

File No. 101099

Committee Item No. 1
Board Item No. 18

COMMITTEE/BOARD OF SUPERVISORS AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Committee

Date: November 3, 2010

Board of Supervisors Meeting

Date 11/09/10

Cmte Board

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Completed by: Victor Young

Date: October 29, 2010

Completed by: Victor Young

Date: 11-7-10

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

8:

[Business and Tax Regulations Code: Common Administrative Provisions; Parking Tax; Business Registration]

Ordinance amending the San Francisco Business and Tax Regulations Code by:

(1) amending Article 6 (Common Administrative Provisions) to revise provisions relating to: certificates of authority to collect third-party taxes; prepayment and remittance requirements for hotel and parking operators; enforcement procedures and penalties; and to otherwise clarify and update the provisions of Article 6; (2) amending Article 9 (Tax on Occupancy of Parking Space in Parking Stations), Article 10 (Utility Users Tax), and Article 12 (Business Registration), to lengthen the time period that service suppliers must preserve records from 4 years to 5 years and to extend the payment date of the registration certificate; and (3) repealing Sections 608 through 608.8 of Article 9 (Tax on Occupancy of Parking Space in Parking Stations); and (4) amending the San Francisco Administrative Code by amending Article XIII (Funds), Chapter 10 (Finance, Taxation, and Other Fiscal Matters), to correct references to the California Government Code.

NOTE: Additions are *single-underline italics Times New Roman*;
deletions are ~~strike-through italics Times New Roman~~.
Board amendment additions are double-underlined;
Board amendment deletions are ~~strikethrough normal~~.

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

Section 1. The San Francisco Business and Tax Regulations Code is hereby amended by repealing Sections 6.11-4, 6.14-1, and 6.18-4 and amending Sections 6.1-1, 6.2-8, 6.2-9, 6.2-13, 6.2-17, 6.2-18, 6.2-21, 6.4-1, 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, 6.10-1, 6.10-2, 6.10-3, 6.11-1, 6.11-2, 6.11-3, 6.12-2, 6.12-5, 6.13-1, 6.13-3, 6.13-5, 6.13-6, 6.15-1, 6.15-2, 6.15-3, 6.15-4, 6.16-1, 6.17-1, 6.17-2, 6.17-3, 6.17-4, 6.18-1, 6.18-2, 6.18-3, 6.18-5, 6.19-1, 6.19-3, 6.19-4, 6.19-5, 6.19-6, 6.19-9, 6.21-1, and 6.22-1, to read as

Supervisors Mirkarimi, Duffy
BOARD OF SUPERVISORS

1 follows:

2
3 **SEC. 6.1-1. COMMON ADMINISTRATIVE PROVISIONS.**

4 (a) ~~Except where the specific language of the Business and Tax Regulations Code or context~~
5 ~~otherwise requires, these~~ These common administrative provisions shall apply to Articles 6, 7, 9,
6 10, 10B, 11, 12, 12-A, and 12-B of ~~this~~ the Code and to Chapter 105 of the San Francisco
7 Administrative Code, unless the specific language of either code otherwise requires. Any provision
8 of this Article 6 that references or applies to Article 10 shall be deemed to reference or apply
9 to Article 10B. Any provision of this Article 6 that references or applies to a tax shall be
10 deemed to also reference or apply to a fee administered pursuant to this Article.

11 (b) Unless expressly provided otherwise, all statutory references in this Article and the
12 Articles set forth in ~~subsection~~ Subsection (a) shall refer to such statutes as amended from time
13 to time and shall include successor provisions.

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

17
18 **SEC. 6.2-8. DAY.**

19 The term "day" means a calendar day. If the last day for performance of any act
20 provided for or required by the Business and Tax Regulations Code ~~is~~ shall be a holiday, as
21 defined in Chapter 7 (commencing with Section 6700) of Division 7 of Title 1 of the California
22 Government Code, or a Saturday or Sunday, the act may be performed upon the next
23 business day with the same effect as if it had been performed upon the day appointed. For
24 purposes of this Section, the Friday in November immediately after Thanksgiving Day ~~is~~ shall
25 ~~be~~ considered a holiday.

