

1 [Business Tax.]
2

3 Ordinance amending the Business and Tax Regulations Code to: (1) amend Article 12-
4 A (Payroll Expense Tax Ordinance) to (i) conform Article 12-A (Payroll Expense Tax
5 Ordinance) with the amendments to Article 6 (Common Administrative Provisions) and
6 (ii) consolidate exemptions, definitions and other administrative provisions, as
7 amended, that apply to Article 12-A (Payroll Expense Tax Ordinance) and other Articles
8 of the Business and Tax Regulation Code, and place them in Article 6 (Common
9 Administrative Provisions); (2) amend Article 12 (Business Registration Ordinance) to
10 conform business registration requirements with amendments to Article 12-A (Payroll
11 Expense Tax Ordinance) and Article 6 (Common Administrative Provisions); and (3)
12 amend Article 6 (Common Administrative Provisions) to (i) clarify common
13 administrative provisions and conform them with amendments to Article 12-A (Payroll
14 Expense Tax Ordinance) and Article 12 (Business Registration Ordinance), (ii)
15 consolidate exemptions, definitions and other administrative provisions that apply to
16 Article 12-A (Payroll Expense Tax Ordinance), Article 12 (Business Registration
17 Ordinance) and other Articles of the Business and Tax Regulations Code, and (iii)
18 eliminate the Board of Review.
19

20 Note: Additions are single-underline italics Times New Roman;
21 deletions are ~~strikethrough italics Times New Roman~~.
22 Board amendment additions are double underlined.
23 Board amendment deletions are ~~strikethrough normal~~.

24 Be it ordained by the People of the City and County of San Francisco:
25

Supervisors Ma, McGoldrick
Hon. Susan Leal
Treasurer & Tax Collector
(Amendment of the Whole)

1 Section 1. The San Francisco Business and Tax Regulations Code is hereby amended
2 by repealing Sections 902.1, 902.2, 902.4, 902.5 and 905, and by amending Sections 902,
3 902.6, 903, 903.1, 904, 905-A, 906 and 907, of Article 12-A (Payroll Expense Tax Ordinance)
4 thereof, to read as follows:

5
6 SEC. 902. OPERATION OF DEFINITIONS. Except where the context otherwise
7 requires, ~~the terms used in this ordinance shall have the meanings given to them in Sections 902.1~~
8 ~~through 902.9, inclusive, of this ordinance~~ terms not defined in this Article that are defined in Article 6
9 shall have the same meaning as given to them in Article 6.

10
11 ~~SEC. 902.1. "ASSOCIATION." The term "Association" shall mean a partnership, limited~~
12 ~~partnership, or any other form of unincorporated business or enterprise, owned by two or more~~
13 ~~persons.~~

14
15 ~~SEC. 902.2. "BUSINESS." The term "Business" shall mean any activity, enterprise, profession,~~
16 ~~trade or undertaking of any nature conducted or engaged in, or ordinarily conducted or engaged in,~~
17 ~~with the object of gain, benefit or advantages, whether direct or indirect, to the taxpayer or to another~~
18 ~~or others. The term shall include subsidiary or independent entities which conduct operations for the~~
19 ~~benefit of others and at no profit to themselves, nonprofit businesses and trade associations.~~

20 ~~A person shall be deemed to be engaged in business, who, in return for rental income, rents,~~
21 ~~leases or hires real or personal property to others; provided, however, that a person who receives~~
22 ~~rental income in connection with the operation of a cooperative housing corporation, as defined in~~
23 ~~Section 17265 of the Revenue and Taxation Code, or in connection with the operation of a residential~~
24 ~~condominium shall not, by reason of that fact alone, be deemed to be engaged in business. A person~~
25

1 shall not be deemed to be engaged in business solely by reason of dividend or interest income from
2 passive investments.

3
4 ~~SEC. 902.4. "EMPLOYEE." The term "employee" shall mean and shall include any individual~~
5 ~~in the service of an employer, under an appointment or contract of hire or apprenticeship, express or~~
6 ~~implied, oral or written, whether lawfully or unlawfully employed, and includes but is not limited to, all~~
7 ~~of the enumerated categories in Subsections (a) through (f) of California Labor Code Section 3351,~~
8 ~~regardless of whether Workers' Compensation Benefits, pursuant to Division 4, Part 1, Section 3200, et~~
9 ~~seq. of the California Labor Code are required to be paid. Nothing herein shall be deemed to~~
10 ~~incorporate any provisions from said Labor Code relating to scope of employment. The above~~
11 ~~provisions of the said Labor Code shall mean those provisions as they exist on the effective date of this~~
12 ~~ordinance. For purposes of this tax, any individual compensated in his or her capacity as a licensed~~
13 ~~real estate salesperson or mortgage broker, shall be deemed an "employee" of the real estate broker~~
14 ~~under whom he or she is licensed, and any compensation received by such individual, including~~
15 ~~compensation by way of commissions, shall be included in the "Payroll Expense" of the real estate~~
16 ~~broker under whom he or she is licensed.~~

17
18 ~~SEC. 902.5. "INDIVIDUAL." The term "individual" shall mean a natural person, a human~~
19 ~~being, as distinguished from an artificial person such as a corporation or political subdivision.~~

20
21 ~~SEC. 902.1. SEC. 902.6 PAYROLL EXPENSE. (a) The term "Payroll Expense" shall~~
22 ~~mean~~the compensation paid to, on behalf of, or for the benefit of an individual, including
23 salaries, wages, bonuses, commissions, property issued or transferred in exchange for the
24 performance of services (including but not limited to stock options) and any other form of
25 compensation, to an individual who, during any tax year, performs work or renders services, in

1 whole or in part in the City ~~and County of San Francisco~~; and if more than one individual during
2 any tax year performs work or renders services in whole or in part in the City ~~and County of San~~
3 ~~Francisco~~, the term "Payroll Expense" shall mean the total compensation paid including
4 salaries, wages, ~~bonuses~~, commissions, ~~property issued or transferred in exchange for the~~
5 performance of services (including but not limited to stock options) and any other form of
6 compensation, to all such individuals.

7 (b) Any person that grants a service provider a right to acquire an ownership interest in
8 such person in exchange for the performance of services shall include in its payroll expense for the tax
9 year in which such right is exercised an amount equal to the excess of (i) the fair market value of such
10 ownership interest on the date such right is exercised over (ii) the price paid for such interest.

11 (c) Any individual compensated in his or her capacity as a real estate salesperson or
12 mortgage processor shall be deemed an employee of the real estate broker or mortgage broker for or
13 under whom such individual performs services, and any compensation received by such individual,
14 including compensation by way of commissions, shall be included in the payroll expense of such
15 broker. For purposes of this Section, "real estate broker" and "mortgage broker" refer to any
16 individual licensed as such under the laws of the State of California who engages the services of
17 salespersons or a salesperson, or of mortgage processors or a mortgage processor, to perform services
18 in the business which such broker conducts under the authority of his or her license; a "salesperson" is
19 an individual who is engaged by a real estate broker to perform services, which may be continuous in
20 nature, as a real estate salesperson under an agreement with a real estate broker, regardless of
21 whether the individual is licensed as a real estate broker under the laws of the State of California; a
22 "mortgage processor" is an individual who is engaged by a real estate broker or mortgage broker to
23 perform services, which may be continuous in nature, as a mortgage processor under an agreement
24 with such real estate broker or mortgage broker, regardless of whether the mortgage processor is also
25 licensed as a mortgage broker under the laws of the State of California.

1 SEC. 903. IMPOSITION OF PAYROLL EXPENSE TAX. (a) A tax for general ~~revenue~~
2 governmental purposes is hereby imposed upon every person ~~who, in connection with said~~
3 ~~person's business, engages, hires, employs or contracts with one or more individuals as employee, to~~
4 ~~perform work or render services in whole or in part~~ engaging in business within the City ~~and County~~
5 ~~of San Francisco~~ as defined in Section 6.2-12 of Article 6; provided, that such tax shall be levied
6 only upon that portion of the person's payroll expense ~~which that~~ is attributable to the City ~~and~~
7 ~~County of San Francisco~~ as set forth in Section 904.

8 (b) ~~This ordinance shall not be construed as requiring any license whatsoever, nor shall~~
9 ~~payment of this tax be a condition precedent to engaging in any business within the City and County of~~
10 ~~San Francisco. This tax~~ The Payroll Expense Tax is imposed for general ~~revenue~~ governmental
11 purposes and in order to require commerce and the business community to carry a fair share
12 of the costs of local government in return for the benefits, opportunities and protections
13 afforded by the City ~~and County of San Francisco~~. Proceeds from the tax shall be deposited in the
14 City's general fund and may be expended for any purposes of the City.

15
16 SEC. 903.1. RATES OF PAYROLL EXPENSE TAX. ~~Commencing July 1, 1990, the~~ The
17 ~~amount rate~~ of the payroll expense tax ~~for persons other than Associations~~ shall be 1-1/2 percent.
18 ~~of The amount of a person's liability for the payroll expense tax shall be the product of such person's~~
19 ~~taxable payroll expense multiplied by 0.015. of such person, and the~~ The amount of such tax for
20 Associations shall be 1-1/2 percent of the payroll expense of such Association, plus 1-1/2
21 percent of the total distributions made by such Association by way of salary to those having
22 an ownership interest in such Association. Amounts paid or credited to those having an
23 ownership interest in such Association prior and in addition to the distribution of ownership
24 profit or loss shall be presumed to be distributions "by way of salary" and for personal services
25 rendered, unless the taxpayer proves otherwise by clear and convincing evidence.

1 SEC. 904. APPORTIONMENT OF PAYROLL EXPENSE. Where payroll expense is
2 incurred by reason of work performed or services rendered by an individual, ~~as Commission~~
3 ~~Merchant or Employee,~~ wholly within the City, all of the payroll expense for such individual shall be
4 attributable to the City and subject to tax hereunder. Where payroll expense is incurred by reason of
5 work performed or services rendered by an individual partly within and partly without the City ~~and~~
6 ~~County of San Francisco,~~ the portion of such payroll expense attributable to the City ~~and County~~
7 ~~of San Francisco~~ (and subject to tax hereunder) shall be determined as follows:

8 (a) Except as otherwise provided in this Section Subsection (b), the portion of such
9 payroll expense attributable to the City ~~and County of San Francisco~~ shall be the portion of such
10 payroll expense which the total number of working hours employed within the City ~~and County~~
11 bears to the total number of working hours within and without the City ~~and County~~.

12 (b) If the amount of such payroll expense depends on the volume of business
13 transacted by such individual, ~~and such individual spends the majority of his or her working hours~~
14 ~~outside of the City and County,~~ then the portion of such payroll expense attributable to the City
15 ~~and County of San Francisco~~ shall be the portion of such payroll expense which the volume of
16 business transacted by such individual in the City ~~and County~~ bears to the volume of business
17 transacted by such individual within and without the City ~~and County~~.

18 (c) If it is impracticable, unreasonable or improper to apportion such payroll expenses
19 as aforesaid either because of the peculiar particular nature of the services of such individual,
20 or on account of the unusual basis of compensation, or for any other reason, then the amount
21 of such payroll earnings reasonably attributable to work performed or services rendered, in
22 the City ~~and County~~, shall be determined on the basis of all relevant facts and circumstances of the
23 particular case, in accordance with ~~rules~~ any rulings or regulations ~~adopted~~ issued or promulgated
24 by the Tax Collector for the purpose.

1 (d) If the ~~City~~ Tax Collector determines that the percentage of payroll expenses
2 attributable to the City and County of San Francisco, for any one or more ~~taxpayers~~ persons, is a
3 relatively stable percentage, the Tax Collector ~~is authorized to~~ may establish that percentage as
4 a prima facie evidence of payroll expense attributable to the City and County of San Francisco;
5 provided, ~~however~~, that the Tax Collector shall condition the establishment of such fixed
6 percentage upon the obligation of the taxpayer to report immediately to the Tax Collector any
7 significant change in the taxpayer's mode of business which ~~might have some effect upon~~ may
8 impact the portion of the ~~taxpayer's~~ person's payroll expense which is attributable to the City and
9 County of San Francisco; and, provided further, that the Tax Collector may rescind any such fixed
10 percentage ~~established by the Tax Collector is revocable by the Tax Collector~~ at any time by
11 providing written notice to the taxpayer of such rescission.

12 (e) ~~Where work is performed or services are rendered outside of the City and County of San~~
13 ~~Francisco on an occasional or incidental basis, and not on a regular or continuous basis, the amount~~
14 ~~of payroll earnings reasonably attributable to the work performed or services rendered shall be~~
15 ~~attributable to the City and County. A business license issued to the taxpayer by another jurisdiction for~~
16 ~~work performed or services rendered shall be prima facie evidence of regular or continuous activity in~~
17 ~~that jurisdiction.~~

18
19 ~~SEC. 905. NEXUS WITH TAXPAYER. This tax shall not apply to any person unless such~~
20 ~~person is doing business within the City and County of San Francisco. A person is doing business~~
21 ~~within the City and County of San Francisco, within the meaning of this ordinance, if he or she~~
22 ~~engages, hires, employs or contracts with one or more individuals, as an employee, to perform work or~~
23 ~~render services in whole or in part within the City and County of San Francisco and, in addition,~~
24 ~~either:~~

1 (a) ~~Such person maintains a fixed place of business within the City and County of San~~
2 ~~Francisco; or~~

3 (b) ~~An employee maintains a fixed place of business within the City and County of San~~
4 ~~Francisco for the benefit or partial benefit of such person; or~~

5 (c) ~~Such person or such person's employee owns or leases real property within the City and~~
6 ~~County of San Francisco for business purposes; or~~

7 (d) ~~Such person or such person's employee regularly maintains a stock of tangible personal~~
8 ~~property in the City and County of San Francisco, for sale in the ordinary course of such person's~~
9 ~~business; or~~

10 (e) ~~Such person employs or loans capital on property within the City and County of San~~
11 ~~Francisco; or~~

12 (f) ~~Such person, or one or more of such person's employees, solicits business on a regular~~
13 ~~basis within the City and County of San Francisco for all or part of any seven days during one year; or~~

14 (g) ~~Such person, or one or more of such person's employees, performs work or renders~~
15 ~~services in the City and County of San Francisco on a regular basis for all or part of any seven days~~
16 ~~during one year; or~~

17 (h) ~~Such person, or one or more of such person's employees, utilizes the street within the~~
18 ~~City and County of San Francisco in connection with the operation of motor vehicles for business~~
19 ~~purposes on a regular basis for all or part of any seven days during one year.~~

20
21 SEC. 905-A. SMALL BUSINESS TAX EXEMPTION. (a) Notwithstanding any other
22 provisions of this ~~Payroll Expense Tax Ordinance Article~~, ~~except Sections 907 and 909 herein~~, "small
23 business enterprises" as hereinafter defined, shall be exempt from ~~taxation under this ordinance~~
24 ~~payment of the Payroll Expense Tax~~; provided, however, that small business enterprises shall
25 pay the annual registration fee pursuant to Section 885 ~~855~~ of ~~this Code Article 12~~.

1 (b) The term "small business enterprise" shall mean and include any taxpayer ~~who~~
2 ~~has performed all of the following:~~

3 (1) Whose tax liability ~~hereunder~~ under this Article, but for this exemption
4 provision, would not exceed \$2,500; and

5 (2) ~~For the purpose of taxes due on payroll expenses and/or salary distribution~~
6 ~~incurred on or after January 1, 1995, who~~ Who has filed a tax return ~~pursuant to Section 907~~
7 ~~of this Article~~ by the last date of February ~~of each~~ for the preceding tax year. If the
8 taxpayer fails to file a return by that date, the taxpayer shall be subject to a penalty as
9 specified in subsection (c).

10 (c) In lieu of the penalty specified in Section 6.17-3 of ~~this Code~~ Article 6 for failing to
11 file a return, any person who otherwise qualifies for the small business exemption set forth in
12 this Section who fails to file a return by the last date of February shall pay a penalty as
13 follows:

14 (1) If the person's Payroll Expense Tax liability ~~for taxes due on payroll expenses~~
15 ~~and/or salary distribution~~ under this Article, but for the small business exemption under
16 this Section, would be less than \$1,000, the penalty shall be \$100 plus 10% of the
17 amount of such liability, for each month, or fraction thereof, that the return is
18 delinquent, up to a maximum amount equal to the person's liability for such tax but for
19 the small business exemption;

20 (2) If the person's Payroll Expense Tax liability ~~for taxes due on payroll expenses~~
21 ~~and/or salary distribution~~ under this Article, but for the small business exemption under
22 this Section, would be \$1,000 or more, then the penalty shall be \$250 plus 10% of the
23 amount of such liability, for each month, or fraction thereof, that the return is
24 delinquent, up to a maximum amount equal to the person's liability for such tax but for
25 the small business exemption.

1 (d) The Tax Collector may, in his or her discretion, reduce the penalty set forth in
2 subsection (c) to not less than \$100 upon a showing that the late filing of the return was due
3 to ~~circumstances beyond the reasonable control of the person~~ reasonable cause and not due to wilful
4 neglect.

5
6 SEC. 906. EXEMPTION PROVISIONS. (a) Except as provided in Subsection (b) of
7 this Section, an organization having a formally recognized exemption from income tax
8 pursuant to Sections 501(c) or 501(d) or 401(a) of ~~Title 26 of the United States Code~~ the Internal
9 Revenue Code of 1986, as amended, as qualified by Sections 502, 503 and 504 of ~~Title 26 of the~~
10 United States Code the Internal Revenue Code of 1986, as amended, shall be exempt from taxation
11 under this ~~ordinance~~ Article.

12 (b) Except for an organization described in Section 501(c)(3) of the Internal Revenue Code
13 of 1986, as amended, an ~~A~~ organization otherwise exempt from taxation under Subsection (a)
14 of this Section that is directly engaged within the City in an unrelated trade or business within the
15 meaning of Section 513(a) of the Internal Revenue Code of 1986, as amended, and has, from its own
16 operations, unrelated business taxable income within the meaning of Section 512(a)(1) of the Internal
17 Revenue Code of 1986, as amended, if it receives unrelated business receipts, shall pay ~~a~~ the Payroll
18 Expense Tax equal to the amount ~~arrived at~~ calculated by multiplying the tax which would have
19 been due under this ~~Section~~ Article if the organization were not an exempt organization by the
20 percentage which its unrelated business receipts bear to its total receipts. If it is impracticable,
21 unreasonable or improper to allocate such organization's payroll expense as aforesaid either because
22 of the particular nature of the organization's unrelated trade or business or the particular nature of the
23 services provided to the organization in connection therewith by its employees, or on account of the
24 unusual basis of compensation, or for any other reason, then the amount of such payroll expense
25 reasonably attributable to work performed or services rendered in the City shall be determined on the

1 basis of all relevant facts and circumstances of the particular case, in accordance with any rulings or
2 regulations issued or promulgated by the Tax Collector for the purpose.

3 ~~(e) — All Sections of the United States Code shall mean those Sections of the United States~~
4 ~~Code as they exist on the effective date of this ordinance.~~

5 (d c) Blind persons licensed under the provisions of Chapter 6A of Title 12 of the
6 United States Code ("Vending Stands for Blind in Federal Buildings") and ~~blind persons licensed~~
7 ~~under the provisions of~~ Article 5 of Chapter 6 of Part 2 of Division 10 of the Welfare and
8 Institutions Code of the State of California ("Business Enterprises for the Blind") need not
9 include in the computation of payroll expense the first \$15,000 of payroll expense in any one
10 year which is attributable to their licensed operations within the City and County of San Francisco.

11 ~~A blind person, within the meaning of this Section, shall mean a person having not more than 10~~
12 ~~percent visual acuity in the better eye, with correction. Such blindness shall be certified by a licensed~~
13 ~~physician and surgeon who specializes in diseases of the eye, or by the Bureau of Vocational~~
14 ~~Rehabilitation of the Department of Education of the State of California, and the exemption provided~~
15 ~~by this Section shall not apply until a certificate as to such blindness shall be furnished to the Tax~~
16 ~~Collector.~~

17 (e d) Skilled Nursing Facilities licensed under the provisions of Title 22, California
18 Administrative Code, Division 5 ("Licensing and Certification of Health Facilities and Referral
19 Agencies") Chapter 3 ("Skilled Nursing Facilities"), shall be exempt from taxation under this
20 Article.

