

1 [Tax Penalty Amnesty Program.]

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3 **Ordinance amending the San Francisco Business and Tax Regulations Code to: (i)**
4 **amend Article 17 thereof to establish a two month business tax penalty amnesty**
5 **program during the 2002 – 2003 fiscal year, and (ii) amend Article 6 thereof to increase**
6 **penalties for failing to pay taxes, underreporting of taxes, failing to file a tax return and**
7 **failing to obtain a business registration certificate.**

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

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

13

14 Section 1. The San Francisco Business and Tax Regulation Code is hereby amended
15 by amending Sections 1700, 1701, 1702, 1703, 1704 and 1707, to read as follows:

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17 SEC. 1700. SHORT TITLE. This ordinance shall be known as the "Business Tax
18 Penalty Amnesty Program *of 2002*."

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20 SEC. 1701. DEFINITIONS. Except where the context otherwise requires, the terms
21 used in this ordinance shall have the meaning given to them in Articles 6, 12 and 12A ~~and 12B~~
22 ~~of Part III of this~~ of the Business and Tax Regulations Code. In the event of conflict between the
23 meanings given to a term by these Articles, the meaning provided in Article 12B shall prevail.

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1 SEC. 1702. AMNESTY PROGRAM. (a) A tax penalty amnesty program is hereby
2 established for persons required to obtain a business tax registration certificate under ~~Sections~~
3 ~~1003 and 1007 of~~ Article 12B of this Code who have liabilities eligible for amnesty under Section
4 1703 of this Article and who satisfy the eligibility requirements established in Section 1704 of
5 this Article.

6 (b) For any person who has a liability eligible for amnesty under Section 1703 and
7 who meets the eligibility requirements established in Section 1704 of this Article:

8 (i) The Tax Collector shall waive all penalties owed for failure to pay any
9 annual registration fee or file a return under ~~Section 1009.2 of Article 12B of Part III~~
10 ~~Articles 6 and 12~~ of this Code; and

11 (ii) The Tax Collector shall waive all penalties owed for delinquent payroll
12 expense or business taxes owed under the provisions of ~~Sections 907, 909, 910 or 912 of~~
13 ~~Article 12A or Sections 1009, 1010, 1011, 1012, or 1013 of~~ Articles 6, 12 and 12-A of the
14 Business and Tax Regulations Code, and of Article 12B of Part III of this the Business and Tax
15 Regulations Code prior to the repeal of such Article by Ordinance No. 63-01; and

16 (iii) The Tax Collector may not initiate any ~~No~~ proceeding to suspend or revoke a
17 registration certificate pursuant to ~~Section 1008 of~~ Articles 6 and 12B of Part III of this the
18 Business and Tax Regulations Code shall be initiated; and

19 (iv) The Tax Collector may not initiate any ~~No~~ civil ~~or criminal~~ action ~~shall be~~
20 ~~brought~~ against the taxpayer, for any tax period for which tax penalty amnesty is
21 requested, based upon the nonreporting or under-reporting of tax liabilities or the
22 nonpayment of any taxes owed under the provisions of ~~Articles 6, 12 or 12A or Article~~
23 ~~12B of Part III of this~~ of the Business and Tax Regulations Code, or of Article 12B of the
24 Business and Tax Regulations Code prior to the repeal of such Article by Ordinance No. 63-01.
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1 SEC. 1703. LIABILITIES SUBJECT TO AMNESTY PROGRAM. (a) The tax penalty
2 amnesty program shall apply to annual registration fees and to payroll expense tax and
3 business tax liabilities for tax periods ending on or before December 31, ~~1993~~ 2001, with the
4 following exceptions:

5 (i) The Tax Collector shall not waive penalties owed as a result of a jeopardy
6 determination which has become final under the provisions of ~~Section 910.1, Subsection~~
7 ~~(b) of Article 12A or Section 1010.1, Subsection (b) of Article 12B~~ 6 of the Business and Tax
8 Regulations Code prior to the commencement of the amnesty application period.

9 (ii) The Tax Collector shall not waive, under the authority of this Article,
10 penalties which are included in any civil tax collection litigation commenced by the Tax
11 Collector ~~pursuant to Section 914 of Article 12A or Section 1014 of Article 12B~~ or which are
12 included in any determination under administrative review ~~under the provisions of Section~~
13 ~~912 of Article 12A or Sections 1012 of Article 12B~~ prior to the commencement of the
14 amnesty application period.

