA cannabis businesses are subject to cannabis specific cultivation and excise taxes at the state level. The current taxation structure for legal cannabis at the state level has created an unstable economic environment for the legal market; taxes are too complicated and too high- while the unregulated, illicit market has thrived in a zero tax environment. There is a general consensus that over inflated cannabis taxes are threatening the ability of the legal market to mature and compete with illicit operators. Unfortunately, the efforts underway for state level tax reform were sidelined earlier this year by COVID-19 and no progress has been made to date.

We strongly support the delay in implementation of the San Francisco cannabis business tax and encourage your support of these efforts.

Sincerely,

A handwritten signature in blue ink that reads "AnnaRae Grabstein".

AnnaRae Grabstein, Chief Compliance Officer  
NorCal Cannabis Company  
[annarae.grabstein@norcalcann.com](mailto:annarae.grabstein@norcalcann.com)

**From:** [Ivan Castro](#)  
**To:** [Wong, Linda \(BOS\)](#)  
**Cc:** [Walton, Shamann \(BOS\)](#); [Mandelman, Rafael \(BOS\)](#); [Fewer, Sandra \(BOS\)](#)  
**Subject:** Public comment to support temp suspension of the cannabis business tax (agenda item #2, file #201009)  
**Date:** Wednesday, November 4, 2020 8:12:10 AM

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This message is from outside the City email system. Do not open links or attachments from untrusted sources.

My name is Ivan Castro and I'm an equity applicant with a retail application submitted to the Office of Cannabis that has been referred to Planning. I heard that the proposal to delay the cannabis business taxes until January 1, 2022 will be heard at the Budget and Finance Committee tomorrow and wanted to send in my support (agenda item #2, file #201009).

I appreciate that San Francisco decided early on to give permittees the opportunity to get their feet under them before an additional tax was applied to their businesses (cannabis business taxes). Unfortunately, the pace at which permits have been issued is much slower than anyone expected and those that the delay initially intended to help will still be coming online through 2021, including my dispensary which I am hopeful will be opening in 2021.

Taxing my business more than other businesses simply because we sell cannabis doesn't seem right especially when the state taxes are already so high. I know the Board of Supervisors really wants to see businesses like mine succeed and by supporting this delay you can help make that happen.

Thank you,

Ivan Castro