21 ~~(f) — The following persons are exempt from this tax, as provided in Section 1005.4, of Article~~
22 ~~12-B:~~

23 (1) — ~~Any tenant of the Port of San Francisco whose principal business is ship repair~~
24 ~~and whose workforce consists of at least 30 percent San Francisco residents; and~~

1 ~~(2) Any subcontractor of any such exempt ship repair business whose workforce~~
2 ~~consists of at least 30 percent San Francisco residents, provided that it derives at least 70~~
3 ~~percent of its revenue from the ship repair industry.~~

4 (e) For only so long as and to the extent that the City is prohibited from imposing the tax
5 under this Article, the following persons shall be exempt from the Payroll Expense Tax:

6 (1) Banks and financial corporations exempt from local taxation under Article XIII,
7 Section 27 of the California Constitution and Revenue and Taxation Code Section 23182;

8 (2) Insurance companies exempt from local taxation under Article XIII, Section 28 of
9 the California Constitution;

10 (3) Persons engaging in business as a for-hire motor carrier of property under Revenue
11 and Taxation Code Section 7233;

12 (4) Persons engaging in intercity transportation as a household goods carrier under
13 Public Utilities Code Section 5327;

14 (5) Charter-party carriers operating limousines that are neither domiciled nor maintain
15 a business office within the City under Public Utilities Code Section 5371.4.

16 (6) Any person upon whom the City is prohibited under the Constitution or statute of the
17 State of California from imposing the Payroll Expense Tax.

18 (f) To the extent that any taxpayer has paid a substantially similar tax to any other taxing
19 jurisdiction on any payroll expense taxed under this Article, the tax paid to such taxing jurisdiction
20 shall be credited against the tax due under this Article.

21 (g) Nothing in this Article shall be construed as requiring the payment of any tax for
22 engaging in a business or the doing of an act when such payment would be in violation of the
23 Constitution or a statute of the United States or of the Constitution or a statute of the State of
24 California.

1 SEC. 907. PAYMENTS, RETURNS, PREPAYMENTS AND EXTENSIONS. Payments,
2 returns, prepayments and extensions for person's subject to this Article shall be as prescribed in the
3 common administrative provisions set forth in Article 6.

4 ~~(a) Due Date of Taxes. Unless otherwise specifically provided for in other provisions of this~~
5 ~~ordinance, the taxes imposed herein shall become due and payable on January 1st of each year and~~
6 ~~shall become delinquent if not paid on or before the last day of February of each year. Concurrently~~
7 ~~with the payment of the taxes imposed herein, the taxpayer shall make a Payroll Expense Tax Return as~~
8 ~~provided herein. The Tax Collector shall, within 15 days after the effective date of any amendments to~~
9 ~~the rates imposed hereunder, or to the definitions of taxpayers herein, prepare instructions available~~
10 ~~for public distribution advising the public regarding the tax rates and the dates of payment.~~

11 ~~(b) Return: Time for Filing. Each person subject to the tax imposed by this ordinance, and~~
12 ~~any persons who would be subject to tax imposed by this ordinance, but for the provisions of Section~~
13 ~~905-A (Small Business Exemption) shall, on or before the last day of February of each year and~~
14 ~~concurrently with the payment of any tax herein imposed, make and file with the Tax Collector, on a~~
15 ~~form obtainable from the Tax Collector, a return for the preceding calendar year setting forth such~~
16 ~~information as the Tax Collector shall require, including (unless the Tax Collector waives the need to~~
17 ~~furnish same) the taxpayer's payroll expense for each individual performing work or rendering~~
18 ~~services, in whole or in part, in the City and County of San Francisco, together with that portion of the~~
19 ~~taxpayer's payroll expense for each such individual attributable to the City and County of San~~
20 ~~Francisco, plus the aggregate amount of the taxpayer's payroll expense for all such individuals~~
21 ~~attributable to the City and County of San Francisco, plus such other pertinent information as the Tax~~
22 ~~Collector may require.~~

23 ~~(c) Prepayments. Notwithstanding the date otherwise provided for herein for the payment of~~
24 ~~the tax due hereunder, every person who, for any calendar year commencing with 1973, becomes liable~~
25 ~~for payment of a total Payroll Expense Tax in excess of \$1,000, shall be required to make tax payment~~

1 ~~for the following calendar year in two installments; provided however that, for any calendar year~~
2 ~~commencing with 1982 and ending with 1993, no person shall be required to make tax payment for the~~
3 ~~following calendar year in two installments unless said person becomes liable for payment of a total~~
4 ~~Payroll Expense Tax in an amount which exceeds \$2,500.~~

5 ~~The first installment (hereinafter called "tax prepayment") shall be a credit against the total~~
6 ~~Payroll Expense Tax liability attributable to said following calendar year, and shall be in an amount~~
7 ~~equal to 1/2 of the estimated Payroll Expense Tax liability for the then current year; said estimated~~
8 ~~Payroll Expense Tax liability shall be computed by using half of the taxable payroll expense for the~~
9 ~~preceding tax year plus a two percent growth factor and the rate of tax applicable to the current tax~~
10 ~~year. The second installment shall be reported and paid as otherwise provided herein, and shall be in~~
11 ~~an amount equal to total Payroll Expense Tax liability, less the amount of any tax prepayment actually~~
12 ~~paid. Commencing with the calendar year 1974, such tax prepayment shall become due and payable~~
13 ~~every July 1st, and shall become delinquent every August 1st. Any tax prepayment required hereunder~~
14 ~~which is not paid before the delinquency date shall bear a penalty of 10 percent of the amount of~~
15 ~~delinquent tax prepayment, and shall also bear interest on the amount of the delinquent tax prepayment~~
16 ~~from the date of delinquency at the rate of one percent per month, or fraction thereof, for each month of~~
17 ~~said delinquency. Said tax prepayment shall be accompanied by a tax prepayment form prepared by the~~
18 ~~Tax Collector, but the failure of the Tax Collector to furnish the taxpayer with a tax prepayment form~~
19 ~~shall not relieve the taxpayer of the tax prepayment obligation set forth herein. If the taxpayer can~~
20 ~~establish by clear and cogent evidence that said prepayment will amount to more than the total tax~~
21 ~~liability for the calendar year in which the tax prepayment becomes due, the Tax Collector may, in~~
22 ~~writing, adjust the amount of the tax prepayment.~~

23 ~~(d) — Large Firm Prepayments. Notwithstanding the dates otherwise provided for herein for~~
24 ~~the payment of the tax due hereunder, commencing January 1, 1994, each person subject to the tax~~
25 ~~imposed by this Article with a total tax liability of \$50,000 or more in the preceding year shall be~~

1 ~~required to make tax payment for the taxes due on the last day of February of the following year in four~~
2 ~~quarterly installments. The first, second and third quarterly installments (“quarterly prepayments”),~~
3 ~~which shall become due and payable every April 1st, July 1st and October 1st and shall become~~
4 ~~delinquent every May 1st, August 1st and November 1st respectively, shall be a credit against the~~
5 ~~payments due on the first day of January of the following year. Quarterly prepayments due hereunder~~
6 ~~shall be in an amount equal to 1/4 the estimated Payroll Expense Tax liability for the then current year.~~
7 ~~Said estimated Payroll Expense Tax liability shall be computed by using 1/4 of the taxable payroll~~
8 ~~expense for the preceding year plus a two percent growth factor and the rate of tax (for each business~~
9 ~~category) applicable to the current tax year. The fourth installment shall be in an amount equal to the~~
10 ~~total business tax liability for the annual period, less the amount of any quarterly prepayments actually~~
11 ~~paid. Any quarterly prepayment required hereunder which is not paid before the delinquency date shall~~
12 ~~bear a penalty of 10 percent of the amount of delinquent quarterly prepayment and shall also bear~~
13 ~~interest from the date of the delinquency on the amount of delinquent tax payment, at the rate of one~~
14 ~~percent per month or fraction thereof, for each month of said delinquency. Said quarterly prepayment~~
15 ~~shall be accompanied by a prepayment form prepared by the Tax Collector, but failure of the Tax~~
16 ~~Collector to furnish the taxpayer with a prepayment form shall not relieve the taxpayer of the tax~~
17 ~~prepayment obligation set forth herein. If the taxpayer can establish by clear and cogent evidence that~~
18 ~~any quarterly prepayment will make the sum of all prepayments made in an annual filing period exceed~~
19 ~~the total tax liability for the annual filing period in which the tax prepayment becomes due, the Tax~~
20 ~~Collector may, in writing, adjust the amount of the tax prepayment.~~

21 (e) — ~~Extension of Time for Filing a Return and Paying Tax. Notwithstanding the dates~~
22 ~~provided for herein for the payment of tax due hereunder, the Tax Collector hereby is authorized for a~~
23 ~~good cause, to grant extensions not in excess of 60 days, for the payment of such tax or prepayment and~~
24 ~~for the making of such return, in which case no penalty shall be added to the amount due and payable~~
25 ~~if, and only if, said tax is paid within the extension period granted by the Tax Collector; provided,~~

1 ~~however, that all taxes and tax prepayments required to be paid which become delinquent, shall bear~~
2 ~~interest beginning with the first day of delinquency to the date of return and payment at the rate of one~~
3 ~~percent per month, or fraction thereof, notwithstanding the granting of an extension by the Tax~~
4 ~~Collector.~~

5
6 Section 2. The San Francisco Business and Tax Regulations Code is hereby amended
7 by amending Sections 852, 852.4, 852.7, 852.8, 852.9, 853, 855, 856 and 860, and by
8 repealing Sections 852.1, 852.2, 852.3, 852.5, 852.6, 852.10, 852.11 and 854, of Article 12
9 (Business Registration Ordinance) thereof, to read as follows:

10
11 SEC. 852. OPERATION OF DEFINITIONS. Except where the context otherwise
12 requires, (i) the terms used in this Article shall have the meanings given to them in Sections
13 852.1 through ~~852.9~~ 852.4, inclusive, of this Article, and (ii) terms ~~Terms~~ not defined in this
14 Article that are defined in Article 6 of the Business and Tax Regulations Code shall have the
15 same meaning as given to them in that Article.

16
17 ~~SEC. 852.1. "BUSINESS." The term "business" means any activity, enterprise, profession,~~
18 ~~trade or undertaking of any nature conducted or engaged in, or ordinarily conducted or engaged in,~~
19 ~~with the object of gain, benefit or advantage, whether direct or indirect, to the taxpayer or to another~~
20 ~~or others. The term "business" includes nonprofit businesses, trade associations and subsidiary or~~
21 ~~independent entities which conduct operations for the benefit of others and at no profit to themselves.~~
22 ~~The term "business" also includes an organization having a formally recognized exemption from~~
23 ~~income taxation pursuant to Section 501(c), 501(d) or 401(a) of Title 26 of the United States Code, as~~
24 ~~amended from time to time, as qualified by Sections 502, 503, 504 and 508 of Title 26 of the United~~
25 ~~States Code, as amended from time to time, or the successor statutes of any of them.~~

1 ~~SEC. 852.2. "CITY." The term "City" means the City and County of San Francisco.~~

2
3 ~~SEC. 852.3. "DOMESTIC PARTNERSHIPS." For all purposes of this ordinance, a domestic~~
4 ~~partnership established pursuant to Chapter 62 of the San Francisco Administrative Code, as amended~~
5 ~~from time to time, shall be treated the same as a married couple.~~

6
7 SEC. ~~852.4~~ 852.1. NEWLY ESTABLISHED BUSINESS. (a) The term "newly
8 established business" means a business that was not conducted within the City during the
9 immediately preceding tax year. The following shall not be considered newly established
10 businesses:

11 (1) A business to which a valid existing registration certificate is transferred in
12 accordance with Section 856(~~g~~ *j*) of this Article.

13 (2) A business conducted from a new location, whether within or without the
14 City, if the business conducted at the location ~~used~~ during the preceding tax year was
15 discontinued prior to or concurrently with commencement of business at the new
16 location.

17 (3) A business that was conducted within the City at any time during the
18 preceding tax year.

19 (b) The Tax Collector may, on written application by the taxpayer, and after
20 considering all the facts and circumstances, determine that a business described in
21 Subsection (a) of this Section is in fact newly established and not a continuation of a business
22 conducted within the City during the immediately preceding tax year.

1 ~~SEC. 852.5. "PAYROLL EXPENSE TAX ORDINANCE"; "PAYROLL EXPENSE TAX."~~

2 ~~"Payroll Expense Tax Ordinance" means Article 12 A of the Business and Tax Regulations Code of the~~
3 ~~San Francisco Municipal Code; "Payroll Expense Tax" means the tax imposed thereunder.~~

4
5 ~~SEC. 852.6. "PERSON." (a) The term "person" means any individual, firm, company,~~
6 ~~partnership, limited liability partnership, joint venture, association, proprietorship, social club,~~
7 ~~fraternal organization, joint stock company, domestic or foreign corporation, limited liability company,~~
8 ~~estate, trust, business trust, receiver, trustee, trustee in bankruptcy, administrator, executor, assignee,~~
9 ~~syndicate, or any other group or combination acting as a unit, whether mutual, cooperative, fraternal,~~
10 ~~nonprofit or otherwise, excepting: the United States of America, the State of California, and any~~
11 ~~political subdivision of either of them upon which the City is without authority to impose the business~~
12 ~~registration requirements provided in this Article.~~

13 ~~(b) — Whenever the term "person" is used in any clause in this Article imposing either a fee or~~
14 ~~a penalty for failure to perform any act mandated by this Article, such term shall include any natural~~
15 ~~person who as an individual or with a spouse and/or lineal descendant(s) owns or controls 50 percent~~
16 ~~or more of the voting stock of a corporation obligated to register or remit fees pursuant to this Article~~
17 ~~and, in addition, has the power to control the fiscal decision making process by which the corporation~~
18 ~~allocates funds to creditors in preference to its obligations under this Article. An individual who is an~~
19 ~~officer or director of a "person," as defined above, shall rebuttably be presumed to be a person with the~~
20 ~~power to control the entity's fiscal decision making processes.~~

21
22 ~~SEC. 852.7~~ 852.2. REGISTRATION CERTIFICATE. The term "registration certificate"
23 means a registration certificate issued by the Tax Collector in accordance with the provisions
24 of this Article.

1 SEC. ~~852.8~~ 852.3. REGISTRATION TRANSITION PERIOD. The term "Registration
2 Transition Period" means the six-month period commencing January 1, 2003, and ending
3 June 30, 2003.

4
5 SEC. ~~852.9~~ 852.4. REGISTRATION YEAR. The term "Registration Year" means the
6 fiscal year commencing July 1 of each calendar year and ending on June 30 of the
7 subsequent calendar year.

8
9 ~~SEC. 852.10. "SUCCESSOR." The term "successor" means any person who, through direct or~~
10 ~~mesne conveyance, purchases or succeeds to the business or portion thereof, or the whole or any part~~
11 ~~of the stock of goods, wares, merchandise, or fixtures, or any interest therein of a taxpayer quitting,~~
12 ~~selling out, exchanging or otherwise disposing of his or her business. Any person obligated to fulfill~~
13 ~~the terms of a contract shall be deemed a successor to any contractor defaulting in the performance of~~
14 ~~any contract as to which such person is a surety or guarantor.~~

15
16 ~~SEC. 852.11. "TAX YEAR." The term "tax year" means the year commencing on January 1st of~~
17 ~~each calendar year ending on December 31st of the same calendar year.~~

18
19 SEC. 853. REGISTRATION CERTIFICATE - REQUIRED. (a) Except as provided in
20 Subsection (d), no ~~No~~ person may engage in business within the City unless the person has
21 obtained a current registration certificate pursuant to this Article. Every person engaging in
22 business within the City shall conspicuously display a current registration certificate on the
23 business premises, regardless of whether such person is subject to tax pursuant to ~~Article 12-~~
24 ~~A of the~~ provisions of the Business and Tax Regulations Code.

1 (b) Any organization having a formally recognized exemption from income taxation
2 pursuant to Section 501(c), 501(d) or 401(a) of ~~Title 26 of the United States Code~~ the Internal
3 Revenue Code of 1986, as amended ~~from time to time~~, as qualified by Sections 502, 503, 504 and
4 508 of ~~Title 26 of the United States Code~~ the Internal Revenue Code of 1986, as amended ~~from time~~
5 ~~to time, or the successor statutes of any of them~~, and engaging in business within the City shall
6 obtain a registration certificate.

7 (c) Failure to obtain a registration certificate shall not absolve any person from
8 payment of any tax imposed or license required by the City.

9 (d) A person receiving rental income in connection with the operation of any of the
10 following shall not, by reason of that fact alone, be required to obtain a registration certificate
11 pursuant to this Article: (1) a cooperative housing corporation, as defined in Section 216(b) of the
12 Internal Revenue Code of 1986, as amended; (2) one residential structure consisting of fewer than four
13 units; or (3) one residential condominium.

14
15 ~~SEC. 854. NEXUS: "ENGAGING IN BUSINESS WITHIN THE CITY." (a) The registration~~
16 ~~requirements imposed by this Article shall apply to any person engaging in business within the City. A~~
17 ~~person is "engaging in business within the City," within the meaning of this Article, if that person meets~~
18 ~~one or more of the following conditions:~~

19 (1) ~~The person maintains a fixed place of business within the City; or~~

20 (2) ~~An employee of the person maintains a fixed place of business within the City for~~
21 ~~the benefit or partial benefit of the person; or~~

22 (3) ~~The person or one or more of the person's employees owns or leases real~~
23 ~~property within the City for business purposes; or~~

1 (4) ~~—The person or one or more of the person's employees regularly maintains a stock~~
2 ~~of tangible personal property within the City, held for sale in the ordinary course of the person's~~
3 ~~business; or~~

4 (5) ~~—The person employs or loans capital on property within the City; or~~

5 (6) ~~—The person or one or more of the person's employees solicits business on a~~
6 ~~regular basis within the City for all or part of any seven days during one year; or~~

7 (7) ~~—The person or one or more of the person's employees performs work or renders~~
8 ~~services within the City on a regular basis for all or part of any seven days during one year; or~~

9 (8) ~~—The person or one or more of the person's employees utilizes the streets within~~
10 ~~the City in connection with the operation of motor vehicles for business purposes for all or part~~
11 ~~of any seven days during one year; or~~

12 (9) ~~—The person or one or more of the person's employees exercises corporate or~~
13 ~~franchise powers within the City for the benefit or partial benefit of the person; or~~

14 (10) ~~—The person or one or more of the person's employees liquidates a business when~~
15 ~~the liquidators hold themselves out to the public as conducting such business.~~

16 (b) ~~—Notwithstanding Subsection (a) of this Section, a person receiving rental income in~~
17 ~~connection with the operation of any of the following shall not, by reason of that fact alone, be deemed~~
18 ~~to be engaging in business within the City: (1) a cooperative housing corporation, as defined in Section~~
19 ~~216(b) of Title 26 of the United States Code, as amended from time to time, or any successor statute;~~
20 ~~(2) a residential structure consisting of fewer than four units; or (3) a residential condominium.~~

21 (c) ~~—A person shall not be considered to be engaging in business within the City solely by~~
22 ~~reason of the receipt of passive investment income. "Passive investment income" for this purpose~~
23 ~~includes dividends, interest, royalties, annuities and gains from the sale or exchange of stock or~~
24 ~~securities solely for a person's own account, not derived in the ordinary course of a business.~~

1 SEC. 855. REGISTRATION CERTIFICATE - FEE. (a) Except as otherwise provided
2 in this Section and Section 856 of this Article, the annual fee for obtaining a registration
3 certificate, payable in advance, shall be as follows:

4 Computed Payroll Expense Tax 5 for the Immediately Preceding Tax Year	Annual Registration Fee
6 Less than \$ 1	\$ 25
7 \$ 1 to \$ 10,000	\$ 150
8 \$ 10,000. <u>01</u> to \$ 50,000	\$ 250
9 More than \$ 50,000	\$ 500

10
11 (b) In the event that an applicant for a registration certificate has not filed a tax
12 return for the immediately preceding tax year as required by *the Payroll Expense Tax Ordinance*
13 *Section 6.9-2 of Article 6*, the Tax Collector shall determine the amount of the registration fee
14 required based on the applicant's estimated *tax liability under Article 12-A (Payroll Expense Tax*
15 *Ordinance) payroll expense* for the period covered by the registration certificate.