1 **SEC. 6.2-9. EMPLOYEE.**

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

10
11 **SEC. 6.2-13. OPERATOR.**

12 The term "operator" means:

13 (a) Any person conducting or controlling a business subject to the tax on transient
14 occupancy of hotel rooms;

15 (b) Any person conducting or controlling a business subject to the tax on occupancy of
16 parking spacespace in parking stations in the City, including, but not limited to, the owner or
17 proprietor of such premises, lessee, sublessee, mortgagee in possession, licensee or any other person
18 otherwise conducting or controlling such business;

19 (c) Any person conducting or controlling a business subject to the stadium operator
20 occupancy tax in the City;

21 (d) Any service supplier required to collect the utility users tax under Article 10; or

22 (e) Any service supplier required to collect the access line tax under Article 10B.

23 The term "operator" means any person conducting or controlling a business subject to the tax
24 on transient occupancy of hotel rooms or the tax on occupancy of parking spaces in parking stations in
25 the City, including, but not limited to, the owner or proprietor of such premises, lessee, sublessee,

1 *mortgagee in possession, licensee or any other person otherwise conducting or controlling such*
2 *business. "Operator" shall also include any person conducting or controlling a business subject to the*
3 *stadium operator occupancy tax in the City, as well as any service supplier required to collect the*
4 *utility users tax under Article 10 or the emergency response fee under Article 10A.*

5
6 **SEC. 6.2-17. RETURN.**

7 The term "return" means any written statement required to be filed pursuant to Articles
8 6, 7, 9, 10, 10B 10A, 11, 12 or 12-A.

9
10 **SEC. 6.2-18. SUCCESSOR.**

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

18
19 **SEC. 6.2-21. THIRD-PARTY TAXES.**

20 The term "third-party taxes" means the transient hotel occupancy tax (Article 7), the
21 parking space occupancy tax (Article 9), the utility users tax (Article 10) and the access line tax
22 (Article 10B) ~~emergency response fee (Article 10A).~~

1 **SEC. 6.4-1. RECORDS; INVESTIGATION; SUBPOENAS.**

2 (a) Every taxpayer shall keep and preserve ~~business~~ records ~~for a period of five~~
3 ~~years~~ as may be necessary to determine the amount of tax for which the person may be liable,
4 including all local, ~~State~~ state and federal tax returns of any kind, for a period of 5 years from the
5 date the tax is due or paid, whichever is later.

6 (b) Upon request of the Tax Collector, a taxpayer shall produce such business records at the
7 Tax Collector's Office. The Tax Collector shall have the right to inspect, examine, and copy such
8 records at any time during normal business hours for inspection, examination, and copying. Refusal
9 to allow full inspection, examination, or copying of such records shall subject the taxpayer to
10 all the penalties authorized by law, including but not limited to the penalties set forth in Section
11 6.17-3. As an alternative to production at the Tax Collector's Office, the Tax Collector may agree to
12 inspect, examine, and copy the requested books, papers, and records at the taxpayer's place of business
13 or some other mutually acceptable location, and may require the taxpayer to reimburse the City for the
14 Tax Collector's ordinary and reasonable expenses incurred in the inspection, examination, and copying
15 of such books, papers, and records, including food, lodging, transportation and other related items, as
16 appropriate. Where the taxpayer does not have the necessary records to determine liability under the
17 Business and Tax Regulations Code or fails to produce such records in a timely fashion, the Tax
18 Collector may determine the taxpayer's liability based upon any information in the Tax Collector's
19 possession or that may come into the Tax Collector's possession. Such determination shall be prima
20 facie evidence of the taxpayer's liability in any subsequent administrative or judicial proceeding.

21 (c)(b) The Tax Collector may order any person or persons, whether as taxpayers,
22 alleged taxpayers, witnesses, or custodians of custodian or records, to produce for inspection,
23 examination and copying at the Tax Collector's office all books, papers, and records which the Tax
24 Collector believes may have relevance to enforcing compliance with the provisions of the
25 Business and Tax Regulations Code for inspection, examination, and copying at the Tax

1 Collector's Office during normal business hours. The Tax Collector may order the attendance before
2 the Tax Collector of all persons, whether as taxpayers, alleged taxpayers, witnesses, or custodian of
3 records, whom the Tax Collector believes may have any knowledge of such books, papers and records.
4 The Tax Collector may issue, and serve, subpoenas to carry out these provisions.—As an alternative to
5 production at the Tax Collector's Office, the Tax Collector may agree to inspect, examine,
6 and copy the requested books, papers, and records at the person's taxpayer's place of business
7 or some other mutually acceptable location, and may require the person taxpayer to reimburse
8 the City for the Tax Collector's ordinary and reasonable expenses incurred in the inspection,
9 examination, and copying of such books, papers, and records, including food, lodging,
10 transportation, and other related items, as appropriate.