15 (b) No refund or credit shall be granted of any penalty paid by any person prior to
16 the time the person submits an amnesty application pursuant to Section 1704 of this Article.

17
18 SEC. 1704. AMNESTY APPLICATIONS. (a) The provisions of this Article shall apply
19 to any person required to obtain a business tax registration certificate under ~~Sections 1003 and~~
20 ~~1007 of Article 12B~~ of this Code or any predecessor provision who files an application for ~~payroll~~
21 ~~expense or business~~ tax penalty amnesty within the period designated by the Tax Collector
22 pursuant to Section 1707 of this Article and who does ~~both~~ all of the following:

23 (i) Files completed tax returns for all periods for which ~~he or she~~ the person
24 has not previously filed a tax return or files amended tax returns for all periods for which ~~he or~~
25 ~~she~~ the person under-reported taxes owed; ~~and~~

1 (ii) Pays in full all taxes and interest due;

2 (iii) Executes a written waiver, in a form acceptable to the Tax Collector, of the
3 person's rights to seek a refund of amounts paid to the Tax Collector for all periods for which
4 the person submits a tax penalty amnesty application under this Article.

5 (b) Notwithstanding the provisions of Subsection (a) of this Section, if
6 necessary to effectuate the purposes of this Article, the Tax Collector ~~or the Board of Review~~
7 may extend the period for payment of taxes and interest due or enter into an installment
8 payment agreement, in lieu of complete payment. Failure of the taxpayer to comply with the
9 terms of any extension granted or installment payment agreement entered under this
10 Subsection by the Tax Collector ~~or by the Board of Review~~ shall render the Tax Collector's
11 waiver of any penalties applicable thereto null and void, and the total amount of tax, interest
12 and all penalties shall be immediately due and payable.

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14 SEC. 1707. AUTHORITY OF TAX COLLECTOR. By ~~October 11, 1994~~ September 1,
15 2002, the Tax Collector shall designate a 60-day period, to begin no sooner than October ~~25,~~
16 ~~1994~~ 1, 2002, and to conclude no later than January 31, ~~1995~~ 2003, during which amnesty
17 applications shall be accepted. The Tax Collector shall publicize the tax penalty amnesty
18 program established by this Article and shall notify taxpayers about the amnesty program and
19 about the new and increased penalties imposed under Sections 6.17-1 et seq. of the Business and
20 Tax Regulations Code ~~by the provisions of Section 2 and Section 3 of this ordinance~~. The Tax
21 Collector shall issue all forms and instructions necessary to implement this Article. The Tax
22 Collector shall enforce the provisions of this Article and may prescribe, adopt, and enforce
23 rules and regulations relating to the administration and enforcement of this Article.

1 Section 2. The San Francisco Business and Tax Regulation Code is hereby amended
2 by amending Sections 6.17-1, 6.17-2, 6.17-3 and 6.17-4, to read as follows:
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4 SEC. 6.17-1. PENALTIES AND INTEREST FOR FAILURE TO PAY. Any person who
5 fails to pay any tax to the City and County of San Francisco, or any amount of tax required to
6 be collected and paid to the City and County, from the date such tax becomes delinquent
7 under Section 6.9-1 shall pay a penalty of five percent of the tax or amount of the tax, in
8 addition to the tax or amount of tax, if the failure is for not more than one month, with an
9 additional 5 percent for each month or fraction of a month during which such failure continues,
10 up to ~~20%~~ 25 percent in the aggregate, plus interest at the rate of one percent per month, or
11 fraction of a month, from the date such tax or the amount of such tax becomes delinquent
12 under Section 6.9-1 until the date of payment. Any taxes remaining unpaid for a period of 90
13 days after notification that the tax is delinquent shall be subject to an additional penalty of ~~20~~
14 25 percent of the tax or amount of the tax. If the failure to pay any tax is due to fraud or an
15 intent to evade ~~Part III of the Municipal~~ the Business and Tax Regulations Code or the Tax
16 Collector's rules and regulations, an additional penalty in the amount of 50 percent of the
17 amount due, exclusive of any other penalties and interest, shall be added thereto. A taxpayer
18 or other person against whom a fraudulent failure to pay penalty is asserted is entitled to a
19 notice of such determination to be issued in accordance with the provisions of Section 6.11-1
20 et seq. and to the appeal rights set forth in Sections 6.13-1 et seq. and 6.14-1 et seq.
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22 SEC. 6.17-2. PENALTIES FOR UNDERREPORTING OF TAX. If the Tax Collector
23 determines that all or part of any tax required to be reported on any return was underreported
24 and that such underreporting was attributable to negligence or intentional disregard of rules
25 and regulations, the Tax Collector may impose a penalty upon the taxpayer in the amount of 5