16 (c) The fee for obtaining a registration certificate for any calendar year ending on or
17 before December 31, 2001 shall be determined in accordance with the registration fee
18 provisions of the Business and Tax Regulations Code, or its predecessor, governing such
19 year.

20 (d) Any organization having a formally recognized exemption from income taxation
21 pursuant to Section 501(c), 501(d) or 401(a) of *Title 26 of the United States Code the Internal*
22 *Revenue Code of 1986*, as amended *from time to time*, as qualified by Sections 502, 503, 504 and
23 508 of *Title 26 of the United States Code the Internal Revenue Code of 1986*, as amended *from time*
24 *to time, or the successor statutes of any of them*, shall not be required to pay a registration fee
25 under this Article unless the organization is also engaged within the City in an unrelated trade

1 or business within the meaning of Section 906 of Article 12-A ~~of the Business and Tax~~
2 ~~Regulations Code.~~

3 (e) A person shall be exempt from paying the registration fee required by this
4 Section if and to the extent that federal or state law prohibits the imposition of the registration
5 fee upon such person.

6
7 SEC. 856. REGISTRATION CERTIFICATE - APPLICATION AND ISSUANCE. (a)

8 Each person engaging in business within the City shall apply to the Tax Collector, on a form
9 prescribed by the Tax Collector, for a registration certificate. The application shall be
10 accompanied by the person's registration fee as determined under this Article. To ease
11 administrative burdens on taxpayers (by consolidating the deadlines to file annual tax returns
12 and apply for renewal of registration certificates), the term of registration certificates shall be
13 changed from the calendar year basis to a fiscal year basis. The purpose of Subsections (b)
14 through (e) of this Section is to facilitate such change and shall be interpreted in accordance
15 with this purpose.

16 (b) A registration certificate issued for a calendar year commencing on or before
17 January 1, 2002, shall be valid until December 31 of such calendar year. All persons
18 engaging in business within the City during any such calendar year shall, before the last
19 business day in October, apply to the Tax Collector for a registration certificate for the
20 succeeding calendar year. The application for renewal of the annual registration certificate
21 shall become delinquent if the registration fee is not paid on or before the last business day in
22 October.

23 (c) To accomplish the change from the calendar year registration period to a fiscal
24 year registration period, there shall be a Registration Transition Period commencing January
25 1, 2003, and ending June 30, 2003. A registration certificate issued for the Registration

1 Transition Period shall be valid through June 30, 2003. Except as provided in Subsection (f)
2 of this Section, any person engaging in business within the City during the calendar year
3 preceding the Registration Transition Period shall, before October 31, 2002, apply to the Tax
4 Collector for a registration certificate covering the Registration Transition Period. The
5 application for renewal of the registration certificate covering the Registration Transition
6 Period shall become delinquent if the registration fee is not paid on or before October 31,
7 2002. Except as provided in Subsection (f) of this Section, the fee for a registration certificate
8 covering the Registration Transition Period shall be 50 percent of the amount of the annual
9 registration fee otherwise applicable under Section 855 of this Article.

10 (d) Any person engaging in business within the City during the Registration
11 Transition Period shall, between January 1 and February 28, 2003, apply to the Tax Collector
12 for a registration certificate for the succeeding registration year (commencing July 1, 2003,
13 and ending June 30, 2004). The application for renewal of such certificate shall become
14 delinquent if not paid on or before February 28, 2003.

15 (e) A registration certificate issued for any registration year after the Registration
16 Transition Period shall be valid through June 30 of such registration year. Except as provided
17 in Subsection (f) of this Section, for any registration year commencing on or after July 1, 2003,
18 any person engaging in business within the City shall, between January 1 and the last day of
19 February, apply to the Tax Collector for a registration certificate for the succeeding registration
20 year. The application for renewal of the annual registration certificate shall become
21 delinquent if the registration fee is not paid on or before the last day of February.

22 (f) A person shall have 15 days after commencing business within the City to apply
23 for a registration certificate. The registration fee for newly established businesses shall be
24 prorated as follows:
25

1 (1) For tax years ending on or before December 31, 2001, the fee for
2 obtaining a registration certificate for a newly established business shall be determined
3 in accordance with Sections 1007, 1007.1 and 1007.2 of Article 12-B of the Business
4 Tax and Regulations Code as it read on December 31, 1999, or the predecessor
5 provisions governing the registration fee for the relevant tax year.

6 (2) For the tax year ending on December 31, 2002, the fee for obtaining a
7 registration certificate for a newly established business shall be determined pursuant to
8 Section ~~905~~ 855 of this Article using the estimated Payroll Expense Tax liability for such
9 tax year. The registration fee for any person who commences business operations
10 within the City during such tax year shall be prorated as follows: For persons
11 commencing business between January 1st and March 31st, the registration fee shall
12 be 100 percent of the annual fee; for persons commencing business between April 1st
13 and June 30th, the registration fee shall be 75 percent of the annual fee; for persons
14 commencing business between July 1st and September 30th, the registration fee shall
15 be 50 percent of the annual fee; and for persons commencing business between
16 October 1st and December 31st, the registration fee shall be 25 percent of the annual
17 fee. Where a registration certificate is issued for a period other than for a calendar
18 year, the Tax Collector shall have discretion to prorate the registration fee in
19 accordance with ~~this model~~ the formula set forth in this paragraph.

20 (3) For the Registration Transition Period, the fee for obtaining a registration
21 certificate for a newly established business shall be determined pursuant to Section ~~905~~
22 855 of this Article using the applicant's estimated tax liability under Article 12-A (Payroll
23 Expense Tax Ordinance) for the 2003 tax year. For any person who commences
24 business operations within the City on or after January 1, 2003, and before April 1,
25 2003, the registration fee shall be as set forth in Subsection (c) of this Section. For any

1 person who commences business operations within the City on or after April 1, 2003,
2 and before July 1, 2003, the registration, fee shall be 25 percent of the amount of the
3 annual registration fee otherwise applicable under Section ~~905(a)~~ 855(a) of this Article.

4 (4) For registration years commencing on or after July 1, 2003, the fee for
5 obtaining a registration certificate for a newly established business shall be determined
6 pursuant to Section ~~905~~ 855 of this Article using the applicant's estimated tax liability
7 under Article 12-A (Payroll Expense Tax Ordinance) liability for the tax year in which the
8 person commences such business within the City. The registration fee for persons
9 who commence business operations after the Registration Transition Period shall be
10 prorated as follows: For persons commencing business between January 1st and
11 March 31st, the registration fee shall be 50 percent of the annual fee; for persons
12 commencing business between April 1st and June 30th, the registration fee shall be 25
13 percent of the annual fee; for persons commencing business between July 1st and
14 September 30th, the registration fee shall be 100 percent of the annual fee; and for
15 persons commencing business between October 1st and December 31st, the
16 registration fee shall be 75 percent the annual fee. Where a registration certificate is
17 issued for a period other than for a registration year, the Tax Collector shall have
18 discretion to prorate the registration fee in accordance with this model.

19 (5) Notwithstanding any other provision of this Article, no person obtaining a
20 registration certificate for a newly established business that qualifies for the \$25
21 minimum registration fee set forth in Section ~~905~~ 855 of this Article shall be entitled to
22 prorate the registration fee under this Section, but instead shall pay the \$25 minimum
23 registration fee.

1 (g) All applications for renewal of registration certificates shall be accompanied by
2 the full amount of the applicant's annual registration fee for the period covered by the
3 registration certificate.

4 (h) Promptly after receiving a properly completed application and registration fee
5 from any person, the Tax Collector shall determine whether the applicant has paid all
6 outstanding: (1) Payroll Expense Taxes, (2) costs and/or charges assessed pursuant to
7 Section 174.2 of Article 5.1 of the Public Works Code, as amended from time to time, for
8 failure to abate a nuisance regarding the cleanliness of an abutting public sidewalk or right-of-
9 way, and (3) other taxes and license fees due to the City. In addition, the Tax Collector may
10 investigate whether the applicant has paid other amounts owing to the City as a result of fines,
11 penalties, interest, assessments, or any other financial obligations imposed by law, regulation
12 or contract. If the Tax Collector determines that all liabilities have been paid, the Tax
13 Collector shall issue a registration certificate to the applicant for each place of business
14 maintained by the applicant.

15 (i) If a person submits a timely application under this Section and the Tax Collector
16 determines that the applicant has satisfied all the requirements of this Article, including the
17 payment of all outstanding liabilities owed to the City, then the Tax Collector shall issue a
18 registration certificate to the applicant within 30 days after the Tax Collector makes such
19 determination.

20 (j) Each registration certificate shall be nonassignable and nontransferable, ~~except~~
21 ~~in cases in which the business is transferred, whether by sale or otherwise, to another person or legal~~
22 ~~entity and the ultimate beneficial ownership of the business, both before and after the transfer, is~~
23 ~~substantially the same. For purposes of this Section, shareholders, partners, or other persons holding~~
24 ~~a direct or indirect interest in a legal entity shall be deemed to be the ultimate beneficial owners of~~
25 ~~such legal entity. Except as provided above, the~~ The holder of the registration certificate shall

1 surrender the certificate to the Tax Collector immediately upon the sale or transfer of the
2 business for which the Tax Collector issued the registration certificate. The holder of the
3 registration certificate shall also surrender the certificate to the Tax Collector when such
4 holder ceases to conduct business at the location designated in the certificate.

5 (k) If the Tax Collector determines that any liabilities enumerated in Subsection (h)
6 of this Section remain unpaid as of the date an application is received, the Tax Collector shall
7 give written notification of that fact to the applicant. The written notification shall set forth the
8 amount owed, the liabilities enumerated in Subsection (h) of this Section for which the
9 amount(s) are owed, the dates the liabilities were incurred and any other information the Tax
10 Collector deems necessary to apprise the applicant of what specific liabilities are owed to the
11 City. The Tax Collector shall not issue a registration certificate unless and until the applicant
12 has paid all amounts owing to the City, including but not limited to, taxes, license fees, and
13 costs or charges assessed for failure to abate a nuisance condition on a public right-of-way
14 under Section 174.2 of Article 5.1 of the Public Works Code, as amended from time to time,
15 for which the applicant is liable; provided, that if a good faith dispute exists regarding the
16 amount of the outstanding liability or liabilities owed by the applicant to the City and the
17 dispute is pending before a City agency or court of competent jurisdiction, then the Tax
18 Collector shall not refuse to issue a registration certificate solely for non-payment of the
19 amount in dispute.

20 (l) Each registration certificate, and each duplicate thereof, shall set forth the name
21 under which the person transacts or intends to transact business, the location of the
22 registrant's place of business and such other information as the Tax Collector may require,
23 and be prominently displayed therein. In the case of a sole proprietorship, the registration
24 certificate shall be signed by the sole proprietor; in the case of a partnership, the registration
25 certificate shall be signed by a general partner; in the case of a limited liability company, the

1 registration certificate shall be signed by the managing member; and in the case of a
2 corporation, the registration certificate shall be signed by the person authorized by the
3 corporation to sign on its behalf.

4 (m) Each person liable for payment of a registration fee pursuant to this Article shall
5 only pay one registration fee; however, the Tax Collector shall issue a separate registration
6 certificate for each location within the City where the person engages in business.

7
8 SEC. 860. REGISTRATION CERTIFICATE - SUSPENSION AND REVOCATION. If a
9 person fails to comply with any provision of this Article or any rule or regulation adopted
10 pursuant thereto, the Tax Collector, after giving such person ~~10 business~~ 15 days' notice in
11 writing specifying the time and place of the hearing and requiring such person to show cause
12 why his or her registration certificate or registration certificates should not be revoked, may
13 revoke or suspend any one or more of the registration certificates held by such person. The
14 notice shall be served in the same manner prescribed for the service of a notice of a
15 deficiency determination under Article 6 ~~of the Business and Tax Regulations Code~~. The Tax
16 Collector shall not issue a new registration certificate after the revocation of a registration
17 certificate unless the registrant complies with the provisions of ~~this Article and Articles 6 and 12-~~
18 ~~A~~ of the Business and Tax Regulations Code and the rules and regulations adopted
19 thereunder.

20
21 Section 3. The San Francisco Business and Tax Regulations Code is hereby amended
22 by amending Sections 6.1-1, 6.2-6, 6.2-7, 6.2-8, 6.2-12, 6.2-14, 6.2-18, 6.2-16, 6.2-20, 6.2-22,
23 6.3-1, 6.4-1, 6.5-1, 6.5-2, 6.6-1, 6.7-1, 6.7-2, 6.8-1, 6.9-1, 6.9-2, 6.9-3, 6.9-4, 6.9-5, 6.9-6, 6.9-
24 7, 6.10-1, 6.10-2, 6.10-3, 6.11-1, 6.11-2, 6.11-3, 6.11-4, 6.12-1, 6.12-5, 6.13-1, 6.13-2, 6.13-3,
25 6.13-4, 6.14-1, 6.15-1, 6.15-3, 6.16-1, 6.17-1, 6.17-2, 6.17-3, 6.17-4, 6.17-5, 6.18-1, 6.18-3,

1 6.18-5, 6.18-7, 6.18-8, 6.19-1, 6.19-3, 6.19-4, 6.19-5, 6.19-6, 6.19-9, 6.19-11, 6.20-1, 6.21-1,
2 6.22-1 and 6.23-1, by adding Sections 6.2-2, 6.2-3, 6.2-4, 6.2-5, 6.2-9, 6.2-10, 6.2-11, 6.2-13,
3 6.2-15, 6.2-17, 6.2-19, 6.2-21, 6.13-5, 6.13-6 and 6.15-4, and by repealing Sections 6.14-2
4 and 6.14-3, of Article 6 (Common Administrative Provisions) thereof, to read as follows:

5
6 SEC. 6.1-1. COMMON ADMINISTRATIVE PROVISIONS. (a) Except where the
7 specific language of the *Part III of the Municipal Code Business and Tax Regulations Code* or
8 context otherwise requires, these common administrative provisions shall apply to Articles 6,
9 7, 9, 10, 10A, 11, 12, 12-A and 12-B of *Part III of the Municipal Code such Code*.

10 (b) Unless expressly provided otherwise, all statutory references in this Article and
11 the Articles set forth in Subsection (a) shall refer to such statutes as amended from time to time
12 and shall include successor provisions. For purposes of collecting the Emergency Response Fee
13 under Article 10A, any Any reference to a "tax" in this Article shall include the Emergency
14 Response Fee of Article 10A where appropriate.

15 (c) For purposes of this Article, a domestic partnership established or recognized
16 pursuant to Chapter 62 of the San Francisco Administrative Code shall be treated the same
17 as a married couple.

18
19 SEC. 6.2-2. AGENT. The term "agent" means an agent as that term is defined in Title 9,
20 Chapter 1, Article 1 of the Civil Code of the State of California (Sections 2295 et seq.), and includes,
21 without limitation, an actual agent, ostensible agent, general agent, or special agent.

22
23 SEC. 6.2-3. ARTICLE. The term "Article" followed by a number means such Article of the
24 Business and Tax Regulations Code of the City and County of San Francisco Municipal Code.

1 SEC. 6.2-4. ASSOCIATION. The term "association" includes a partnership, limited
2 partnership, limited liability company, limited liability partnership and any other form of
3 unincorporated business or enterprise (except a sole proprietorship).

4
5 SEC. 6.2-5. BUSINESS. The term "business" means any activity, enterprise, profession, trade
6 or undertaking of any nature conducted or engaged in, or ordinarily conducted or engaged in, with the
7 object of gain, benefit or advantage, whether direct or indirect, to the taxpayer or to another or others.
8 The term "business" includes nonprofit entities, trade associations and subsidiary or independent
9 entities which conduct operations for the benefit of others and at no profit to themselves. The term
10 "business" also includes an organization having a formally recognized exemption from income taxation
11 pursuant to Section 501(c), 501(d) or 401(a) of the Internal Revenue Code of 1986, as amended, as
12 qualified by Sections 502, 503, 504 and 508 of the Internal Revenue Code of 1986, as amended.

13
14 ~~SEC. 6.2-7~~ 6.2-6. CITY; CITY AND COUNTY. The terms "City" and "City and County"
15 shall mean the City and County of San Francisco.

16
17 ~~SEC. 6.2-6~~ 6.2-7. CONTROLLER. The term "Controller" shall mean the Controller of
18 the City and County of San Francisco, or his or her designee.

19
20 ~~SEC. 6.2-9~~ 6.2-8. DAY. The term "day" shall mean a calendar day. If the last day for
21 performance of any act provided for or required by ~~Part III of the Municipal~~ the Business and Tax
22 Regulations Code shall be a holiday, as defined in Chapter 7 (commencing with Section 6700)
23 of Division 7 of Title 1 of the California Government Code, or a Saturday or Sunday, the act may
24 be performed upon the next business day with the same effect as if it had been performed
25

1 upon the day appointed. For purposes of this Section, the Friday in November immediately
2 after Thanksgiving Day shall be considered a holiday.

3
4 SEC. 6.2-9. EMPLOYEE. The term "employee" means any individual in the service of an
5 employer, under an appointment or contract of hire or apprenticeship, express or implied, oral or
6 written, whether lawfully or unlawfully employed, and includes but is not limited to, all of the
7 enumerated categories in Subsections (a) through (f) of California Labor Code Section 3351,
8 regardless of whether Workers' Compensation Benefits, pursuant to Division 4, Part 1, Section 3200, et
9 seq. of the California Labor Code are required to be paid. Nothing herein shall be deemed to
10 incorporate any provisions from said Labor Code relating to scope of employment.

11
12 SEC. 6.2-10. INDIVIDUAL. The term "individual" means a natural person, a human being, as
13 distinguished from an artificial person such as a corporation or political subdivision.

14
15 ~~SEC. 6.2-8~~ 6.2-11. MONTH. The term "month" shall mean a calendar month.

16
17 SEC. 6.2-12. NEXUS; ENGAGING IN BUSINESS WITHIN THE CITY. (a) The taxes imposed
18 by Article 12-A (Payroll Expense Tax Ordinance) and the registration fee imposed by Article 12
19 (Business Registration Ordinance) shall apply to any person engaging in business within the City
20 unless exempted therefrom under such Articles. A person is "engaging in business within the City" if
21 that person meets one or more of the following conditions:

22 (1) The person maintains a fixed place of business within the City; or

23 (2) An employee, representative or agent of the person maintains a fixed place of
24 business within the City for the benefit or partial benefit of the person; or

1 (3) The person or one or more of the person's employees, representatives or agents
2 owns, rents, leases, or hires real or personal property within the City for business purposes for
3 the benefit or partial benefit of the person; or

4 (4) The person or one or more of the person's employees, representatives or agents
5 regularly maintains a stock of tangible personal property within the City, for sale in the
6 ordinary course of the person's business; or

7 (5) The person or one or more of the person's employees, representatives or agents
8 employs or loans capital on property within the City for the benefit or partial benefit of the
9 person; or

10 (6) The person or one or more of the person's employees, representatives or agents
11 solicits business within the City for all or part of any seven days during a tax year; or

12 (7) The person or one or more of the person's employees, representatives or agents
13 performs work or renders services within the City for all or part of any seven days during a tax
14 year; or

15 (8) The person or one or more of the person's employees, representatives or agents
16 utilizes the streets within the City in connection with the operation of motor vehicles for
17 business purposes for all or part of any seven days during a tax year; or

18 (9) The person or one or more of the person's employees, representatives or agents
19 exercises corporate or franchise powers within the City for the benefit or partial benefit of the
20 person; or

21 (10) The person or one or more of the person's employees, representatives or agents
22 liquidates a business when the liquidators thereof hold themselves out to the public as
23 conducting such business.