11 (d) The Tax Collector may order the attendance before the Tax Collector of any person or
12 persons, whether taxpayers, alleged taxpayers, witnesses, or custodians of records, whom the Tax
13 Collector believes may have any knowledge of such books, papers, and records.
14 information relevant to enforcing compliance with the provisions of the Business and Tax Regulations
15 Code.

16 (e) If the taxpayer does not maintain business records that are adequate to determine liability
17 under the Business and Tax Regulations Code, or following a request by the Tax Collector, fails to
18 produce such business records in a timely fashion, the Tax Collector may determine the taxpayer's
19 liability based upon any information in the Tax Collector's possession, or that may come into the Tax
20 Collector's possession. Such determination shall be prima facie evidence of the taxpayer's liability in
21 any subsequent administrative or judicial proceeding.

22 (f) The Tax Collector may issue and serve subpoenas to carry out these provisions.
23
24
25

1 **SEC. 6.5-2. PENALTIES FOR FAILURE TO RESPOND~~FILE RESPONSE~~ TO REQUEST**
2 **FOR FINANCIAL INFORMATION.**

3 Any persons, including taxpayers, alleged taxpayers, witnesses, or custodians~~custodian~~
4 of records, who fail to respond to the Tax Collector's written request for financial information
5 shall be subject to any penalties and sanctions provided by law, including but not limited to the
6 penalties and sanctions provided in Section 6.17-3.

7
8 **SEC. 6.6-1. CERTIFICATE OF AUTHORITY FOR THIRD-PARTY TAXES.**

9 (a) These additional provisions shall apply to operators under the transient hotel
10 occupancy tax (Article 7), the parking space occupancy tax (Article 9), the utility users tax
11 (Article 10) and the access line tax (Article 10B)~~emergency response fee (Article 10A)~~.

12 (b) Every operator ~~engaging in or about to engage in business within the City~~ who is
13 required to collect or remit any third-party tax must possess a valid~~shall immediately apply to the~~
14 ~~Tax Collector for a~~ certificate of authority issued on a form provided by the Tax Collector.

15 (c) The application for a certificate of authority shall be on a form provided by the Tax
16 Collector and shall set forth the name under which the person transacts or intends to transact
17 business, the location of each of the person's places of business in the City, and such other
18 information as the Tax Collector may require. The application shall be signed by the owner if
19 a sole proprietor, by a member or partner, in the case of an association, or by an executive
20 officer or some person specifically authorized by the corporation to sign the application, in the
21 case of a corporation. No person shall operate a business for which a certificate of authority is
22 required under subsection (b) unless and until the Tax Collector has issued that person a certificate of
23 authority. The holder of a certificate of authority must promptly notify the Tax Collector of any
24 changes to the information stated in the certificate of authority application.

1 (d) Except as provided in ~~subsections~~Subsections (f), (g), ~~and (h), and (j)~~ below, the Tax
2 Collector, within ~~4530~~ days after the application is complete, shall issue ~~without charge~~ a
3 separate certificate of authority to the operator to collect third-party taxes from customers for
4 each location at which the operator is required to collect such taxes. The certificate will expire
5 on a date certain set by the Tax Collector. The operator must apply for renewal of the certificate,
6 before it expires, if the operator intends to continue to engage in business in the City. Except as
7 provided in subsections (f), (g), (h) and (j), the Tax Collector may issue successive, one-year renewals
8 of an operator's certificate. Each certificate shall state the location of the place of business to
9 which it applies and shall be prominently displayed at such location in plain view of all
10 customers. Certificates of authority may not be assigned or transferred. The operator shall
11 immediately surrender to the Tax Collector the certificate for that location upon the operator's
12 cessation of business at that location or upon the sale or transfer of the business.

13 (e) The holder of a certificate of authority to collect parking taxes under Article 9 shall
14 remain presumptively liable for the collection of parking taxes at the location named in the
15 certificate, and for the reporting and remittance of such taxes to the Tax Collector, unless and
16 until the holder of the certificate both (i) notifies the Tax Collector in writing that the holder has
17 ceased to conduct a parking business at such location, and (ii) surrenders the certificate for
18 that location to the Tax Collector.