1 percent of the amount of the underreported tax, in addition to the tax or amount of tax, if the
2 negligence or intentional disregard of rules and regulations is for not more than one month,
3 with an additional 5 percent for each month or fraction of a month during which such
4 negligence or intentional disregard of rules and regulations continues, up to ~~20~~ 25 percent in
5 the aggregate. When it is determined by the Tax Collector that all or part of any tax required
6 to be reported on any return was underreported and such underreporting was attributable to
7 fraud the Tax Collector may impose a penalty upon the taxpayer in the amount of 50 percent
8 of the amount of the underreported tax. The taxpayer or other person determined to be liable
9 for penalties pursuant to this Section are entitled to a notice of such determination to be
10 issued in accordance with the provisions of Section 6.11-1 et seq. and to the appeal rights set
11 forth in Sections 6.13-1 et seq. and 6.14-1 et seq.

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13 SEC. 6.17-3. NEGLIGENCE PENALTIES FOR FAILURE TO REGISTER,
14 MISSTATEMENTS IN REGISTRATION, FAILURE TO TIMELY UPDATE REGISTRATION,
15 FAILURE TO ALLOW INSPECTION OF RECORDS UPON REQUEST, AND FAILURE TO
16 FILE A RETURN. (a) Any person who fails to register, fails to update a registration within
17 seven days of a material change or whose registration contains a material misstatement, or
18 fails to comply with a rule or regulation promulgated by the Tax Collector pursuant to the
19 provisions of ~~Part III of the Municipal~~ the Business and Tax Regulations Code within the
20 prescribed time limits shall pay, in addition to any other liability that may be imposed under the
21 provisions of this Article, a penalty in an amount equal to the penalized taxpayer's annual fee
22 for obtaining a registration certificate as set forth in ~~Section 1007(b) of Part III of the San~~
23 ~~Francisco Municipal~~ Article 12 of the Business and Tax Regulations Code.

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1 (b) Any person who fails to file a return or returns required under *Part III of the*
2 ~~*Municipal*~~ *the Business and Tax Regulations* Code on or before the date prescribed for filing shall
3 pay a penalty in the amount of ~~\$100~~ \$250 for each such failure. The penalty under this
4 provision shall be in addition to any other liability that may be imposed under the provisions of
5 this Article.

6 (c) Any person who fails to allow a full inspection of records pursuant to a request
7 promulgated by the Tax Collector pursuant to the provisions of *Part III of the Municipal the*
8 *Business and Tax Regulations* Code within the time prescribed by the Tax Collector shall pay, in
9 addition to any other liability that may be imposed under the provisions of this Article, a
10 penalty in the amount of \$500 for each such failure.

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12 SEC. 6.17-4. WAIVER OF PENALTIES. *Except as otherwise provided in this Section, any*
13 ~~*Any*~~ penalty or interest assessed under Sections 6.17-1, 6.17- 2 or 6.17-3 may be waived by
14 the Tax Collector, in whole or in part, upon a finding of any of the following:

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

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

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

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

24 *The Tax Collector may not waive or otherwise reduce interest assessed under Section 6.17-1 for*
25 *failure to pay any tax to the City, or any amount of tax required to be collected and paid to the City,*

1 against any person who applies for and receives a waiver of penalties under the Tax Penalty Amnesty
2 Program set forth in Article 17 of the Business and Tax Regulations Code, for the period or periods
3 covered by the person's amnesty application.

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

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9 By: _____
10 Dorji Roberts
11 Deputy City Attorney

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