1 SEC. ~~6.2-10~~ 6.2-13. OPERATOR. The term "operator" shall mean any person
2 *operating conducting or controlling* a business subject to the tax on transient occupancy of hotel
3 rooms or the tax on occupancy of parking spaces in parking stations in the City *and County of*
4 *San Francisco*, including, but not limited to, the owner or proprietor of such premises, lessee,
5 sublessee, mortgagee in possession, licensee or any other person otherwise *operating*
6 *conducting or controlling* such business. "Operator" shall also include any person *operating*
7 *conducting or controlling* a business subject to the stadium operator occupancy tax in the City
8 *and County of San Francisco*, as well as any service supplier required to collect the utility users
9 tax under Article 10 or the emergency response fee under Article 10A *of Part III of the*
10 *Municipal Code*.

11
12 SEC. 6.2-14. PAYROLL EXPENSE TAX ORDINANCE; PAYROLL EXPENSE TAX. "Payroll
13 Expense Tax Ordinance" means Article 12-A; "Payroll Expense Tax" means the tax imposed
14 thereunder.

15
16 SEC. ~~6.2-2~~ 6.2-15. PERSON. The term "person" shall mean any individual, firm,
17 company, partnership, limited liability partnership, joint venture, association, proprietorship,
18 social club, fraternal organization, joint stock company, domestic or foreign corporation,
19 limited liability ~~corporation~~ company, estate, trust, business trust, receiver, trustee, trustee in
20 bankruptcy, administrator, executor, assignee, syndicate, or any other group or combination
21 acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise, ~~excepting: the~~
22 ~~United States of America, the State of California, and any political subdivision of either thereof upon~~
23 ~~which the City and County is without power to impose the tax herein provided.~~

24 ~~Whenever the term "person" is used in any clause in this Article imposing either a tax liability~~
25 ~~or a penalty for failure to perform any act mandated by Part III of the Municipal Code, such term shall~~

1 ~~include any natural person who as an individual or with a spouse and/or lineal descendants owns or~~
2 ~~controls 50 percent or more of the voting stock of a corporation obligated to file returns and pay or~~
3 ~~remit tax pursuant to Part III of the Municipal Code; and in addition, is a person with the power to~~
4 ~~control the fiscal decision making process by which the corporation allocates funds to creditors in~~
5 ~~preference to its tax obligations under the provisions of Part III of the Municipal Code. An individual~~
6 ~~who is an officer or director of a "person," as defined above, shall rebuttably be presumed to be a~~
7 ~~person with the power to control said entity's fiscal decision making processes.~~

8 ~~Whenever the term "person" is used in any clause prescribing and imposing a penalty, the term~~
9 ~~as applied to associations shall include the owners or part owners thereof, and as applied to~~
10 ~~corporations, the officers, shareholders and directors thereof, in their individual capacities, if such~~
11 ~~owners, officers, shareholders and directors have charge of the affairs of said association or~~
12 ~~corporation.~~

13
14 SEC. 6.2-16. REPRESENTATIVE. The term "representative" means a representative as that
15 term is used in United States Public Law 86-272, Section 381 of Title 15 of the United States Code,
16 except that such term shall include an independent contractor notwithstanding Section 381(d)(2) of
17 Title 15 of the United States Code.

18
19 SEC. ~~6.2-4~~ 6.2-17. RETURN. The term "return" shall mean any written statement
20 required to be filed pursuant to Articles 6, 7, 9, 10, 10A, 11, 12 or 12-A ~~or 12-B~~ of Part III of the
21 Municipal Code.

22
23 SEC. 6.2-18. SUCCESSOR. The term "successor" means any person who, through direct or
24 mesne conveyance, purchases or succeeds to the business or portion thereof, or the whole or any part
25 of the stock of goods, wares, merchandise, fixtures or other assets, or any interest therein of a taxpayer

1 quitting, selling out, exchanging or otherwise disposing of his or her business. Any person obligated to
2 fulfill the terms of a contract shall be deemed a successor to any contractor defaulting in the
3 performance of any contract as to which such person is a surety or guarantor.

4
5 SEC. ~~6.2-5~~ 6.2-19. TAX COLLECTOR. The term "Tax Collector" shall mean_s the Tax
6 Collector of the City and County of San Francisco, or his or her designee.

7
8 SEC. 6.2-20. TAX YEAR. The term "tax year" means the year commencing on January 1st of
9 each calendar year ending on December 31st of the same calendar year.

10
11 SEC. ~~6.2-11~~ 6.2-21. THIRD-PARTY TAXES. The term "third-party taxes" shall mean_s
12 the transient hotel occupancy tax (Article 7), the parking space occupancy tax (Article 9), ~~the~~
13 ~~stadium operator admission tax (Article 11)~~, the utility users tax (Article 10) and the emergency
14 response fee (Article 10A).

15
16 SEC. 6.3-1. DUTIES OF THE TAX COLLECTOR. The Tax Collector shall collect and
17 receive the taxes imposed by ~~Part III of the Municipal~~ the Business and Tax Regulations Code.
18 The Tax Collector shall keep an accurate and separate account of all tax payments received
19 by the Tax Collector, showing the name and address of the taxpayer and the date of the
20 payments. The Tax Collector shall transmit all monies collected pursuant to ~~Part III of the~~
21 ~~Municipal~~ the Business and Tax Regulations Code to the Treasurer for deposit to the general
22 fund, unless otherwise provided by law.

1 SEC. 6.4-1. RECORDS; INVESTIGATION; SUBPOENAS. (a) Every taxpayer shall
2 keep and preserve such records for a period of ~~seven~~ five years as may be necessary to
3 determine the amount of tax for which ~~he or she~~ the person may be liable, including all local,
4 state and federal tax returns of any kind. The Tax Collector shall have the right to inspect,
5 examine, and copy such records at any time during normal business hours. Refusal to allow
6 full inspection, examination or copying of such records shall subject the taxpayer to the
7 penalties authorized ~~under by law, including but not limited to~~ Section 6.17-3. Where the
8 taxpayer does not have the necessary records to determine liability under the *Municipal*
9 *Business and Tax Regulations* Code or fails to produce such records in a timely fashion, the Tax
10 Collector may determine the taxpayer's liability based upon any information in the Tax
11 Collector's possession or that may come into the Tax Collector's possession. Such
12 determination shall be prima facie evidence of the taxpayer's liability in any subsequent administrative
13 or judicial proceeding.

14 (b) The Tax Collector may order any persons, whether as taxpayers, *supposed*
15 *alleged* taxpayers, ~~or~~ witnesses, or custodian of records, to produce for inspection, examination
16 and copying at the Tax Collector's office all books, papers and records which the Tax
17 Collector believes may have relevance to enforcing compliance with the provisions of *Part III*
18 *of the Municipal the Business and Tax Regulations* Code, ~~and~~ The Tax Collector may ~~also~~ order
19 the attendance before the Tax Collector of all persons, whether as taxpayers, *supposed* *alleged*
20 taxpayers, ~~or~~ witnesses, or custodian of records, whom the Tax Collector believes may have
21 any knowledge ~~thereof~~ of such books, papers and records. The Tax Collector may issue, and
22 serve, subpoenas to carry out these provisions. As an alternative to production at the Tax
23 Collector's office, the Tax Collector may agree to inspect, examine and copy the requested
24 books, papers and records at the taxpayer's place of business or some other mutually
25 acceptable location, and may require the taxpayer to reimburse the City for the Tax Collector's

1 ordinary and reasonable expenses incurred in the inspection, examination and copying of
2 such books, papers and records, including food, lodging, transportation and other related
3 items, as appropriate.
4

5 SEC. 6.5-1. REQUEST FOR FINANCIAL INFORMATION. (a) In addition to a
6 subpoena issued pursuant to Section 6.4-1, the Tax Collector may, at his or her discretion,
7 send any person, whether as taxpayer, ~~supposed~~ alleged taxpayer, ~~or~~ witnesses, or custodian of
8 records, a written request for financial information relevant to verifying, determining or
9 redetermining any person's tax liability or tax-exempt status. "Financial information" shall
10 include, but not be limited to, bank records, journals, ledgers and local, state and federal tax
11 returns, and shall include ~~relevant~~ information regarding subsidiary, ~~or~~ related, affiliated,
12 controlled or controlling persons in possession of information relevant to the Tax Collector's inquiry
13 accounts. The request shall be mailed to the person's last known address as indicated in the
14 Tax Collector's records.

15 (b) Each person to whom a written request for financial information has been sent
16 pursuant to Subsection (a) of this Section shall complete and return the form, with the
17 information requested, to the Tax Collector within 30 days of the date of the mailing of the
18 written request, or by such other reasonable deadline as the Tax Collector may set forth in the written
19 request. Said person shall provide such financial information that the Tax Collector, in writing,
20 has requested.
21

22 SEC. 6.5-2. PENALTIES FOR FAILURE TO FILE RESPONSE TO REQUEST FOR
23 FINANCIAL INFORMATION. Any persons, including taxpayers, ~~supposed~~ alleged taxpayers, ~~or~~
24 witnesses, or custodian of records, who fail to respond to ~~a~~ the Tax Collector's written request for
25

1 financial information shall be subject to ~~the~~ any penalties and sanctions provided by law,
2 including but not limited to the penalties and sanctions provided in Section 6.17-3.

3
4 SEC. 6.6-1. ~~REGISTRATION FOR~~ CERTIFICATE OF AUTHORITY FOR THIRD-PARTY
5 TAXES. (a) These additional provisions shall apply to operators under the transient hotel
6 occupancy tax (Article 7), the parking space occupancy tax (Article 9), ~~and the stadium operator~~
7 ~~admission tax (Article 11), and to service providers under~~ the utility users tax (Article 10) and the
8 emergency response fee (Article 10A).

9 (b) Every operator ~~or service supplier~~ engaging in or about to engage in business
10 within the City who is required to collect or remit any ~~of the taxes identified in Subsection (a)~~ third
11 party tax shall immediately ~~register with~~ apply to the Tax Collector for a certificate of authority on
12 a form provided by the Tax Collector.

13 (c) ~~Such registration~~ The application for a certificate of authority shall set forth the name
14 under which ~~such~~ the person transacts or intends to transact business, the location of each of
15 ~~his or her~~ the person's place or places of business in the City ~~and County~~, and such other
16 information ~~to facilitate collection of the tax~~ as the Tax Collector may require. The ~~registration~~
17 application shall be signed by the owner if a ~~natural person~~ sole proprietor, by a member or
18 partner, in the case of an association partnership, or by an executive officer or some person
19 specifically authorized by the corporation to sign the application registration, in the case of a
20 corporation.

21 (d) Except as provided in Subsections ~~(e) and (f)~~, (g) and (h) below, the Tax
22 Collector, within ~~10~~ 30 days after ~~such registration~~ the application is complete, shall issue without
23 charge a separate certificate of authority to ~~each registrant~~ the operator to collect ~~the third party~~
24 taxes from ~~the customers~~ for each ~~place of business of such registrant~~ location at which the operator
25 is required to collect such taxes. Each certificate shall state the location of the place of business

1 to which it ~~is applicable~~ applies and shall be prominently displayed at ~~said place of business~~
2 ~~therein such location in plain view so as to be seen and come to the notice readily~~ of all customers.
3 ~~Such e Certificates of authority shall may not be nonassignable and nontransferable assigned or~~
4 ~~transferred. and The operator shall be surrendered immediately surrender~~ to the Tax Collector ~~the~~
5 ~~certificate for that location upon the operator's cessation of business by the operator or service~~
6 ~~provider at the that location named~~ or upon the sale or transfer of the business.

7 (e) The holder of a certificate of authority to collect ~~the parking space occupancy taxes~~
8 ~~under Article 9~~ shall remain presumptively liable for the collection of parking taxes at the
9 location named on the certificate, and for the reporting and remittance of such taxes to the
10 Tax Collector, unless and until the holder of the certificate both (i) notifies the Tax Collector in
11 writing that the holder has ceased to conduct a parking business at such location, and (ii)
12 surrenders the certificate for that location to the Tax Collector.

13 (e f) ~~The Tax Collector may refuse to issue the certificate where, Where~~ within the ~~10 30-~~
14 day period referred to in Subsection (d) above, the Tax Collector determines that the operator
15 ~~or service provider~~, or any signatory to the ~~registration statement application~~, or any person
16 holding a 10 percent or greater legal or beneficial interest in said operator ("10% owner") ~~or~~
17 ~~service provider~~, is not in compliance with any provision of Articles 6, 7, 9, 10, 10A, or 11 12 or
18 12-A of Part III of the Municipal Code, the Tax Collector may refuse to issue the certificate. Solely for
19 purposes of determining under this Section whether any such operator, signatory or 10% owner is not
20 in compliance with such Articles, the Tax Collector may disregard any corporation or association
21 owned or controlled, directly or indirectly, by any such operator, signatory or 10% owner and consider
22 such corporation or association's operations and liabilities as conducted by or as owed by any one or
23 more of such corporation or association's officers, directors, partners, members or owners. For
24 purposes of this Section, (i) the term "owned" means ownership of 50 percent or more of the
25 outstanding ownership interests in such corporation or association, and (ii) the term "controlled"

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

5 (g) Further, if any person subject to this Section violates any provision of Articles 6,
6 7, 9, 10, 10A, ~~or 11 12 or 12-A, or Part III of the Municipal Code~~ or a rule or regulation
7 promulgated by the Tax Collector, including but not limited to failing to maintain accurate
8 registration information, failure to ~~file~~ sign any return or pay any tax when due, failure to timely
9 respond to any request for information, order for records or subpoena, or for any person
10 subject to Article 9 ~~of the Tax Code~~ for failure to comply with the requirements of Article 49 of
11 the Police Code, the Tax Collector may, after serving the ~~affected~~ person with written notice of
12 his or her determination in the manner provided in Section 6.11-2 and an opportunity to be
13 heard pursuant to the notice and review provisions of Sections 6.13-1 et seq. ~~and 6.14-1 et~~
14 ~~seq.~~, revoke or suspend that person's ~~registration under this Section~~ certificate of authority. The
15 Tax Collector may refuse to issue that person a new certificate of authority or to withdraw the
16 suspension of an existing certificate until the person, signatory to the application for the
17 certificate revoked or suspended, signatory to the application for a new certificate or withdrawal of the
18 suspension, and all 10% owners have seeking to re-register has complied with the provisions of of
19 Articles 6, 7, 9, 10, 10A, 12 or 12-A Part III of the Municipal Code and corrected the original
20 violation to the satisfaction of the Tax Collector.

21 (fh) Before any certificate of authority shall be issued to any applicant to engage in
22 the business of renting parking space in a parking station in this City ~~and County~~, such
23 applicant shall file with the Tax Collector a bond, ~~which shall run to~~ naming the City as exclusive
24 beneficiary, at all times the applicant engages in such business and County of San Francisco. For any
25 parking station with annual gross receipts less than \$100,000, such bond shall be in the

1 amount of \$5,000. For any parking station with annual gross receipts of \$100,000 or more,
2 such bond shall be in the amount of \$25,000. Such bond shall be executed by the applicant
3 as principal, and by a corporation or association which is licensed by the Insurance
4 Commissioner of this State to transact the business of fidelity and surety insurance, as surety.
5 The applicant shall keep the bond in full force and effect for the duration of the certificate of authority
6 and all renewals thereof issued to such applicant. If the bond provides that the term thereof shall be
7 continuous until cancelled, the applicant shall provide the Tax Collector with certification from the
8 surety of the renewal or continuation of the bond: (i) when applying for renewal of an existing
9 certificate of authority, (ii) when requesting the withdrawal of a suspension of an existing certificate of
10 authority, or (iii) upon written request of the Tax Collector.

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

1 SEC. 6.7-1. COLLECTION OF THIRD-PARTY TAXES. (a) Every operator receiving
2 payment of charges from a customer shall collect the amount of the third party tax imposed by
3 Part III of the Municipal Code from the customer. All amounts of third party tax so collected shall
4 be held to be a special fund in trust for the City. For purposes of this Section, “operator” shall have
5 the meaning set forth in Section 6.2-10, except that a person who otherwise qualifies as an
6 operator as herein defined under Section 6.2-14 shall not, by reason of the fact that he or she the
7 person is was exempt from payment of the tax, be exempted from the other obligations of an
8 operator, including without limitation the obligation to collect and remit to the City all third party
9 taxes collected from non-exempt customers hereunder.

10 ~~Further, where the~~ Where an operator ~~under this Section~~ is exempt from the tax but a its
11 tenant is not exempt, the ~~non-exempt~~ tenant shall be deemed to be an operator and shall be
12 liable for the tax. Where a customer is not the end user of a good or service subject to such
13 tax, the customer ~~in turn~~ shall be deemed an operator ~~or service provider for purposes of Part III~~
14 ~~of the Municipal Code.~~ The existence of such deemed operator shall not relieve any other operator of
15 obligations under the Business and Tax Regulations Code, including without limitation the obligation
16 to collect and remit the tax to the City. The liability of such deemed operator and any other operator
17 for the tax, including applicable interest and penalties accrued through the date of payment, shall be
18 joint and several; provided, the City shall be limited to only one satisfaction thereof.

19 (b) The Third party taxes shall be collected, insofar as practicable, at the same time
20 as and along with the collection of charges made in accordance with the regular billing
21 practice of the operator. If the amount paid by a customer is less than the full amount of the
22 charges and tax which has accrued for the billing period, a proportionate share of both the
23 charges and the tax shall be deemed to have been paid.

1 (c) Where a customer receives more than one billing, one or more being for
2 different periods than another, the duty to collect shall arise separately for each billing period.
3 In all cases of transactions upon credit or deferred payment, the payment of tax to the Tax
4 Collector may be deferred in accordance therewith, and the operator shall be liable therefor at
5 the time and to the extent that such credits are paid or deferred payments are made in
6 accordance with the rate of tax owing on the amount thereof.

7 (d) Any third party tax required to be paid by a imposed upon customer~~s~~ under the
8 provisions of Part III of the Municipal Code shall be deemed a debt owed by the customer to the
9 City ~~and County~~. Any such tax required to be collected from ~~a~~ customer~~s~~ which has not been
10 remitted to the Tax Collector shall be deemed a debt owed to the City by the person required
11 to collect and remit such tax to the City.

12 (e) The Tax Collector shall have the power to adopt rules and regulations
13 prescribing methods and schedules for the collection and payment of ~~the~~ third party taxes and
14 such methods and schedules shall provide that the fractional part of one cent shall be
15 disregarded unless it amounts to one-half of one percent or more, in which case the amount
16 (determined without regard to the fractional part of one cent) shall be increased by one cent.

17 (f) The Tax Collector may require operators under this Section to maintain separate
18 trust accounts for taxes collected from customers. The Tax Collector shall adopt rules and
19 regulations prescribing, among other things, when such accounts shall be required and how
20 such accounts shall be maintained.

21 (g) When third-party taxes are not paid when due, or when there is any deficiency
22 determination or jeopardy determination ~~of a deficiency in tax~~ against an operator for third-party
23 taxes, the Tax Collector may collect said liabilities, including interest and penalties accrued
24 through the date of payment, from any person~~s~~ the Tax Collector determines ~~had charge of the~~
25 ~~affairs of the operator and wilfully failed to remit said tax when due~~ was responsible for performing the

1 acts of collecting, accounting for, and remitting third party taxes to the City and failed to do so. For
2 purposes of this Section, a person shall be considered to be responsible for performing the acts of
3 collecting, accounting for, and remitting third party taxes to the City if and to the extent such person
4 has the power to control the financial decision-making process by which the operator allocates funds to
5 creditors in preference to the operator's obligation to remit third party taxes to the City. When the
6 person responsible for the acts of collecting, accounting for, and remitting third party taxes to the City
7 cannot otherwise be determined, there shall be a rebuttable presumption that the President and Chief
8 Financial Officer of a corporation or any managing partner or member of an association is the person
9 responsible for performing such acts. The liability of such persons shall be joint and several with
10 each other and with the operator, and shall be established in the manner provided for under
11 this Article for other determinations.

12
13 SEC. 6.7-2. REPORTING AND REMITTING THIRD-PARTY TAXES AND STADIUM
14 OPERATOR ADMISSION TAX. (a) All amounts of utility users taxes under Article 10 required to
15 be collected by Part III of the Municipal Code are due and payable to the Tax Collector for each
16 month on or before the last day of the month immediately following each respective monthly
17 period. All amounts of stadium operator admission taxes under Article 11 required to be
18 collected by Part III of the Municipal Code are due and payable to the Tax Collector within five
19 days after the event, subject to the provisions of Section 804 of Article 11 of Part III of the
20 Municipal Code. All amounts of all other third-party taxes required to be collected by Part III of the
21 Municipal Code other than the utility users taxes are due and payable to the Tax Collector for
22 each calendar quarter on or before the last day of the month immediately following each
23 respective quarterly period.