19 (f) The Tax Collector may refuse to issue the certificate where, within the ~~4530~~-day
20 period referred to in ~~subsection~~Subsection (d) above, the Tax Collector determines that the
21 operator, or any signatory to the application, or any person holding a 10 percent or greater
22 legal or beneficial interest in said operator ("10% owner") is not in compliance with any
23 provision of Articles 6, 7, 9, 10, ~~10B10A~~, 12, ~~or 12-A~~, or 22, including but not limited to any failure
24 to timely collect, report, pay, or remit any tax imposed by this Code, or where any such person is not in
25

1 compliance with any provision of Sections 1216 through 1223 inclusive of Article 17 of the Police
2 Code.

3 Solely for purposes of determining under this Section whether any such operator,
4 signatory or 10% owner is not in compliance with such Articles, the Tax Collector may
5 disregard any corporation or association owned or controlled, directly or indirectly, by any
6 such operator, signatory or 10% owner and consider such corporation or association's
7 operations and liabilities as conducted by or as owned by any one or more of such corporation
8 or association's officers, directors, partners, members or owners. For purposes of this
9 Section, (i) the term "owned" means ownership of 50 percent or more of the outstanding
10 ownership interests in such corporation or association, and (ii) the term "controlled" includes
11 any kind of control, whether direct or indirect, whether legally enforceable, and however
12 exercisable or exercised over such corporation or association. A presumption of control arises
13 if the operator, signatory or 10% owner is (or was) an officer, director, partner or member of
14 such corporation or association.

15 (g) Further, if any person subject to this Section violates any provision of Articles 6, 7,
16 9, 10, ~~10B-10A~~, 12, ~~or~~ 12-A, or 22, or a rule or regulation promulgated by the Tax Collector,
17 including but not limited to any failure to timely collect, report, pay, or remit any tax imposed by this
18 Code, failure failing to maintain accurate registration information, failure to sign any return or
19 pay any tax when due, or failure to timely respond to any request for information, order for
20 records or subpoena, or for any person subject to Article 9 for failure to comply with the
21 requirements of Article 22 of the Business and Tax Regulations Code ~~Article 49 of the Police Code~~, or
22 ~~violates any provision of Sections 1216 through 1223 inclusive of Article 17 of the Police Code~~, the
23 Tax Collector may, after serving the person with written notice of his or her determination in
24 the manner provided in Section 6.11-2 and an opportunity to be heard pursuant to the notice
25 and review provisions of ~~Section~~ Sections 6.13-1 et seq., revoke or suspend that person's

certificate of authority. The Tax Collector may refuse to issue that person a new certificate of authority or to withdraw the suspension of an existing certificate until the person, signatory to the application for the certificate revoked or suspended, signatory to the application for a new certificate or withdrawal of the suspension, and all 10% owners have complied with the provisions of Articles 6, 7, 9, 10, 10B10A, 12, ~~or 12-A~~, and 22 and corrected the original violation to the satisfaction of the Tax Collector.

(h) Before any certificate of authority shall be issued to any applicant to engage in the business of renting parking space in a parking station in this City, such applicant shall file with the Tax Collector a bond naming the City as exclusive beneficiary, at all times the applicant engages in such business. ~~For any parking station with annual gross receipts less than \$100,000, such~~ Such bond shall be in the following amounts: amount of \$5,000.

<u>Annual gross receipts for parking station</u>	<u>Bond amount</u>
<u>Less than \$100,000.00</u>	<u>\$20,000</u>
<u>\$100,000.00 to \$250,000.00</u>	<u>\$50,000</u>
<u>\$250,000.01 to \$500,000.00</u>	<u>\$100,000</u>
<u>\$500,000.01 to \$750,000.00</u>	<u>\$150,000</u>
<u>\$750,000.01 to \$1,000,000.00</u>	<u>\$200,000</u>
<u>\$1,000,000.01 to \$2,000,000.00</u>	<u>\$400,000</u>
<u>\$2,000,000.01 to \$4,000,000.00</u>	<u>\$800,000</u>

~~For any parking station with annual gross receipts of \$100,000 or more, such bond shall be in the amount of \$25,000. This bond requirement does not apply to an applicant that is a governmental entity.~~

The Tax Collector may, in his or her discretion, independently establish the annual gross receipts for a parking station and set the bond amount pursuant to the schedule above, based on that

1 determination. If, at the end of any calendar year, the gross receipts for a parking station have
2 increased such that a larger bond amount would be required under the above schedule, the operator
3 shall obtain a new bond in the increased amount by the following April 1. If at the end of any calendar
4 year the gross receipts for the parking station have decreased, the operator may apply to the Tax
5 Collector for a reduction of the bond amount.

6 (i) Such bond shall be executed by the applicant as principal, and by a corporation or
7 association which is licensed by the Insurance Commissioner of this State to transact the
8 business of fidelity and surety insurance, as surety. The applicant shall keep the bond in full
9 force and effect for the duration of the certificate of authority and all renewals thereof issued to
10 such applicant. If the bond provides that the term thereof shall be continuous until cancelled,
11 the applicant shall provide the Tax Collector with certification from the surety of the renewal or
12 continuation of the bond: at the same time that the applicant files its annual renewal of its Business
13 Registration Certificate, and (i) when applying for renewal of an existing certificate of authority,
14 (ii) when requesting the withdrawal of a suspension of an existing certificate of authority, or
15 (iii) upon written request of the Tax Collector.

16 (j) The bond shall contain conditions that require the applicant to comply fully with all
17 the provisions of the Business and Tax Regulations Code concerning the collection of third-
18 party taxes from occupants of parking stations and the remittance of such taxes to the Tax
19 Collector. The bond shall be payable to thethis City in the amount of all unpaid parking taxes
20 on amounts of taxable rents collected by the applicant, together with all administrative
21 collection costs, interest, penalties, and other costs and charges applicable thereto; provided,
22 however, that the aggregate liability of the surety for any and all claims which may arise under
23 such bond shall in no event exceed the face amount of such bond regardless of the amount
24 due and owing to the City. The City may bring an action upon the bond for the recovery of any
25 unpaid parking taxes, administrative collection costs, interest, penalties and other costs and

1 charges at any time prior to the expiration of the period of limitations applicable to the
2 collection of such unpaid taxes by the Tax Collector.

3 (k) When there is a deficiency determination or jeopardy determination against an operator
4 for third-party taxes, the Tax Collector shall issue the deficiency determination or jeopardy
5 determination against the operator and the operator's surety. The liability of the surety shall not
6 exceed the face value of the bond(s). The Tax Collector shall provide notice of such deficiency
7 determination or jeopardy determination to the operator and the bond surety. An operator's petition
8 for redetermination shall be construed by the Tax Collector as a petition on behalf of both the operator
9 and the surety, and The surety may request a hearing before the Tax Collector pursuant to Section
10 6.13-2. The taxpayer and surety hearing may be consolidated at the discretion of the Tax Collector.
11 The surety may file a separate petition for redetermination. Upon the finality of such determination or
12 decision on petition for redetermination, the operator and the surety shall be liable to the Tax Collector
13 in the amount of the determination or decision on petition for redetermination. The surety's liability
14 shall not exceed the face value of the bond(s). The surety shall be subject to the same requirements as
15 the operator with regard to payment of the tax liability and exhaustion of administrative remedies prior
16 to seeking judicial relief. The Tax Collector may exercise all remedies against the surety that are
17 available to the Tax Collector as to an operator or any other person determined to be liable for a tax.

18 (l) Before any certificate of authority shall be issued to any applicant to engage in the business
19 of renting parking space in a parking station in this City, the applicant shall comply with Article 22.
20 The applicant shall reimburse the Tax Collector's costs to inspect the parking station to confirm it
21 complies with Article 22.

22
23 **SEC. 6.7-1. COLLECTION OF THIRD-PARTY TAXES.**

24 (a) Every operator receiving payment of charges from a customer shall collect the
25 amount of the third-party tax from the customer. All amounts of third-party tax so collected

1 shall be ~~held~~considered to be a special fund in trust for the City. For purposes of this Section, a
2 person who otherwise qualifies as an operator under Section ~~6.2-146.2-13~~ shall not, by reason
3 of the fact that the person is exempt from the tax, be exempted from the other obligations of
4 an operator, including without limitation the obligation to collect and remit to the City all third-
5 party taxes collected from non-exempt customers. An exemption from a third-party tax is enjoyed
6 by the customer, not by the operator responsible for collecting and remitting such taxes. The operator
7 may not exclude from taxation charges claimed to be exempt unless the operator has records of each
8 transaction, which demonstrate: (1) the basis for the claim of exemption, and (2) that an amount was
9 not in fact collected from the exempt customer as a tax.