1 (b) On or before the last day of the month immediately following each respective
2 period, every operator except the stadium operator shall file a return for the preceding period
3 with the Tax Collector, on such forms as the Tax Collector may prescribe. Stadium Operators
4 shall file a return within the time periods set forth in Section 804 of Article 11 *of Part III of the*
5 *San Francisco Municipal Code*.

6 (c) Returns shall show the amount of tax required to be collected for the *related*
7 *subject period, separately, for each location at which the operator conducts business,* and such other
8 information as the Tax Collector requires. The Tax Collector may require returns to show the
9 total number of transactions upon which tax was required to be collected and the amount of
10 tax due on each such transaction, *and for each location at which the operator conducts business.*
11 *The Tax Collector may inspect, examine and copy records for each such location separately, and may*
12 *issue deficiency and jeopardy determinations pursuant to this Article for each such location separately,*
13 *or in combination with one or more other locations at which the operator conducts business.* The
14 operator shall ~~transmit~~ *file* the return, together with remittance of the amount of tax due, ~~to~~ *with*
15 the Tax Collector, at the Tax Collector's office, on or before the date provided in this Section.
16 Returns and remittances are due immediately upon cessation of business for any reason.

17 (d) When a return is filed without full remittance of the amount reported to be due,
18 the amount remaining unpaid, together with any nonpayment penalties, are immediately due
19 and payable and may be collected by the Tax Collector forthwith.

20
21 SEC. 6.8-1. CITY, PUBLIC ENTITY AND CONSTITUTIONAL EXEMPTIONS. Nothing
22 in *this* Articles 6, 7, 9, 10, 10A, 11, 12 or 12-A shall be construed as imposing a tax upon:

23 (1) The City ~~and County~~;

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
3 immunity 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 ~~when imposition of such tax upon that person would be in violation~~
8 ~~of exempted from the particular tax by the Constitution or statutes of the United States or~~
9 the Constitution or statutes of the State of California.

10
11 SEC. 6.9-1. DETERMINATIONS, RETURNS AND PAYMENTS; DUE DATE OF
12 TAXES. Except for jeopardy determinations under Section 6.12-2, and subject to prepayments
13 required under Section 6.9-2, all All amounts of taxes and fees imposed by Part III of the
14 Municipal Code Articles 6, 7, 9, 10, 10A, 11 and 12-A are due and payable, and shall be delinquent
15 if not paid to the Tax Collector on or before, the following dates as follows:

16 (a) For the transient hotel occupancy tax (Article 7) and the parking space
17 occupancy tax (Article 9), for each calendar quarter, on or before the last day of the month
18 following each respective quarterly period;

19 (b) For the business payroll expense tax (Article 12-A), ~~and the payroll tax (Article 12-B),~~
20 ~~on the first day of January of each year; the tax shall become delinquent if not paid~~ on or before the
21 last day of February of each year;

22 (c) For the utility users taxes (Article 10) and the emergency response fee (Article
23 10A), for each monthly period, on or before the last day of the following month; and

24 (d) For the stadium operator admission tax (Article 11), within five days after the
25 event, subject to the provisions of Article 11, Section 804.

1 ~~If a separate delinquency date is not provided by this Section, the delinquency date shall be the~~
2 ~~first day after the due date for the tax.~~

3
4 SEC. 6.9-2. DETERMINATIONS, RETURNS AND PAYMENTS; RETURNS. (a)
5 Except as provided in paragraph (b) below, on or before the due date, or in the event of a
6 cessation of business ~~as provided for in Section 6.7-2(c), or before the delinquency date where a~~
7 ~~separate date is specified in Section 6.9-1~~, each taxpayer shall file a return for ~~that~~ the subject
8 period on a form provided by the Tax Collector, regardless of whether there is a tax liability
9 owing. A person subject to ~~the~~ any tax or required to remit any third party tax who has not
10 received a return form or forms from the Tax Collector is responsible for obtaining such ~~a~~
11 form(s) and filing a return or returns on or before the due date ~~or before the delinquency date~~, or
12 upon the cessation of business. Returns shall show the amount of tax and any third party tax
13 paid or otherwise due for the related period and such other information as ~~is required by the~~
14 Tax Collector may require. ~~The~~ Each person subject to ~~the~~ any tax or required to remit any third
15 party tax and required to file the return shall transmit the return, together with the remittance of
16 the amount of tax or third party tax due, to the Tax Collector at the Tax Collector's office on or
17 before the due date specified in Section 6.9-1 provided herein.

18 (b) With respect to each taxable year, the Tax Collector may ~~elect to~~ exempt from the
19 annual tax return filing requirement those ~~certain~~ taxpayers whose ~~tax liabilities~~ liability under the
20 Payroll Expense Tax Ordinance, computed without regard to the small business exemptions set
21 forth in Section 905-A of Article 12-A ~~and Section 1005.3 of Article 12-B~~, ~~are~~ is less than the
22 Minimum Filing Amount ~~from the annual tax return filing requirement otherwise applicable under~~
23 ~~Article 12-A and Article 12-B~~ for such taxable year. For purposes of this Section ~~6.9-2~~, the
24 Minimum Filing Amount shall be an amount of tax liability, computed without regard to ~~the~~ such
25 small business exemptions ~~set forth in Section 905-A of Article 12-A and Section 1005.3 of Article~~

1 ~~12-B~~, between zero and ~~five hundred one thousand~~ dollars (~~\$500.00~~ \$1,000). ~~For each taxable~~
2 ~~year, the~~ The Tax Collector shall specify the Minimum Filing Amount ~~for such prior to the~~
3 beginning of each tax year on or before the thirtieth day prior to the first day of such year; provided,
4 however, that the Tax Collector may specify the Minimum Filing Amount at any time during the first
5 taxable year within which this amendment becomes effective. With respect to each taxable year
6 thereafter, if ~~If~~ the Tax Collector fails to specify a Minimum Filing Amount ~~for such prior to the~~
7 start of a new taxable year, the Minimum Filing Amount for such taxable year shall be the
8 Minimum Filing Amount for the preceding taxable year.

9
10 SEC. 6.9-3. DETERMINATIONS, RETURNS AND PAYMENTS; PREPAYMENTS. (a)

11 Prepayments. Notwithstanding the due dates otherwise provided in Section 6.9-1, taxpayers
12 shall make prepayments of taxes and third party taxes ("tax prepayments") to the Tax Collector as
13 follows:

14 (1) Hotel and Parking Taxes. ~~the~~ The Hotel Tax (Article 7) and the Parking Tax
15 (Article 9) shall be paid in monthly installments. Such monthly ~~Monthly~~ installments ("tax
16 prepayments") shall be due and payable to the Tax Collector on or before the last day of
17 the month immediately following the month for which the prepayment is due. Taxes
18 paid in the first two monthly installments of any quarterly period shall be a credit
19 against the total ~~tax~~ liability for such third party taxes for the quarterly period. Estimated
20 tax prepayments shall be computed based on the estimated tax accrued during the
21 month in question, but in no instance shall a prepayment be equal to a sum less than
22 30 percent of the tax collected in the immediately preceding quarterly period. If the
23 taxpayer can establish by clear and ~~eogent~~ convincing evidence that the amount of any
24 prepayment will exceed the total tax liability for the quarterly period for which the tax
25 prepayment becomes due, the Tax Collector may, in writing, adjust the amount of the

1 tax prepayment. The third monthly installment of any quarterly period shall be in an
2 amount equal to the total tax liability for the quarterly period, less the amount of any tax
3 prepayments actually paid.

4 (2) Payroll Expense Tax. The Payroll Expense Tax (Article 12-A) shall be paid in
5 biannual or quarterly installments as follows:

6 (A) Small Firm Prepayments. Every person liable for payment of a total Payroll
7 Expense Tax in excess of \$2,500 but less than \$50,000 for any tax year shall pay such
8 tax for the following tax year in two installments. The first installment shall be due and
9 payable, and shall be delinquent if not paid on or before, August 1st. The first
10 installment shall be a credit against the person's total Payroll Expense for the tax year
11 in which the first installment is due. The first installment shall be in an amount equal to
12 one-half (1/2) of the person's estimated Payroll Expense for such tax year. The
13 estimated liability shall be computed by using 52% of the person's taxable payroll
14 expense (as defined in Section 902.2 of Article 12-A) for the preceding tax year, and the
15 rate of tax applicable to the tax year in which the first installment is due. The second
16 installment shall be reported and paid on or before the last day of February of the
17 following year. The second installment shall be in an amount equal to the person's total
18 Payroll Expense Tax for the subject tax year, less the amount of the first installment and
19 other tax prepayments for such tax year, if any, actually paid.

20 (B) Large Firm Prepayments. Every person liable for payment of a total Payroll
21 Expense Tax in excess of \$50,000 for any tax year shall pay such tax for the following
22 tax year in four quarterly installments. The first, second and third quarterly installments
23 shall be due and payable, and shall be delinquent if not paid on or before, May 1st,
24 August 1st and November 1st, respectively. The first, second and third quarterly
25 installments shall be a credit against the person's total Payroll Expense Tax for the tax

1 year in which such first, second and third quarterly installments are due. Such quarterly
2 installments each shall be in an amount equal to one-quarter (1/4) of the person's
3 estimated Payroll Expense Tax liability for such tax year. The estimated liability for
4 such tax year shall be computed by using 104% of the person's taxable payroll expense
5 (as defined in Section 902.1 of Article 12-A) for the preceding tax year, and the rate of
6 tax applicable to the tax year in which the first, second and third quarterly installments
7 are due. The fourth installment shall be reported and paid on or before the last day of
8 February of the following year. The fourth quarterly installment shall be in an amount
9 equal to the person's total Payroll Expense Tax liability for the subject tax year, less the
10 amount of the first, second and third quarterly installments and other tax prepayments, if
11 any, actually paid.

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

18 (b c) Hotel and Parking Taxes. Upon commencing business, an operator subject to
19 the Hotel Tax (Article 7) or the Parking Tax (Article 9) shall have the option of making
20 prepayments in the amount of the actual tax owed or making an estimate of the prepayment
21 for the month based on the estimated tax accrued during the month in question. Once the
22 operator has selected an option, the operator must continue to follow that procedure unless
23 prior written permission to use the alternative procedure has been obtained from the Tax
24 Collector.

1 In no instance shall an estimated prepayment of hotel or parking taxes be less than 30
2 percent of ~~the~~ such tax collected in the immediately preceding quarterly period. If such
3 estimated prepayment is less than 30 percent of the tax collected in such preceding quarterly period,
4 the operator shall be subject to penalties and interest for the deficiency pursuant to Section 6.17-1. If a
5 prepayment based on actual tax owed ~~turns out to be~~ is less than 90 percent of the actual
6 liability for the month, the ~~taxpayer~~ operator shall be subject to ~~penalty~~ penalties and interest for
7 the deficiency pursuant to Section 6.17-1.

8 (e d) Forms and Adjustments. Prepayments Tax prepayments required under this Section
9 shall be accompanied by a tax prepayment form prepared by the Tax Collector, but failure of
10 the Tax Collector to furnish the taxpayer with a tax prepayment form shall not relieve the
11 taxpayer ~~of the~~ from any tax prepayment obligation ~~set forth herein.~~ The Tax Collector may, in
12 writing, adjust the amount of a tax prepayment if the taxpayer can establish by clear and convincing
13 evidence that the first installment of biannual tax prepayments, or first, second or third monthly
14 installment of a quarterly tax prepayment, will amount to more than one half or one quarter,
15 respectively, of the person's total tax liability for the tax year in which the installment is due.

16
17 SEC. 6.9-4. DETERMINATIONS, RETURNS AND PAYMENTS; EXTENSION OF
18 TIME FOR FILING A RETURN AND PAYING TAX. (a) For good cause, the Tax Collector, in
19 his or her discretion, may extend, for a period not to exceed 60 days, the time for ~~making~~ filing
20 any return pursuant to this Article or regulations prescribed by the Tax Collector. For
21 prepayments of taxes or for taxes required to be deposited monthly, the Tax Collector may
22 only extend the time for ~~making~~ filing a return for a period not to exceed 30 days. As a
23 condition of such extension, the person seeking the extension shall make a payment of not
24 less than 90 percent of such person's estimated liability.

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

3 (c) Notwithstanding Subsection (a) of this Section, the Tax Collector may extend
4 any time for ~~making~~ filing any return or payment of tax or excuse penalties for any late filing or
5 late payment if billing or other administrative duties of the Tax Collector cannot be performed
6 in a timely manner.

7
8 SEC. 6.9-5. DETERMINATIONS, RETURNS AND PAYMENTS; CREDITS AND
9 EXEMPTIONS. The credits and exemptions set forth in Articles 7, 9, 10, 10A, 11, 12 and 12-A
10 and 12-B of Part III of the Municipal Code are provided on the assumption that the City has the
11 power to offer ~~the~~ such credits and exemptions ~~as provided under current law~~. If ~~the~~ a credit or
12 exemption is invalidated by a court of competent jurisdiction, the taxpayer must pay any
13 additional tax amount that ~~he or she~~ the taxpayer would have owed ~~if the credit had not been~~
14 ~~claimed but for such invalid credit or exemption~~. ~~Repayment of such additional amounts~~ Amounts
15 owed as a result of the invalidation of a credit or exemption that are paid ~~made~~ within three years
16 after the decision of the court becomes final shall not be subject to interest or penalties ~~on that~~
17 basis.

18
19 SEC. 6.9-6. FILING AND PAYING BY MAIL. (a) ~~Delivery~~ Filing by Mail. Except as
20 otherwise provided in this Section, taxpayers may file any return or other document with ~~required~~
21 ~~to be filed under Part III of the Municipal Code~~, or make any payment to, including a prepayment
22 to, ~~required to be made under Part III of the Municipal Code may be delivered to~~ the Tax Collector
23 by United States mail.

1 (b) Date of Postmark. The date of postmark shall be deemed the date of *delivery*
2 *filing* for any return or other document, or any payment, delivered to the Tax Collector by
3 United States mail if:

4 (1) The postmark is made by the United States Postal Service;

5 (2) The postmark date falls within the prescribed period, or on or before the
6 prescribed date, including any extension, for filing the return or other document, or for
7 making the payment; *and*

8 (3) The return or other document, or the payment, was, within that time,
9 deposited in the mail in the United States in an envelope or other appropriate wrapper,
10 postage prepaid and properly addressed to the Tax Collector; *and*

11 (4) The Tax Collector receives the return or other document, or the payment, as a
12 result of the timely mailing.

13 The Tax Collector may provide by regulation for application of this rule to postmarks
14 not made by the United States Postal Service.

15 (c) Registered and Certified Mailing. The registration of any return or other
16 document, or payment, delivered to the Tax Collector by registered mail shall be prima facie
17 evidence that the return or other document, or payment, was *delivered to filed with* the Tax
18 Collector, and the date of registration shall be deemed the postmark date. The Tax Collector
19 may provide by regulation for the application of this subsection to returns or other documents,
20 or payments, delivered to the Tax Collector by certified mail.

21 (d) Exceptions. This Section shall not apply to:

22 (1) The filing of a document in, or the making of a payment to, any court;

23 (2) Currency or other medium of payment unless actually received and
24 accounted for; or
25

1 (3) Returns or other documents, or payments, which are required under any
2 provision of *Part III of the Municipal the Business and Tax Regulations* Code or of the Tax
3 Collector's regulations to be delivered or filed by any method other than by mailing.

4 (e) Private Delivery Services. References in this Section to the United States mail
5 and a postmark of the United States Postal Service shall include any designated delivery
6 service and any date recorded or marked as described herein by any designated delivery
7 service.

8 (1) A "designated delivery service" means any delivery service provided by a
9 trade or business if such service is designated by the Tax Collector for purposes of this
10 Section. The Tax Collector may designate a delivery service only if he or she
11 determines that such service:

12 (A) Is available to the general public;

13 (B) Is at least as timely and reliable on a regular basis as the United
14 States mail;

15 (C) Records electronically to its database, kept in the regular course of
16 its business, or marks on the cover in which any item referred to in this Section
17 is to be delivered or filed, the date on which such item was given to such trade
18 or business for delivery; and

19 (D) Meets such other criteria as the Tax Collector may prescribe.

20 (2) The Tax Collector may provide a rule similar to the rule of Subsection (1)
21 with respect to any service provided by a designated delivery service which is
22 substantially equivalent to the United States registered or certified mail.
23
24
25

1 SEC. 6.9-7. PARTIAL PAYMENTS. Where a taxpayer owes payments for prior
2 years, the Tax Collector may accept partial payments. The difference between the amount
3 paid by the taxpayer and the total amount due shall be treated as a delinquent tax and shall
4 be subject to ~~failure to pay~~ penalties and interest on the unpaid balance pursuant to Section
5 6.17-1.

6 Unless the taxpayer specifies otherwise, the partial payments shall be applied to the
7 oldest year's deficiency, first to administrative collection costs, interest, penalties and other costs
8 and charges for that year, and the balance, if any, shall be applied to the taxes due for that
9 year. Any remaining portion of the payment shall then be applied to the next oldest year's
10 deficiency in the same manner and order.

11 The taxpayer may specify that the partial payment be applied to a tax year other than
12 the oldest, but the order of payment between administrative collection costs, interest, penalties,
13 other costs and charges, and taxes due shall remain the same.

14
15 SEC. 6.10-1. COLLECTION OF TAX; SECURITY. The Tax Collector, whenever he or
16 she deems it necessary to insure compliance with ~~Part III of the Municipal~~ the Business and Tax
17 Regulations Code, may require any person subject thereto to deposit with the Tax Collector
18 such security as the Tax Collector may determine. The amount of the security shall be fixed
19 by the Tax Collector, but shall not be greater than twice the person's estimated average
20 liability for the period for which said person files returns, determined in such manner as the
21 Tax Collector deems proper, ~~but not to exceed \$50,000~~. The amount of the security may be
22 increased or decreased by the Tax Collector subject to the limitations herein provided. The
23 Tax Collector may sell the security at public auction if it becomes necessary so to do in order
24 to recover any tax or any amount required to be collected and remitted to the City, interest, or
25 penalty due. Notice of the sale ~~may~~ shall be served upon the person who deposited the

1 security and upon the taxpayer, if different, personally or by mail; if by mail, service shall be
2 made in the manner prescribed for service of a notice of a deficiency determination as set out
3 in Section 6.11-2 herein, and shall be addressed to the person at said person's address as it
4 appears in the records of the Tax Collector. Upon any sale, any surplus above the amounts
5 due shall be returned to the person who deposited the security.

6
7 SEC. 6.10-2. COLLECTION OF TAX; ~~PROPERTY HELD BY~~ FROM THIRD PARTY. If
8 any person is delinquent in the payment of the amount required to be paid by said person, or
9 in the event a determination has been made against any person which remains unpaid, the
10 Tax Collector may, not later than ~~four~~ three years after the payment became delinquent, give
11 notice thereof by ~~certified~~ mail or by personal service to ~~all~~ any persons in the City ~~and County~~
12 having in their possession or under their control any credits or other personal property
13 belonging to the delinquent, or owing any debts to the delinquent. After receiving such notice,
14 the persons so notified shall neither transfer nor make any other disposition of the credits,
15 other personal property, or debts in their possession or under their control at the time they
16 receive the notice until the Tax Collector consents to a transfer or disposition or until 20 days
17 elapse after the receipt of the notice. All persons so notified shall, within five days after
18 receipt of the notice, advise the Tax Collector of all such credits, other personal property, or
19 debts in their possession, under their control, or owing by them. Unless otherwise required by
20 law, if ~~If~~ persons so notified transfer such assets in violation of the provisions of this
21 ~~subsection~~, they shall become indebted to the Tax Collector for the value of the property
22 transferred, or the amount owed to the City by the delinquent, whichever is less.