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

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

23 (c) Where a customer receives more than one billing, one or more being for different
24 periods than another, the duty to collect shall arise separately for each billing period. In all
25 cases of transactions upon credit or deferred payment, the payment of tax to the Tax Collector

1 may be deferred in accordance therewith, and the operator shall be liable therefor at the time
2 and to the extent that such credits are paid or deferred payments are made in accordance
3 with the rate of tax owing on the amount thereof.

4 (d) Any third-party tax imposed upon customers shall be deemed a debt owed by the
5 customer to the City. Any such tax required to be collected from customers which has not
6 been remitted to the Tax Collector shall be deemed a debt owed to the City by the person
7 required to collect and remit such tax to the City.

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

13 (f) The Tax Collector may, in the exercise of his or her discretion, require an operator under
14 this Section to maintain trust accounts for deposit of third-party taxes collected from customers. The
15 Tax Collector may direct an operator regarding how such trust accounts shall be created and
16 maintained, and may prescribe the terms of such accounts. An operator's refusal to comply with the
17 Tax Collector's direction regarding a trust account shall be grounds for revocation of a certificate of
18 authority and/or of any license or permit to do business in San Francisco. The Tax Collector may
19 require operators under this Section to maintain separate trust accounts for taxes collected from
20 customers. The Tax Collector shall adopt rules and regulations prescribing, among other things, when
21 such accounts shall be required and how such accounts shall be maintained.

22 (g) When third-party taxes are not paid when due, or when there is any deficiency
23 determination or jeopardy determination against an operator for third-party taxes, the Tax
24 Collector may collect said liabilities, including interest and penalties accrued through the date
25 of payment, from any person or persons the Tax Collector determines was responsible for

1 performing the acts of collecting, accounting for, and remitting third-party taxes to the City and
2 failed to do so, ~~or who had.~~ ~~For purposes of this Section, a person shall be considered to be~~
3 ~~responsible for performing the acts of collecting, accounting for, and remitting third party taxes to the~~
4 ~~City if and to the extent such person has~~ the power to control the financial decision-making
5 process by which the operator allocates funds to creditors in preference to the operator's
6 obligation to remit third-party taxes to the City. When the person or persons responsible for the
7 acts of collecting, accounting for, and remitting third-party taxes to the City cannot otherwise
8 be determined, the Tax Collector may presume the President, Chief Executive Officer, and/or Chief
9 Financial Officer of a corporation or any managing partner or member of an association to be a
10 person responsible for performing such acts. The Tax Collector is authorized to name all such persons
11 potentially responsible for performing such acts in a notice of deficiency determination or jeopardy
12 determination and, in such case, the Tax Collector shall identify the person or persons responsible for
13 such acts in the final decision. The final decision shall be based on the information available to the
14 Tax Collector or based on the above presumption. ~~there shall be a rebuttable presumption that the~~
15 ~~President and Chief Financial Officer of a corporation or any managing partner or member of an~~
16 ~~association is the person responsible for performing such acts.~~ The liability of such persons shall
17 be joint and several with each other and with the operator, and shall be established in the
18 manner provided for under this Article for other determinations.

19
20 **SEC. 6.7-2. REPORTING AND REMITTING THIRD-PARTY TAXES AND STADIUM**
21 **OPERATOR ADMISSION TAX.**

22 (a) All amounts of utility users taxes under Article 10 are due and payable to the Tax
23 Collector for each month on or before the last day of the month immediately following each
24 respective monthly period. All amounts of stadium operator admission taxes under Article 11
25 are due and payable to the Tax Collector within five5 days after the event, subject to the

1 provisions of Section 804 of Article 11. All amounts of third-party taxes other than the utility
2 users taxes are due and payable to the Tax Collector for each calendar quarter on or before
3 the last day of the month immediately following each respective quarterly period.

4 (b) On or before the last day of the month immediately following each respective
5 period, every operator except the stadium operator shall file a return for the preceding period
6 with the Tax Collector, on such forms as the Tax Collector may prescribe. Stadium Operators
7 shall file a return within the time periods set forth in Section 804 of Article 11. Filing a return
8 that the Tax Collector determines to be incomplete in any material respect may be deemed failure to
9 file a return in violation of this Section.