1 SEC. 6.10-3. COLLECTION OF TAX; LEGAL ACTIONS. (a) The Tax Collector may
2 bring an action in the courts of this State, or any other state, or of the District of Columbia, or
3 of the United States and its territories or possessions, or any other forum where permitted by
4 ~~local~~ law to recover in the name of the City ~~and County of San Francisco~~ any amount of taxes
5 due and payable under ~~Part III of the Municipal~~ the Business and Tax Regulations Code and
6 remaining unpaid, together with penalties, interest, and costs, including reasonable attorneys'
7 fees. In prosecuting such actions, the Tax Collector shall be entitled to all of the provisional
8 remedies provided ~~in the California Code of Civil Procedure by law, including, but not limited to,~~
9 ~~prejudgment attachment~~. Any such action shall be commenced within ~~four~~ three years from the
10 date any amount of taxes became due and payable, or from the date the return is required to
11 be filed or actually filed, whichever period expires later; except in the case of any deficiency
12 determination pursuant to Sections 6.12-1 et seq. or 6.13-1 et seq., in which case any such
13 action shall be commenced within ~~four~~ three years after such determination became final.
14 However, there shall be no limitation on the time in which such actions ~~shall~~ may be
15 commenced in cases of fraud, intent to evade ~~Part III of the Municipal~~ the Business and Tax
16 Regulations Code, or failure to ~~make~~ file a return.

17 (b) When the amount of any tax, penalty or interest which has become due and
18 payable remains unpaid for 15 days, the Tax Collector may record a tax lien with the
19 Assessor-Recorder, thereby creating a tax lien on all of the assessee's property and rights to
20 property, including realty, personalty, or intangibles. The Tax Collector may record or file such
21 tax lien in any other office of any other jurisdiction as permitted by law. The tax lien shall identify
22 the Tax Collector as the lienor, the property subject to the lien, and the amount of the lien.
23 Simultaneously with the recording, a copy of the tax lien shall be mailed to or personally
24 served upon the taxpayer or other person determined to be liable for the tax at said person's
25 last known address based upon the information, contained in the Tax Collector records. The

1 tax lien after recordation has the force, effect and priority of a judgment lien and continues for 10 years
2 from the date of recording, unless sooner released or otherwise discharged. This remedy and any
3 other remedies for collection of any taxes ~~imposed by Part III of the Municipal Code~~, together
4 with all administrative collection costs, interest, penalties and other costs and charges, including
5 reasonable attorneys' fees, are cumulative and may be pursued alternatively and
6 consecutively as the Tax Collector determines.

7
8 SEC. 6.11-1. DEFICIENCY DETERMINATIONS; RECOMPUTATION; INTEREST. If
9 the Tax Collector ~~is not satisfied~~ determines there is a deficiency with the return or returns of the
10 tax or the amount of ~~the~~ any tax required to be paid to the City ~~and County~~ by any person, or
11 the Tax Collector determines that a person other than the taxpayer is jointly and severally
12 liable for any tax, including third-party taxes, the Tax Collector may compute and determine the
13 amount required to be paid upon the basis of the facts contained in the return or returns or
14 upon the basis of any information within the Tax Collector's possession or that may come into
15 the Tax Collector's possession. One or more deficiency determinations may be made of the
16 amount due for one or for more than one period.

17 The amount of the determination, ~~exclusive~~ inclusive of penalties, shall bear interest at
18 the rate of one percent per month, or fraction thereof, from the fifteenth day after the close of
19 the month or the quarterly period for third-party taxes, or from the last day of February
20 following the close of the annual period, for which the amount or any portion thereof should
21 have been returned until the date of payment, or, in the case of stadium operator admission
22 taxes, from the due dates of said tax as set forth in Article 11, Section 804.

23 In making a determination, the Tax Collector may offset overpayments for a period or
24 periods together with interest on the overpayments, against underpayments for another period
25 or periods, against penalties, and against the interest on the underpayments. The interest on

1 underpayments and overpayments shall be computed in the manner set forth in Section 6.17-
2 1 for underpayments and in Section 6.15-2 for overpayments.

3
4 SEC. 6.11-2. DEFICIENCY DETERMINATIONS; REVOCATION AND SUSPENSION
5 DETERMINATIONS; NOTICE AND SERVICE. Upon making a determination pursuant to
6 Section 6.11-1, or upon making a determination pursuant to Section 6.6-1(e) that a certificate
7 shall not be issued or to suspend or revoke a registration, the Tax Collector shall give to the
8 taxpayer or other person determined to be liable for the tax written notice of the Tax
9 Collector's determination. Except in the case of fraud, intent to evade *Part III of the Municipal*
10 *the Business and Tax Regulations Code* or *authorized* rules and regulations *issued or promulgated*
11 *by the Tax Collector*, or failure to file a return, in which case there is no statute of limitations,
12 every notice of a deficiency determination shall be served within ~~four~~ *three* years after the
13 fifteenth day of the calendar month following the month or the quarterly period for which the
14 amount is proposed to be determined for third-party taxes, or within ~~four~~ *three* years after the
15 last day of February following the period for which a return is required to be filed, whichever
16 period expires later. *The Taxpayer may agree in writing to extend the period for service of a notice*
17 *of a deficiency determination otherwise provided in this paragraph.*

18 The notice of any determination under this Section may be served upon the taxpayer or
19 other person determined to be liable for the tax personally or by mail; if by mail, service shall
20 be by *certified* mail to the last known address as indicated in the Tax Collector's records. In
21 case of service by mail of any notice required *by this Article* to be served *by this Article upon the*
22 *taxpayer or other person*, the service is complete at the time of deposit in the United States Post
23 Office.

1 SEC. 6.11-3. DETERMINATION IF NO RETURN MADE; ESTIMATE OF LIABILITY,
2 PENALTIES AND INTEREST. If any taxpayer or person responsible for paying a tax or
3 remitting a third-party tax fails to make a timely return or estimated tax prepayment, the Tax
4 Collector may make a determination based upon an estimate of the amount of the total tax
5 liability of the taxpayer. The estimate shall be made for the period or periods in respect to
6 which the person failed to timely make a return, failed to timely make a prepayment or failed
7 to timely remit a tax, and may be based upon any information which is in the Tax Collector's
8 possession or may come into his or her possession. Upon the basis of this estimate, the Tax
9 Collector shall compute and determine the amount required to be paid to the City ~~and County~~,
10 adding to the sum thus computed a penalty equal to 20 percent thereof. One or more
11 determinations may be made for one or more than one period. Any such determination shall be
12 prima facie evidence of the person's liability in any subsequent administrative or judicial proceeding.

13 In making a determination, the Tax Collector may offset overpayments for a period or
14 periods, together with interest on the overpayments, against underpayments for another
15 period or periods, against penalties, and against the interest on the underpayments. The
16 interest on underpayments and overpayments shall be computed in the manner set forth in
17 Sections 6.17-1 and 6.15-2, respectively. The amount of the determinations, exclusive of
18 penalties, shall bear interest at the rate of one percent per month, or fraction thereof, from the
19 ~~last day of the month following the close of the month or quarterly period for which the amount or any~~
20 ~~portion thereof, should have been returned~~ date of delinquency until the date of payment.

21
22 SEC. 6.11-4. DETERMINATION IF NO RETURN MADE; NOTICE AND SERVICE.
23 ~~Upon making his or her determination, the~~ The Tax Collector shall serve the person or persons
24 determined to be liable ~~therefor~~ for the tax as determined under Section 6.11-3 with written notice
25 of the determination and penalty. ~~The Tax Collector shall serve the notice to be served upon~~

1 *such person(s) personally or by mail in the manner prescribed for service of notice of a deficiency*
2 *determination as set out in Section 6.11-2 herein.*

3
4 SEC. 6.12-1. JEOPARDY DETERMINATIONS; DUTY OF TAX COLLECTOR. If the
5 Tax Collector believes that the collection of any tax or any amount of *any third party* tax
6 required to be collected and paid to the City *and County* or of any determination will be
7 jeopardized, in whole or in part, by delay, the Tax Collector shall serve *notice* upon the
8 taxpayer or other person determined to be liable *for the tax notice therefor* of his or her
9 determination of jeopardy and of the tax or amount of *third party* tax required to be *collected*
10 *paid to the City*, and demanding immediate payment *of the tax thereof, together with any* interest
11 and penalty determined to be due. The Tax Collector may consider all facts and
12 circumstances relevant to determining whether the collection of any tax will be jeopardized by
13 delay, including but not limited to indications that the taxpayer intends or is taking action to
14 discontinue business activities in the City *and County*, dissipate or otherwise remove assets
15 from the City *and County*, or sell, exchange, assign or otherwise dispose of personal or
16 business income or property. The Tax Collector also may consider whether the taxpayer is
17 insolvent or likely to become insolvent after the taxes at issue are assessed or collected;
18 whether the taxpayer is or has been uncooperative or unresponsive in connection with any
19 investigation, examination, audit, deficiency determination, assessment or collection action or
20 procedure undertaken by the Tax Collector *in connection with the taxes at issue*; what taxable
21 years are at issue; how many taxable years are at issue; and whether the taxes at issue are
22 third-party taxes.

1 SEC. 6.12-5. JEOPARDY DETERMINATIONS; PETITION FOR
2 REDETERMINATION. Any person against whom a jeopardy determination is made may
3 petition for the redetermination thereof pursuant to Section 6.13-1 *et seq.* of this Article. The
4 taxpayer shall, however, file the petition for redetermination with the Tax Collector within 15
5 days after the service ~~upon him or her~~ of notice of determination. If a petition for
6 redetermination of a jeopardy determination is not filed within the foregoing 15-day period, the
7 determination becomes final at the expiration of that period.

8 The filing of a petition for redetermination of a jeopardy determination shall not operate
9 to stay collection. Collection may be stayed only as provided in Section ~~6.12-1(b)~~ 6.12-2
10 above.

11 If a timely petition for ~~review~~ redetermination is filed from of a jeopardy determination is
12 filed, the Tax Collector shall review the matters raised in the petition including, if requested,
13 whether the issuance of the jeopardy determination was ~~reasonable~~ warranted under the
14 circumstances. In making this determination, the Tax Collector shall grant the taxpayer or
15 other person determined to be liable for the tax or ~~his or her~~ such taxpayer or person's
16 authorized representative an oral hearing if ~~said person has so~~ requested in ~~his or her~~ the
17 petition.

18 If, in the review process, ~~it is determined that~~ the Tax Collector's ~~determination of~~
19 determines that the determination of jeopardy was ~~unreasonable under the circumstances~~ improper or
20 unwarranted, any collection action taken shall be withdrawn, pending the ultimate
21 administrative determination of the amount of the deficiency due from the taxpayer or other
22 person claimed to be liable for the tax claimed to be due in the jeopardy determination notice.
23 Neither the validity of the ~~jeopardy determination's~~ determination of tax, nor the burden of proof,
24 shall be affected by ~~a~~ the Tax Collector's determination that the determination of jeopardy was
25 ~~unreasonable~~ improper or unwarranted.

1 The taxpayer or other person determined to be liable for the tax has the right to an oral
2 hearing and determination by the Tax Collector upon the matters raised in the petition within
3 45 days from the date of the filing of the petition for redetermination, as scheduled by the Tax
4 Collector, unless the taxpayer waives said time period. The 45-day period shall be tolled during
5 the period between the date of service of a written notification authorized by Section 6.13-1(b) of the
6 additional information or records necessary for the Tax Collector to evaluate and decide the petition,
7 and the date of receipt of all such information and records by the Tax Collector.

8
9 SEC. 6.13-1. REDETERMINATIONS; PETITION; TIME FOR FILING; INCOMPLETE
10 PETITIONS. (a) Any person against whom a determination *other than a jeopardy determination*
11 is made under *Part III of the Municipal Code the Business and Tax Regulations Code* may petition
12 the Tax Collector for a redetermination within 30 days after service of the notice thereof, except
13 for a petition for redetermination of a jeopardy determination, which the person may file within 15 days
14 after service of the notice as provided in Section 6.12-5. If a petition for redetermination is not filed
15 within the foregoing applicable periods, the determination becomes final at the expiration of the
16 period. The final determination may be enforced or collected by any method authorized by
17 law, including but not limited to lien, levy, and judicial enforcement, including provisional
18 remedies and injunctive relief.

19 (b) Every petition for redetermination shall be verified by the person against whom the Tax
20 Collector made the determination, stating under penalty of perjury the specific grounds upon which the
21 petition is founded, with specificity sufficient to enable the Tax Collector to understand and evaluate
22 the petition, and verifying the information and authenticating the records upon which the petitioner
23 relies in support of the petition. If the Tax Collector determines that the petition fails to state specific
24 grounds for redetermination, lacks sufficient specificity to understand and evaluate the petition, or is
25 not accompanied by information and records in support of the petition the Tax Collector reasonably

1 deems necessary to evaluate and decide the petition, the Tax Collector in his or her discretion may
2 either deny the petition as incomplete or may require the petitioner in writing to supplement the
3 petition with additional information or records the Tax Collector deems reasonably necessary to decide
4 the petition. The petitioner shall submit such information and records in support of the petition to the
5 Tax Collector within 30 days of service of the Tax Collector's written request, which shall be served in
6 the manner prescribed in Section 6.11-2. If mailed, service of the notice is complete at the time of
7 deposit in the United States Post Office. Failure of the petitioner to provide all of the information and
8 records set forth in the written request within the 30-day period shall be sufficient ground for the Tax
9 Collector to deny the petition, and the petitioner shall be subject to the penalties and sanctions
10 provided in Section 6.17-3.

11
12 SEC. 6.13-2. REDETERMINATIONS; HEARING AND NOTICE. If a petition for
13 redetermination is timely filed ~~within the 30-day period~~, the Tax Collector shall reconsider the
14 determination. ~~and, if the person has so~~ If requested in ~~his or her~~ the petition, the Tax Collector
15 shall grant the person or ~~his or her~~ the person's authorized representative an oral hearing, and
16 shall give ~~him or her~~ such person or representative not less than 15 ~~10~~ days' notice of the time and
17 place of the hearing. The Tax Collector may continue the hearing from time to time as may be
18 necessary.

19
20 SEC. 6.13-3. REDETERMINATIONS; ALTERATION OF DETERMINATION. The Tax
21 Collector may decrease or increase the amount of the determination, including the amount of the
22 tax, penalties or interest, before it becomes final. ~~, but the~~ The amount may be increased only if a
23 claim for the increase is asserted by the Tax Collector, and the Tax Collector provides written
24 notice thereof to the person against whom the Tax Collector issued the determination at least five
25 days before the hearing. Nothing in this Section shall preclude a new audit or determination

1 by the Tax Collector of a new or supplemental deficiency. The burden of proof in any
2 proceeding for redetermination or appeal thereof shall be *in favor of the Tax Collector on the*
3 *taxpayer, who shall have the burden of proving that the Tax Collector's determination is incorrect.*
4

5 SEC. 6.13-4. REDETERMINATIONS; FINALITY OF ORDER. The order or decision of
6 the Tax Collector upon a petition for redetermination becomes final 15 days after service upon
7 the petitioner of notice thereof, ~~unless appeal of such order or decision is filed with the Board of~~
8 ~~Review within that time.~~ Service of the order or decision of the Tax Collector shall be served in
9 the manner prescribed in Section 6.11-2.

10 All determinations made by the Tax Collector under Sections 6.13-1 and 6.13-2 of this
11 Article are due and payable at the time they become final, except jeopardy determinations
12 made pursuant to Section 6.12-1 et seq., which become due and payable upon service of the
13 jeopardy determination.
14

15 SEC. 6.13-5. EXHAUSTION OF ADMINISTRATIVE REMEDIES. Prior to seeking judicial
16 relief, persons against whom a jeopardy determination or deficiency determination is made must
17 exhaust their administrative remedies by: (i) petitioning to the Tax Collector for redetermination, and
18 (ii) paying the full amount owed as set forth in the final determination and presenting a claim for
19 refund to the Controller under Sections 6.15-1 et seq.
20

21 SEC. 6.13-6. EFFECT OF TAX COLLECTOR'S NOTICE OF EXAMINATION OF RECORDS.
22 The Tax Collector's issuance of a notice of deficiency or failure to issue such a notice for any period
23 may not be treated as precedent for any particular method or manner of reporting or treating any item
24 included or excluded on any return for purposes of any other or future item appearing or reported on a
25 return.

1 SEC. 6.14-1. BOARD OF REVIEW; JURISDICTION TO DECIDE PENDING TAXPAYER
2 PETITIONS; TAX COLLECTOR RULES AND REGULATIONS. (a) From and after the effective date
3 of the repeal of Sections 6.14-2 and 6.14-3 of this Article, the Board of Review shall lack jurisdiction to
4 accept any new petition for redetermination or petition for refund, or any modification or amendment
5 to such petitions pending before the Board of Review upon such effective date.

6 (b) The Board of Review shall promptly review and rule upon all petitions for redetermination
7 and petitions for refund pending before it upon the effective date of the repeal of Sections 6.14-2 and
8 6.14-3 of this Article. Such reviews and rulings shall be made in accordance with the provisions of
9 Sections 6.14-1 through 6.14-3 of this Article, inclusive, as such sections read on the date immediately
10 preceding the effective date of the repeal of Sections 6.14-2 and 6.14-3 of this Article.

11 (c) From and after the effective date of the repeal of Section 6.14-3 of this Article, the Board of
12 Review shall lack jurisdiction to approve or disapprove any rule or regulation adopted by the Tax
13 Collector. Any rule or regulation adopted by the Tax Collector that is pending before the Board of
14 Review on the date immediately preceding the effective date of the repeal of Section 6.14-3 of this
15 Article shall take effect by operation of law on the effective date of the repeal of Section 6.14-3 of this
16 Article.

17 (d) Upon issuance of the ruling by the Board of Review or other disposition on all petitions for
18 redetermination and petitions for refund pending before the Board of Review on the effective date of the
19 repeal of Section 6.14-2 of this Article, the Clerk of the Board of Review shall issue a written
20 certification to the Mayor, Clerk of the Board of Supervisors and Tax Collector that the Board of
21 Review has concluded its work. Upon issuance of such certification, the Board of Review shall cease to
22 exist.

23 ~~A Board of Review, consisting of the Director of Administrative Services, the Controller and the~~
24 ~~Assessor, is hereby created. Any member of the Board may deputize in writing filed with the Board any~~
25 ~~members of his or her office to serve in the member's place on such Board for such period or in such~~

1 ~~hearing as the member may desire. Neither the members of the Board nor the members of their offices~~
2 ~~deputized to serve in their place at any time shall receive any compensation for their services on the~~
3 ~~Board.~~

4 ~~The Board shall select from its members a chairperson who shall serve at its pleasure. A~~
5 ~~majority of the members of the Board shall constitute a quorum. The Board shall keep a record of its~~
6 ~~transactions.~~

7 ~~The Board shall be deemed to be in the office of the Director of Administrative Services, shall~~
8 ~~meet and keep its files in the Director's office, and all filings with the Board relating to appeals or~~
9 ~~otherwise shall be made at such office.~~

10
11 ~~SEC. 6.14.2. BOARD OF REVIEW; APPEALS; EXHAUSTION. The Board shall have the~~
12 ~~power, and it shall be its duty, to review and to make its ruling upon any petition for redetermination or~~
13 ~~petition for refund, provided that the taxpayer shall have timely filed said petition with the Board. In its~~
14 ~~review of the Tax Collector's decision or order, the Board may take such evidence and make such~~
15 ~~investigation as it may deem necessary. As to any question of fact upon which the Tax Collector's order~~
16 ~~decision was based, including any questions involving apportionment or penalties, the Board of Review~~
17 ~~may modify or revoke the order or decision of the Tax Collector, or it may affirm such order or~~
18 ~~decision and dismiss the petition.~~

19 ~~The Board shall not make any ruling inconsistent with the requirements of Part III of the~~
20 ~~Municipal Code, nor is the Board authorized to relieve any taxpayer by reason of hardship alone from~~
21 ~~tax properly due under Part III of the Municipal Code. In the review of the Tax Collector's decision, the~~
22 ~~Board shall not be limited to a review of the evidence upon which the Tax Collector made the decision,~~
23 ~~but may take such evidence and make such investigation as it may deem necessary.~~

24 ~~The Board shall prescribe such forms, rules and regulations relating to appeals as it may deem~~
25 ~~necessary. The Board shall serve notice of its ruling personally or by mail in the manner prescribed by~~

1 ~~Section 6.11-2, and shall file a copy of each such ruling with the Tax Collector with certification~~
2 ~~thereon of the date of service thereof. Such ruling shall become final 15 days thereafter and shall~~
3 ~~thereupon become due and payable, subject to interest and penalties, and enforceable by the Tax~~
4 ~~Collector in like manner as an order or decision of the Tax Collector. Nothing in this Section shall~~
5 ~~prevent jeopardy determinations from becoming due and payable immediately pursuant to the~~
6 ~~provisions of Section 6.12-2.~~

7 ~~Persons claiming they are aggrieved under Part III of the Municipal Code must exhaust their~~
8 ~~administrative remedies by completing an appeal to the Board of Review prior to seeking judicial~~
9 ~~relief.~~

10
11 ~~SEC. 6.14-3. BOARD OF REVIEW; ADDITIONAL POWERS AND DUTIES. The Board shall~~
12 ~~have the power, and it shall be its duty:~~

13 ~~(1) To approve or disapprove all rules and regulations prescribed by the Tax Collector in~~
14 ~~the administration and enforcement of Part III of the Municipal Code and such rules and regulations~~
15 ~~shall be subject to, and become effective only on such approval; provided, however, any rules and~~
16 ~~regulations adopted by the Tax Collector shall also be approved by the City Attorney, and further~~
17 ~~provided that any modification determined by the Board of Review shall be approved as to legal form~~
18 ~~by the City Attorney before becoming effective; and~~

19 ~~(2) To hear and determine in such manner as shall be just any protest which may be made~~
20 ~~by any person who may be interested to any rule or regulation approved or prescribed by the Board.~~

21
22 **SEC. 6.15-1. REFUNDS.** (a) Except as otherwise provided in subdivision (c) below,
23 the Controller shall refund or cause to be refunded whenever the amount of any tax, interest or
24 penalty that has been overpaid or paid more than once, or has been erroneously or illegally
25 collected or received by the City ~~and County under Part III of the Municipal Code, so much of the~~

1 ~~tax as has been overpaid or paid more than once or has been erroneously collected or received by the~~
2 ~~City and County of San Francisco may be refunded, provided the person that paid such amount files~~
3 ~~with the Controller, within the later of one year of payment of such amount or when the return~~
4 ~~accompanying such payment was due, a verified claim in writing therefor, stating under penalty of~~
5 ~~perjury: (i) the specific amount claimed to have overpaid or paid more than once, or erroneously or~~
6 ~~illegally collected or received by the City, (ii) the tax periods at issue, and (iii) the grounds upon~~
7 ~~which the claim ~~was~~ is founded, with specificity sufficient to enable the Tax Collector and other~~
8 ~~responsible City officials to understand and evaluate the claim, is filed with the Tax Collector~~
9 ~~within six months from the time the return was due or the tax was paid, whichever of such periods~~
10 ~~expires later; provided, however, that in no event shall the period to file such claim expire prior to~~
11 ~~shortest period allowable for filing a tax refund claim under Title 1, Division 3.6, Part 3, Section 911.2~~
12 ~~of the California Government Code or any successor provision as amended from time to time. The~~
13 ~~Controller shall enter the claim in the claim register, and shall forthwith forward it to the City~~
14 ~~Attorney. The City Attorney shall review the claim for compliance with this section and other laws as~~
15 ~~may be applicable thereto. Within 20 days after the claim is presented the City Attorney shall give~~
16 ~~written notice of its insufficiency, stating with particularity the defects or omissions therein. Upon~~
17 ~~receipt of the claim, the City Attorney shall forthwith request an investigation by the Tax Collector.~~
18 ~~The Tax Collector shall submit a report with respect to the claim and recommendation thereon to the~~
19 ~~City Attorney within 30 days of receipt of the City Attorney's request. The City Attorney may reject any~~
20 ~~and all claims the Controller forwards to the City Attorney, and shall notify the claimant of such~~
21 ~~rejection. Allowance or compromise and settlement of claims under this section in excess of \$25,000~~
22 ~~shall require the written approval of the City Attorney and approval of the Board of Supervisors by~~
23 ~~resolution. The City Attorney may allow or compromise and settle such claims if the amount is \$25,000~~
24 ~~or less. No claim may be paid until the Controller certifies that monies are available from the proper~~
25 ~~funds or appropriations to pay the claim as allowed or as compromised and settled. For purposes of~~

1 this Section 6.15-1, a claim shall be deemed to accrue on the later of the date the return was
2 due or the tax was paid.

3 (b) The claim shall be on a form furnished by the ~~Tax Collector~~ Controller. A claim
4 may be returned to the person if it was not presented using the form. A refund claim may only be
5 signed by the taxpayer or other person determined to be liable for the tax or said person's
6 guardian or conservator. No other agent, including the taxpayer's attorney, may sign a refund
7 claim. Class claims for refunds shall not be permitted. If the claim is approved as set forth in
8 subdivision (a) above, by the department which collected said tax and by the Controller the excess
9 amount collected or paid may be refunded or may be credited on any amount due and
10 payable, from the person from whom it was collected or by whom paid and the balance may
11 be refunded to such person, his administrator or executors.

12 (c) The ~~Tax Collector~~ City Attorney, in his or her discretion and upon good cause
13 shown, prior to the expiration of the one-year limitations period, may waive the requirement set
14 forth in subdivision (a) above that a taxpayer file a written verified claim ~~in writing stating under~~
15 ~~penalty of perjury the specific grounds upon which a claim for a refund is founded~~ in any case in
16 which the Tax Collector and City Attorney ~~can and does~~ determine on the basis of other
17 evidence ~~presented to him or her~~ that (i) an amount of tax, interest or penalty has been overpaid
18 or paid more than once, or has been erroneously or illegally collected or received by the City
19 ~~and County under Part III of the Municipal Code,~~ and (ii) all other conditions precedent to the
20 payment of a refund to the taxpayer have been satisfied.

21 (d) ~~Transitional Rule. The period of limitation for filing claims as amended by this~~
22 ~~Ordinance shall not be applied to extinguish existing causes of action. However, pursuant to Brown v.~~
23 ~~Bleiberg (1982) 32 Cal. 3d 426, a cause of action that is not time barred as of the effective date of this~~
24 ~~amendment shall expire on the date six months after the effective date of this amendment or on the date~~
25 ~~such cause of action would have expired in the absence of this amendment, whichever of such dates~~

1 ~~occurs first. The Clerk of the Board of Supervisors is directed to remove this subdivision (d) from this~~
2 ~~Section 6.15-1 upon the expiration of a 42-month period commencing on the effective date of this~~
3 ~~amendment.~~

4 (d) The City Attorney shall allow, reject or otherwise act upon a claim for refund in a
5 manner specified in Government Code Section 912.6 within 45 days after it is presented to the
6 Controller. If the claim is amended, the City Attorney shall act on the amended claim within 45 days
7 after the amended claim is presented. The claimant may agree in writing to extend the period within
8 which the City Attorney must act on the claim for refund prior to expiration of the original 45-day
9 period. The claimant may deem the claim for refund denied and seek judicial relief if the City Attorney
10 does not act upon the claim within the 45-day period, or such extended period to which the claimant
11 has agreed.

12
13 SEC. 6.15-2. REFUNDS; INTEREST. (a) Any amounts refunded shall bear interest
14 at the rate of 2/3 of one percent per month or fraction thereof; or the average rate of interest
15 computed over the preceding six-month period, lawfully obtainable by the San Francisco
16 Treasurer on deposits of public funds at the time refund is made, whichever rate is lower, and
17 shall be computed from the date of payment to the date of refund except for amounts
18 refunded as a result of a final judicial determination of the invalidity of any portion of, or
19 amendment to the Business and Tax Regulations Code Part III of the Municipal Code, or the
20 invalidity of any administrative interpretation thereof, in which case interest shall be computed
21 from the date of the claim for refund to the date of refund.

22 (b) If the ~~Tax Collector~~ Controller offsets overpayments for a period or periods
23 against underpayments for another period or periods, against penalties or against interest on
24 the underpayments, the taxpayer will be credited with interest on the amount so applied at the
25 rate of interest set forth above, computed from the date of payment.

1 (c) If a taxpayer chooses to apply all or part of a refund against a future year's
2 liability, the taxpayer will not be credited with interest on the amount so applied.
3

4 SEC. 6.15-3. REFUNDS; NOTICE OF DENIAL AND REVIEW. If the claim for refund is
5 denied, the ~~Tax Collector~~ City Attorney shall serve or cause to be served notice of such denial
6 upon the taxpayer personally or by mail. The notice of denial of such claim shall be in a form
7 substantially similar to the form for notice of rejection of claims set forth in Government Code Section
8 913 becomes final 30 days after service of notice thereof, unless a petition for refund is filed with the
9 Board of Review prior to expiration of such 30 day period. Petitions for refund, after having been filed
10 with the Board of Review, shall be treated in the same manner as petitions for redetermination. Service
11 of a denial of a claim for refund shall be made in the manner prescribed in Section 6.11-2.
12

13 SEC. 6.15-4. EXHAUSTION OF ADMINISTRATIVE REMEDIES; PRESENTATION OF
14 CLAIM FOR REFUND AS PREREQUISITE TO SUIT; PAYMENT OF DISPUTED AMOUNT AND
15 PETITION FOR REFUND; LIMITATIONS. (a) Persons claiming they are aggrieved under the
16 Business and Tax Regulations Code must first pay the amount of the disputed tax, penalty and interest,
17 and present a claim for refund to the Controller, prior to seeking judicial relief.
18

19 (b) Presentation of a claim for refund that substantially complies with Sections 6.15 et seq.
is a prerequisite to suit.

20 (c) Any judicial proceeding shall be commenced no later than six (6) months from the date
21 the notice of denial of the claim for refund was personally delivered or deposited in the mail, or within
22 two (2) years of accrual of the cause of action if notice of denial of the claim for refund is not served on
23 the person as set forth in Section 6.15-3.
24
25

1 SEC. 6.16-1. RULES AND REGULATIONS. ~~Subject to the authority of the Board of~~
2 ~~Review under Section 6.14 3, the~~ The Tax Collector shall have power to ~~may promulgate~~ adopt rules
3 ~~and regulations~~ and issue rules, determinations and interpretations not inconsistent with the
4 provisions of ~~Part III of the Municipal~~ the Business and Tax Regulations Code as may be necessary
5 or appropriate for the purpose of carrying out and enforcing the payment, collection and
6 remittance of ~~the taxes herein imposed~~ and to apply such Code and any rules and regulations
7 promulgated thereunder in a lawful manner. ~~÷ and a~~ The Tax Collector shall hold a public hearing and
8 allow public comment on any proposed rule or regulation prior to adoption thereof. The Tax
9 Collector shall provide not less than 10 days notice of such public hearing. A copy of such rules and
10 regulations shall be on file and available for public examination in the Tax Collector's office.
11 Failure or refusal to comply with any rules and regulations promulgated ~~under this Section~~ by the
12 Tax Collector shall be deemed a violation of ~~Part III of the Municipal~~ the Business and Tax
13 Regulations Code. The Tax Collector may prescribe the extent to which any ruling or
14 regulation shall be applied without retroactive effect.

15
16 SEC. 6.17-1. PENALTIES AND INTEREST FOR FAILURE TO PAY. Any person who
17 fails to pay any tax to the City ~~and County of San Francisco~~, or any amount of tax required to be
18 collected and paid to the City ~~and County~~, from the date such tax becomes delinquent under
19 Section 6.9-1 shall pay a penalty of five percent of the tax or amount of the tax, in addition to
20 the tax or amount of tax, if the failure is for not more than one month, with an additional 5
21 percent for each month or fraction of a month during which such failure continues, up to 20%
22 in the aggregate, plus interest at the rate of one percent per month, or fraction of a month,
23 from the date such tax or the amount of such tax becomes delinquent under Section 6.9-1
24 until the date of payment. Any taxes remaining unpaid for a period of 90 days after
25 notification that the tax is delinquent shall be subject to an additional penalty of 20 percent of

1 the tax or amount of the tax. If the failure to pay any tax is due to fraud or an intent to evade
2 ~~Part III of the Municipal~~ the Business and Tax Regulations Code or the Tax Collector's rules and
3 regulations, an additional penalty in the amount of 50 percent of the amount due, exclusive of
4 any other penalties and interest, shall be added thereto. A taxpayer or other person against
5 whom a fraudulent failure to pay penalty is asserted is entitled to a notice of such
6 determination to be issued in accordance with the provisions of Section 6.11-1 et seq. and to
7 the appeal rights set forth in Sections 6.13-1 et seq. ~~and 6.14-1 et seq.~~

8
9 SEC. 6.17-2. PENALTIES FOR UNDERREPORTING OF TAX. If the Tax Collector
10 determines that all or part of any tax required to be reported on any return was underreported
11 and that such underreporting was attributable to negligence or intentional disregard of rules
12 and regulations, the Tax Collector may impose a penalty upon the taxpayer in the amount of 5
13 percent of the amount of the underreported tax, in addition to the tax or amount of tax, if the
14 negligence or intentional disregard of rules and regulations is for not more than one month,
15 with an additional 5 percent for each month or fraction of a month during which such
16 negligence or intentional disregard of rules and regulations continues, up to 20 percent in the
17 aggregate. When it is determined by the Tax Collector that all or part of any tax required to be
18 reported on any return was underreported and such underreporting was attributable to fraud
19 or an intent to evade the Business and Tax Regulations Code, the Tax Collector may impose a
20 penalty upon the taxpayer in the amount of 50 percent of the amount of the underreported tax.
21 The taxpayer or other person determined to be liable for penalties pursuant to this Section are
22 entitled to a notice of such determination to be issued in accordance with the provisions of
23 Section 6.11-1 et seq. and to the appeal rights set forth in Sections 6.13-1 et seq. ~~and 6.14-1 et~~
24 ~~seq.~~

1 SEC. 6.17-3. NEGLIGENCE PENALTIES FOR FAILURE TO REGISTER,
2 MISSTATEMENTS IN REGISTRATION, FAILURE TO TIMELY UPDATE REGISTRATION,
3 FAILURE TO ALLOW INSPECTION OF RECORDS UPON REQUEST, AND FAILURE TO
4 FILE A RETURN; SANCTION FOR FAILURE TO PRODUCE REQUESTED RECORDS. (a) Any
5 person who fails to register, fails to update a registration within seven days of a material
6 change or whose registration contains a material misstatement, or fails to comply with a rule
7 or regulation promulgated by the Tax Collector pursuant to the provisions of *Part III of the*
8 *Municipal the Business and Tax Regulations Code* within the prescribed time limits shall pay, in
9 addition to any other liability that may be imposed under the provisions of this Article, a
10 penalty in an amount equal to the penalized taxpayer's annual fee for obtaining a registration
11 certificate as set forth in *Section 1007(b) of Part III of the San Francisco Municipal Code Article 12.*

12 (b) Any person who fails to file a return or returns required under *Part III of the*
13 *Municipal Code this Article* on or before the date prescribed for filing shall pay a penalty in the
14 amount of \$100 for each such failure. The penalty under this provision shall be in addition to
15 any other liability that may be imposed under the provisions of this Article.

16 (c) Any person who fails to allow a full inspection of records pursuant to a request
17 *promulgated made* by the Tax Collector *pursuant to the provisions of Part III of the Municipal Code*
18 within the time prescribed by the Tax Collector shall pay, in addition to any other liability that
19 may be imposed under the provisions of this Article, a penalty in the amount of \$500 for each
20 such failure.

21 (d) Unless the failure to allow inspection was due to reasonable cause and not willful neglect,
22 any person who fails to allow a full inspection of records pursuant to a written request made by the Tax
23 Collector may not contest the Tax Collector's decision regarding the amount of such person's liability
24 for any taxes, administrative collection costs, interest, penalties or other costs and charges imposed
25 under the Business and Tax Regulations Code, or oppose the collection of such amount, in any

1 subsequent administrative or judicial proceeding, on the basis of any record the Tax Collector
2 previously requested in writing that such person failed to make available to the Tax Collector on or
3 before the earliest to occur of the following:

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

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

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

10
11 SEC. 6.17-4. WAIVER OF PENALTIES. Any penalty or interest assessed under
12 Sections 6.17-1, 6.17- 2 or 6.17-3 may be waived by the Tax Collector, in whole or in part,
13 upon a finding of any of the following:

14 (a) Failure to make timely payment or reporting of tax liability or otherwise comply
15 with the provisions of the Article was due to reasonable cause and not wilful neglect;

16 (b) Failure to make timely payment or report of tax liability or otherwise comply with
17 the provisions of ~~this Article~~ the Business and Tax Regulations Code occurred notwithstanding the
18 exercise of ordinary care by the taxpayer and in the absence of wilful neglect;

19 (c) The taxpayer made an inadvertent error in the amount of payment made,
20 provided any deficiency is cured by payment in full to the Tax Collector within 10 days after
21 notice of the deficiency is mailed to the taxpayer by the Tax Collector; or

22 (d) Waiver of the penalty or interest is ordered by a court of competent jurisdiction.
23
24
25

1 SEC. 6.17-5. COSTS. In addition to the penalties imposed by Sections 6.17-1, 6.17-2
2 and 6.17-3, the Tax Collector may recover the actual costs of collection incurred by the City
3 ~~and County~~ up to the time any amount owed is finally paid, including reasonable attorney's fees
4 and costs.

5
6 SEC. 6.18-1. SUMMARY JUDGMENT; NOTICE; CERTIFICATE. If any tax imposed
7 pursuant to ~~Part III of the Municipal~~ the Business and Tax Regulations Code is not paid by the last
8 day of the month ~~succeeding~~ after the delinquency date, or after any jeopardy or deficiency
9 determination of the Tax Collector becomes final pursuant to Sections 6.12-1 et seq. or 6.13-1
10 et seq., the Tax Collector may file, no sooner than ~~10~~ 20 days after the mailing of the notice
11 required in Subdivision (b), in the office of the ~~County~~ Clerk of the Court, without fee, a
12 certificate specifying as follows:

13 (a) The fact that a notice of intent to file the certificate has been sent, by certified
14 mail, to the operator, taxpayer or other person determined to be liable for the tax, as defined
15 in Section 6.2-~~10~~ 13 of ~~Part III of the Municipal Code~~ Article 6, at ~~his or her~~ the person's last
16 known address, not less than ~~10~~ 20 days prior to the date of the certificate;

17 (b) The fact that the notice required in Subdivision (a) set forth the following
18 information:

19 (1) The name of the operator, taxpayer or other person determined to be
20 liable for the tax,

21 (2) The description of the operator's, taxpayer's or other person's business
22 against which the tax has been assessed,

23 (3) The location and/or address of the business,

24 (4) The fact that judgment will be sought in the amount of the tax, penalty
25 and interest remaining unpaid at the time of the filing of the certificate,

1 (5) The fact that, upon issuance and recordation of the judgment, additional
2 interest will continue to accrue at the rate prescribed in this ~~ordinance~~ Article, and that
3 any bond premium posted or other costs to enforce the judgment shall be an added
4 charge,

5 (6) The fact that a recording fee in the amount set forth in Section 27361.3 of
6 the California Government Code will be required to be paid for the purpose of the
7 recordation of any release of the judgment lien;

8 (c) The name of the operator, taxpayer or other person determined to be liable for
9 the tax;

10 (d) The amount for which judgment is to be entered;

11 (e) The fact that the City ~~and County~~ has complied with all provisions of Part III of the
12 Municipal the Business and Tax Regulations Code in the computation and the levy of the tax,
13 penalty or interest;

14 (f) The fact that a request is therein made for issuance and entry of judgment
15 against the operator, taxpayer or other person determined to be liable for the tax.

16
17 SEC. 6.18-3. SUMMARY JUDGMENT; RECORDING OF JUDGMENT; LIEN. An
18 abstract or copy of the judgment shall be recorded, without fee, in the office of the Assessor-
19 Recorder, and may be recorded in any other office in which such filing is permitted by law. From the
20 time of the recording, the amount of the tax, penalty and interest set forth constitutes a lien
21 upon all property of the judgment debtor in the City ~~and County~~, and upon all property of the
22 judgment debtor in any other jurisdiction where such abstract or copy of the judgment is recorded,
23 owned by the judgment debtor on the date of recording or acquired by the judgment debtor
24 thereafter, and before the lien expires, acquired by the ~~operator~~ judgment debtor. The lien has
25

1 the force, effect and priority of a judgment lien and continues for 10 years from the date of the
2 recording unless sooner released or otherwise discharged.

3
4 SEC. 6.18-5. SUMMARY JUDGMENT; ADDITIONAL PENALTY. In addition to any
5 penalty or fee imposed pursuant to ~~Part III of the Municipal~~ the Business and Tax Regulations
6 Code, a penalty equal to the costs incurred to enforce the judgment entered pursuant to
7 Sections 6.18-1 et seq., including reasonable attorney's fees and costs, shall be imposed.

8
9 SEC. 6.18-7. SUMMARY JUDGMENT; EXECUTION UPON THE JUDGMENT.
10 Execution shall issue upon the judgment upon request of the Tax Collector in the same
11 manner as execution may issue upon other judgments, and sales shall be held under such
12 execution as prescribed ~~in the California Code of Civil Procedure~~ by law.

13
14 SEC. 6.18-8. SUMMARY JUDGMENT; SATISFACTION OF JUDGMENT; REMOVAL
15 OF LIEN. (a) The judgment is satisfied and the lien removed when, but not before, the
16 certificate of release or discharge from the judgment lien is filed with the Clerk of Court and
17 recorded in the office of the Assessor-Recorder. In addition to the judgment amount, and any
18 additional penalty, interest, cost or other amount authorized by ~~Part III of the Municipal~~ the
19 Business and Tax Regulations Code, the Tax Collector shall collect the recording fee in the
20 amount required by Section 27361.3 of the California Government Code and shall transmit
21 ~~that the~~ the amount of the recording fee to the Assessor-Recorder together with the documents for
22 release or discharge.

1 (b) The judgment is also satisfied and the lien removed when, but not before, the
2 tax is legally canceled and a release or discharge from the judgment lien is recorded in the
3 office of the Assessor-Recorder. A recording under this Subsection (b) shall be made without
4 fee.

5
6 SEC. 6.19-1. CIVIL ACTIONS. In addition to the actions provided for in Section 6.10-
7 3, the attorney for the Tax Collector may bring a civil action to enjoin any violation of ~~Part III of~~
8 ~~the Municipal~~ the Business and Tax Regulations Code. The City shall be entitled to its attorney's fees
9 and costs in any action brought pursuant to this Section where the City is the prevailing party.

10
11 SEC. 6.19-3. ADMINISTRATIVE PENALTIES AND CITATIONS. (a) Administrative
12 Penalties; Citations. An administrative penalty may be assessed for a violation of the
13 provisions of this Code as specified below. The penalty may be assessed by means of an
14 administrative citation issued by any person designated as an "enforcement officer" in
15 subsection (c).

16 (b) Penalty Amounts. In addition to all other civil penalties provided for by law, the
17 following violations shall be subject to administrative penalties in the amounts set forth below:

VIOLATION	PENALTY AMOUNT
• Failure to <u>obtain or</u> post a Certificate of Authority to Collect Third Party Taxes	\$100.00
• Failure to <u>obtain or</u> post <u>an</u> Annual Business Tax Registration Certificate	100.00
• Failure to show proof of current Fire Permit	100.00
• Failure to show proof of current Business License	100.00
• Failure of an operator in the business of renting parking space in	

1	a parking station to post a bond	100.00
2	• Failure to appear for noticed hearing	100.00
3	• Failure to produce information requested by the Tax Collector within	
4	30 days of mailing of such request	100.00
5	• Failure to produce financial records requested by the Tax Collector	500.00
6	• Failure to retain financial records	500.00
7	• Failure to allow the Tax Collector to inspect financial records	500.00

8

9 The penalty amounts shall be increased cumulatively by fifty percent (50%) for each

10 subsequent violation of the same provision by the same person within a three (3) year period.

11 The maximum penalty amount that may be imposed by administrative citation in a calendar

12 year for each type of violation listed above shall be \$5,000. In addition to the penalty amounts

13 listed above, the Tax Collector may assess enforcement costs to cover the reasonable costs

14 incurred in enforcing the administrative penalty, including reasonable attorneys' fees.

15 Enforcement costs shall not count toward the \$5,000 annual maximum.

16 (c) Persons Who May Issue Citations. The following classes of employees

17 within the Treasurer/Tax Collector's office are designated "enforcement officers" and are

18 authorized to issue administrative citations pursuant to this *ordinance Article*:

19	CLASSIFICATION NUMBER	CLASS TITLE
20	4334	Investigator
21	4335	Senior Investigator
22	4337	Principal Investigator
23	4340	Chief Investigator <u>Assistant Director</u>

1 SEC. 6.19-4. VIOLATIONS. (a) Separate and Continuing Violations; Penalties Paid
2 Do Not Cure Violations. Each and every day that a violation exists constitutes a separate and
3 distinct offense. Each section violated constitutes a separate violation for any day at issue. If
4 the person or persons responsible for a violation fail to correct the violation, subsequent
5 administrative citations may be issued for the same violation(s). The enforcement officer may
6 issue such subsequent administrative citations for uncorrected violation(s) pursuant to this Section
7 without issuing a new notice as otherwise required by Section 6.19-5. Payment of the penalty shall
8 not excuse the failure to correct the violation nor shall it bar any further enforcement action by
9 the City ~~and County~~. If penalties and costs are the subject of administrative appeal or judicial
10 review, then the accrual of such penalties and costs shall be stayed until the determination of
11 such appeal or review is final.

12 (b) Payments to City ~~and County~~; Due Date; Late Payment Penalty. All penalties
13 assessed shall be payable to the City ~~and County~~. Administrative penalties and costs
14 assessed by means of an administrative citation shall be due within thirty (30) days from the
15 date of the citation. The failure of any person to pay an administrative penalty and costs
16 within that time shall result in the assessment of an additional late fee.^o The amount of the late
17 fee shall be ten (10) percent of the total amount of the administrative penalty assessed for
18 each month the penalty and any already accrued late payment penalty remains unpaid.

19 (c) Collection of Penalties; Special Assessments. The failure of any person to pay
20 a penalty assessed by administrative citation within the time specified on the citation
21 constitutes a debt to the City ~~and County~~. The City ~~and County~~ may file a civil action, create
22 and impose liens as set forth below, or pursue any other legal remedy to collect such money.
23
24
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1 (d) Liens. The City ~~and County~~ may create and impose liens against any property
2 owned or operated by a person who fails to pay a penalty assessed by administrative citation.
3 The procedures provided for in Article XX of Chapter 10 of the San Francisco Administrative
4 Code shall govern the imposition and collection of such liens.

5
6 SEC. 6.19-5. ADMINISTRATIVE CITATION; NOTICE OF VIOLATION. (a) Notice and
7 Opportunity to Cure. The enforcement officer shall notify any person in violation of the Code
8 provisions identified in Section 6.19-3(b) of such violation prior to the issuance of an
9 administrative citation. The enforcement officer may post the notice of violation by affixing the notice
10 to a surface in a conspicuous place on the property regardless of the manner of service of the notice
11 under Section 6.19-6. The notice of violation shall specify the action required to correct or
12 otherwise remedy the violation(s). The person or persons responsible for the violation shall
13 be allowed not less than ten (10) days from the date of the notice of violation to correct or
14 otherwise remedy the violation; provided, however, that the enforcement officer may, in his or
15 her discretion, assign a longer period, not to exceed twenty-one (21) days, within which to
16 correct or otherwise remedy each violation. The enforcement officer may consider the cost of
17 correction and the time needed to obtain information, documents, data and records for
18 correction in assigning a specific period of time within which to correct or otherwise remedy
19 each violation.

20 (b) Issuance of Citation. If the person or persons responsible for the violation fail to
21 comply with any portion of a notice of violation within the time provided, the enforcement
22 officer may issue an administrative citation to the violator. The administrative citation shall be
23 issued on a form prescribed by the Tax Collector.

1 SEC. 6.19-6. ADMINISTRATIVE CITATION AND NOTICE OF VIOLATION; SERVICE.

2 Service of a notice of violation and an administrative citation may be accomplished as follows:

3 (a) The enforcement officer may obtain the signature of the person responsible for
4 the violation to establish personal service of the citation; or

5 (b) (1) The enforcement officer shall post the citation by affixing the citation to a
6 surface in a conspicuous place on the property. Conspicuous posting of the citation is not
7 required when personal service is accomplished or when conspicuous posting poses a
8 hardship or is excessively expensive; and

9 (e2) The enforcement officer shall serve the citation by first class mail as
10 follows:

11 (1i) The administrative citation shall be mailed to the person responsible for
12 the violation by first class mail, postage prepaid, with a declaration of service under
13 penalty of perjury; and

14 (2ii) A declaration of service shall be made by the person mailing the
15 administrative citation showing the date and manner of service by mail and reciting the
16 name and address of the citation addressee; and

17 (3iii) Service of the administrative citation by mail in the manner described
18 above shall be effective on the date of mailing.

19
20 SEC. 6.19-9. REGULATIONS. The Tax Collector may promulgate and enforce rules
21 and regulations, and issue determinations and interpretations relating to the administrative
22 penalty and citation system, and the conducting of administrative hearings and rendering of
23 decisions, pursuant to Sections 6.19-3 through 6.19-11, inclusive. Any rules and regulations
24 promulgated by the Tax Collector ~~and any modifications thereof made by the Board of Review~~ shall
25 be approved as to legal form by the City Attorney. The rules and regulations shall become

1 effective 30 days after receipt by the Clerk of the Board of Supervisors and the Clerk of the
2 Finance Committee, unless the Board of Supervisors by resolution disapproves or modifies
3 the regulations. The Board of Supervisors' determination to modify or disapprove a rule or
4 regulation submitted by the Tax Collector shall not impair the ability of the Tax Collector to
5 resubmit the same or similar rule or regulation directly to the Board of Supervisors if the Tax
6 Collector determines it is necessary to effectuate the purposes of the administrative penalty
7 and citation system.

8
9 SEC. 6.19-11. OTHER REMEDIES NOT AFFECTED. The administrative citation
10 procedures established in this ~~ordinance~~ Article shall be in addition to any other criminal, civil,
11 or other remedy established by law which may be pursued to address violations of ~~this the~~
12 Business and Tax Regulations Code. An administrative citation issued pursuant to this ~~ordinance~~
13 Article shall not prejudice or adversely affect any other action, civil or criminal, that may be
14 brought to abate a violation or to seek compensation for damages suffered.

15
16 SEC. 6.20-1. RELATION TO OTHER LICENSE ORDINANCES. Persons required to
17 pay a tax, fee or charge on any activity under ~~Part III of the Municipal~~ the Business and Tax
18 Regulations Code shall not be relieved from the payment of any ~~license tax~~ amount owed for the
19 privilege of conducting such activity required under any other ordinance of the City ~~and County~~,
20 and shall remain subject to the regulatory provisions of other ordinances.

21 Upon providing written notice of nonpayment or noncompliance with any provision of
22 ~~Part III of the Municipal~~ the Business and Tax Regulations Code to any licensee, and continued
23 nonpayment or noncompliance by the licensee, the Tax Collector may suspend or revoke any
24 license or privilege for conducting business under any ordinance of the City ~~and County~~,
25 ~~excluding place of entertainment and cabaret licenses under the Police Code~~. Such notice of

1 suspension or revocation shall be issued in the same manner as a determination under
2 Section 6.11-1 et seq., and the person issued said notice shall have the appeal rights
3 applicable to determinations made pursuant to Sections 6.11-1 et seq., and 6.13-1 et seq., ~~and~~
4 ~~6.14-1 et seq.~~, and shall become final as provided in those Sections.

5
6 SEC. 6.21-1. TRANSFEREE AND SUCCESSOR LIABILITY. (a) The liability at law or
7 in equity of a successor, transferee or alter ego of any taxpayer or other person determined to
8 be liable for any tax, interest, cost or ~~and~~ penalty subject to this ~~ordinance~~ Article, imposed upon
9 a taxpayer shall be determined, collected and paid in the same manner and subject to the
10 same provisions and limitations as in the case of a deficiency determination pursuant to
11 Sections 6.12-1 et seq. and 6.13-1 et seq. Nothing in this subsection shall be construed to
12 limit the rights or procedures available to the Tax Collector to collect from any successor,
13 transferee or alter ego, at law or in equity, as may be provided ~~under California~~ by statutory or
14 decisional law.

15 (b) No person shall purchase or acquire an interest in a business subject to any tax
16 imposed under Articles 7, 9, or 12-A ~~or 12-B of Part III of the Municipal Code~~ without first
17 obtaining either a receipt from the Tax Collector showing that all of the seller's taxes on the
18 business have been paid, or a certificate stating that no amount is due. For purposes of this
19 Section, "purchase" shall include any other voluntary transfer for consideration of a business,
20 except for purchase of stock of a publicly-traded company.

21 (c) The Tax Collector shall issue such a receipt or certificate, or a notice of the
22 amount that must be paid as a condition of issuing the certificate, to the buyer within 30 days
23 after receiving a written request. However, failure of the Tax Collector to timely mail the notice
24 will not release the buyer from his or her obligations under this Section, except to the extent of
25 penalties and interest in the event that the Tax Collector enforces the buyer's obligation in a

1 civil action authorized pursuant to ~~Part III of the Municipal~~ the Business and Tax Regulations
2 Code.

3 (d) If the buyer purchases or acquires an interest in a business owing any taxes,
4 interest or penalties imposed under Articles 7, 9, or 12-A ~~or 12-B of Part III of the Municipal~~
5 ~~Code~~, the buyer shall withhold from the purchase price and pay to the Tax Collector a sufficient
6 amount to satisfy said taxes, interest and penalties.

7 (e) If the buyer purchases or acquires an interest in a business in violation of this
8 Section, the buyer shall become personally liable for the amount of taxes, interest and
9 penalties owed on the business.

10 (f) The buyer's obligations shall accrue at the time the business is purchased or the
11 interest acquired, or at the time the Tax Collector determines the seller's final liability,
12 whichever is later.

13
14 SEC. 6.22-1. CONFIDENTIALITY. (a) Except where disclosure is otherwise required by
15 law, it ~~is~~ a violation of this ~~ordinance~~ section for the Tax Collector or any officer, employee or
16 agent of the City ~~and County~~ to make known in any manner whatever the business affairs,
17 operations or information obtained by an investigation of records or any person visited or
18 examined in the discharge of official duty, or the amount or source of income, profits, losses,
19 expenditures, or any particular thereof, set forth or disclosed in any return, or to permit any
20 return or copy thereof or any book containing any abstract or particulars thereof to be seen or
21 examined by any person, except as set forth below. These confidentiality provisions also
22 apply to former Tax Collectors and employees and agents thereof.

1 (b) Otherwise confidential information may be disclosed in any federal, state, city or
2 county judicial administrative proceeding pertaining to tax administration, determination,
3 assessment, collection, or enforcement, of any civil or criminal liability arising under *Part III of*
4 *the Municipal the Business and Tax Regulations* Code if the information concerns a person who is
5 a party to the proceeding, or the proceeding arose out of, or in connection with determining
6 that person's civil or criminal liability, or the collection of that person's liability with respect to
7 any tax imposed thereunder.

8 (c) Disclosure of otherwise confidential information may be made to the extent such
9 disclosures are reasonably necessary to obtaining information bearing a direct transactional
10 relationship to the determination, assessment, collection, or enforcement, of any civil or
11 criminal liability arising under *Part III of the Municipal the Business and Tax Regulations* Code.

12 (d) Disclosure of otherwise confidential information may be to other employees or
13 agents of the Tax Collector or employee of the City *and county* in matters preparatory to any
14 judicial or administrative proceeding pertaining to the administration or enforcement of any
15 civil or criminal liability arising out of *Part III of the Municipal the Business and Tax Regulations*
16 Code.

17 (e) If the Tax Collector determines that a liability owing from a taxpayer may be
18 collected from another person, the Tax Collector may disclose to such other person
19 information relevant to the determination of tax due or owing from the taxpayer.

20 (f) The taxpayer, his successors, receivers, trustees, executors, administrators,
21 assignees and guarantors, and their duly authorized legal representatives if directly
22 interested, may be given information as to the items included in the measure and amount of
23 any unpaid tax or amounts of tax required to be collected, interest and penalties.
24
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1 (g) Notwithstanding any other provision of ~~Part III of the Municipal~~ the Business and
2 Tax Regulations Code or of any City ordinance, the Tax Collector is authorized to enter into
3 agreements with the California Franchise Tax Board, the State Board of Equalization, and/or
4 the Internal Revenue Service providing for the exchange of information for official purposes of
5 said agencies, and to implement any such agreement through the exchange of information.

6 (h) Notwithstanding any other provision of ~~Part III of the Municipal~~ the Business and
7 Tax Regulations Code or of any City ordinance, the Tax Collector shall provide any and all
8 information to the Controller that is needed to fulfill the Controller's responsibilities under
9 Section 3.105 of the Charter. With regard to all such information provided by the Tax
10 Collector, the Controller shall be subject to the confidentiality provisions of Subsection (a) of
11 this Section.

12 (i) The Tax Collector may disclose to any City employee or agent for official purposes any
13 information described in Subsection (a) in aggregate or other form that does not disclose the identity of
14 particular taxpayers.

15 (j) Nothing in this Section shall impose any liability upon the Tax Collector or any
16 employee or agent thereof for any disclosures of confidential information made in good faith in
17 the performance of his or her duties.

18
19 SEC. 6.23-1. SEVERABILITY. If any sentence, clause or section or any part of ~~Part III~~
20 ~~of the Municipal~~ Business and Tax Regulations Code is for any reason held to be unconstitutional,
21 illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of
22 the remaining provisions, sentences, clauses, sections or parts of ~~this ordinance~~ the Business
23 and Tax Regulations Code. It is hereby declared to be the intent of the enacting body that ~~Part~~
24 ~~III of the Municipal~~ Business and Tax Regulations Code would have been adopted had such
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1 unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included
2 therein.

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

By: 
Dorji Roberts
Deputy City Attorney



City and County of San Francisco

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

Tails Ordinance

File Number: 031990

Date Passed:

Ordinance amending the Business and Tax Regulations Code to: (1) amend Article 12-A (Payroll Expense Tax Ordinance) to (i) conform Article 12-A (Payroll Expense Tax Ordinance) with the amendments to Article 6 (Common Administrative Provisions) and (ii) consolidate exemptions, definitions and other administrative provisions, as amended, that apply to Article 12-A (Payroll Expense Tax Ordinance) and other Articles of the Business and Tax Regulation Code, and place them in Article 6 (Common Administrative Provisions); (2) amend Article 12 (Business Registration Ordinance) to conform business registration requirements with amendments to Article 12-A (Payroll Expense Tax Ordinance) and Article 6 (Common Administrative Provisions); and (3) amend Article 6 (Common Administrative Provisions) to (i) clarify common administrative provisions and conform them with amendments to Article 12-A (Payroll Expense Tax Ordinance) and Article 12 (Business Registration Ordinance), (ii) consolidate exemptions, definitions and other administrative provisions that apply to Article 12-A (Payroll Expense Tax Ordinance), Article 12 (Business Registration Ordinance) and other Articles of the Business and Tax Regulations Code, and (iii) eliminate the Board of Review.

February 3, 2004 Board of Supervisors — PASSED ON FIRST READING

Ayes: 11 - Alioto-Pier, Ammiano, Daly, Dufty, Gonzalez, Hall, Ma, Maxwell, McGoldrick, Peskin, Sandoval

February 10, 2004 Board of Supervisors — FINALLY PASSED

Ayes: 10 - Alioto-Pier, Ammiano, Daly, Dufty, Gonzalez, Hall, Ma, Maxwell, McGoldrick, Peskin
Absent: 1 - Sandoval

File No. 031990

I hereby certify that the foregoing Ordinance
was FINALLY PASSED on February 10,
2004 by the Board of Supervisors of the City
and County of San Francisco.

FEB 19 2004

Date Approved

Kay Gulbenkian

for Gloria L. Young
Clerk of the Board

[Signature]

Mayor Gavin Newsom