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

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

1 **SEC. 6.8-1. CITY, PUBLIC ENTITY AND CONSTITUTIONAL EXEMPTIONS.**

2 Nothing in Articles 6, 7, 9, 10, ~~10B10A~~, 11, 12, or 12-A shall be construed as imposing a
3 tax upon:

4 (1) The City;

5 (2) The State of California, or any county, municipal corporation, district or other
6 political ~~subdivisions~~~~sub-division~~ of the State, except where any constitutional or statutory
7 immunity from taxation is waived or is not applicable;

8 (3) The United States of America, or any of its agencies or subdivisions, except where
9 any constitutional or statutory immunity from taxation is waived or is not applicable; or

10 (4) Any person exempted from the particular tax by the Constitution or statutes of the
11 United States or the Constitution or statutes of the State of California.

12 *The foregoing exemption from taxation does not relieve an exempt party from its duty to collect,*
13 *report, and remit third-party taxes.*

14
15 **SEC. 6.9-1. DETERMINATIONS, RETURNS AND PAYMENTS; DUE DATE OF TAXES.**

16 Except for jeopardy determinations under Section 6.12-2, and subject to prepayments
17 required under Section 6.9-2, all amounts of taxes and fees imposed by Articles 6, 7, 9, 10,
18 ~~10B10A~~, 11, and 12-A are due and payable, and shall be delinquent if not paid to the Tax
19 Collector on or before the following dates:

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

23 (b) For the payroll expense tax (Article 12-A), on or before the last day of February of
24 each year;

1 (c) For the utility users taxes (Article 10) and the access line tax (Article 10B)~~emergency~~
2 ~~response fee (Article 10A)~~, for each monthly period, on or before the last day of the following
3 month; and

4 (d) For the stadium operator admission tax (Article 11-), within ~~five~~5 days after the
5 event, subject to the provisions of ~~Article 11, Section 804~~Section 804 of Article 11.
6

7 **SEC. 6.9-2. DETERMINATIONS, RETURNS AND PAYMENTS; RETURNS.**

8 (a) Except as provided in ~~subsection~~paragraph (b) below, on or before the due date, or
9 in the event of a cessation of business within 15 days of such cessation, each taxpayer shall file
10 a return for the subject period on a form provided by the Tax Collector, regardless of whether
11 there is a tax liability owing. A person subject to any tax or required to remit any third-party tax
12 who has not received a return form or forms from the Tax Collector is responsible for
13 obtaining such form(s) and filing a return or returns on or before the due date, or upon the
14 cessation of business. Returns shall show the amount of tax and any third-party tax paid or
15 otherwise due for the related period and such other information as the Tax Collector may
16 require. Each person subject to any tax or required to remit any third-party tax and required to
17 file the return shall transmit the return, together with the remittance of the amount of tax or
18 third-party tax due, to the Tax Collector at the Tax Collector's ~~office~~Office on or before the due
19 date specified in Section 6.9-1.

20 (b) With respect to each tax year, the Tax Collector may exempt from the annual tax
21 return filing requirement those taxpayers whose liability under the Payroll Expense Tax
22 Ordinance, computed without regard to the small business exemption set forth in
23 Section 905-A of Article 12-A, is less than the Minimum Filing Amount for such tax year. For
24 purposes of this Section, the Minimum Filing Amount shall be an amount of tax liability,
25 computed without regard to such small business exemption, between zero and

1 ~~\$1,000~~\$2,250~~one thousand dollars (\$1,000)~~. The Tax Collector shall specify the Minimum Filing
2 Amount prior to the beginning of each tax year. If the Tax Collector fails to specify a Minimum
3 Filing Amount prior to the start of a new tax year, the Minimum Filing Amount for such tax year
4 shall be the Minimum Filing Amount for the preceding tax year.

5
6 **SEC. 6.9-3. DETERMINATIONS, RETURNS AND PAYMENTS; PREPAYMENTS.**

7 (a) **Prepayments and Remittances**. Notwithstanding the due dates otherwise provided
8 in Section 6.9-1, taxpayers shall make prepayments and remittances of taxes and third-party
9 taxes (~~"tax prepayments"~~) to the Tax Collector as follows:

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

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

1 (A) **Small Firm Prepayments.** Every person liable for payment of a total
2 Payroll Expense Tax in excess of ~~\$3,750~~~~\$2,500~~ but less than or equal to \$50,000 for any tax
3 year shall pay such tax for the following tax year in ~~two~~ installments. The first installment
4 shall be due and payable, and shall be delinquent if not paid on or before, August 1st. The
5 first installment shall be a credit against the person's total Payroll Expense Tax for the tax year
6 in which the first installment is due. The first installment shall be in an amount equal to one-
7 half (~~1/2~~) of the person's estimated Payroll Expense Tax for such tax year. The estimated
8 liability shall be computed by using 52 percent~~52%~~ of the person's taxable payroll expense (as
9 defined in Section 902.1902.2 of Article 12-A) for the preceding tax year, and the rate of tax
10 applicable to the tax year in which the first installment is due. The second installment shall be
11 reported and paid on or before the last day of February of the following year. The second
12 installment shall be in an amount equal to the person's total Payroll Expense Tax for the
13 subject tax year, less the amount of the first installment and other tax prepayments for such
14 tax year, if any, actually paid.

15 (B) **Large Firm Prepayments.** Every person liable for payment of a total
16 Payroll Expense Tax in excess of \$50,000 for any tax year shall pay such tax for the following
17 tax year in ~~four~~ quarterly installments. The first, second and third quarterly installments shall
18 be due and payable, and shall be delinquent if not paid on or before, May 1st, August 1st and
19 November 1st, respectively. The first, second and third quarterly installments shall be a credit
20 against the person's total Payroll Expense Tax for the tax year in which such first, second and
21 third quarterly installments are due. Such quarterly installments each shall be in an amount
22 equal to one-quarter (~~1/4~~) of the person's estimated Payroll Expense Tax liability for such tax
23 year. The estimated liability for such tax year shall be computed by using 104 percent~~104%~~ of
24 the person's taxable payroll expense (as defined in Section 902.1 of Article 12-A) for the
25 preceding tax year, and the rate of tax applicable to the tax year in which the first, second and

1 third quarterly installments are due. The fourth installment shall be reported and paid on or
2 before the last day of February of the following year. The fourth quarterly installment shall be
3 in an amount equal to the person's total Payroll Expense Tax liability for the subject tax year,
4 less the amount of the first, second and third quarterly installments and other tax
5 prepayments, if any, actually paid.

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

13 (c) **Hotel and Parking Taxes.** ~~Upon commencing business, an~~ An operator subject to the
14 Hotel Tax (Article 7) or the Parking Tax (Article 9) shall ~~have the option of making prepayments~~
15 make monthly remittances in the amount of the actual tax owed, ~~or making an estimate of the~~
16 ~~prepayment for the month based on the estimated tax accrued during the month in question. Once the~~
17 ~~operator has selected an option, the operator must continue to follow that procedure unless prior~~
18 ~~written permission to use the alternative procedure has been obtained from the Tax Collector.~~

19 ~~In no instance shall an estimated prepayment of hotel or parking taxes be less than 30 percent~~
20 ~~of such tax collected in the immediately preceding quarterly period. If such estimated prepayment is~~
21 ~~less than 30 percent of the tax collected in such preceding quarterly period, the operator shall be~~
22 ~~subject to penalties and interest for the deficiency pursuant to Section 6.17-1. If a prepayment based on~~
23 ~~actual tax owed is less than 90 percent of the actual liability for the month, the operator shall be~~
24 ~~subject to penalties and interest for the deficiency pursuant to Section 6.17-1.~~

1 (d) **Forms and Adjustments.** Tax prepayments required under this Section shall be
2 accompanied by a tax prepayment form prepared by the Tax Collector, but failure of the Tax
3 Collector to furnish the taxpayer with a tax prepayment form shall not relieve the taxpayer
4 from any tax prepayment obligation. The Tax Collector may, in writing, adjust the amount of a
5 tax prepayment if the taxpayer can establish *in writing* by clear and convincing evidence that
6 the first installment of ~~biannual~~*semi-annual* tax prepayments, or first, second or third monthly
7 installment of a quarterly tax prepayment, will amount to more than one-half or one-quarter,
8 respectively, of the person's total tax liability for the tax year in which the installment is due.
9

10 **SEC. 6.9-4. DETERMINATIONS, RETURNS AND PAYMENTS; EXTENSION OF TIME FOR**
11 **FILING A RETURN AND PAYING TAX.**

12 (a) For good cause, the Tax Collector, in his or her discretion, may extend, for a
13 period not to exceed 60 days, the time for filing any return pursuant to this Article or
14 regulations prescribed by the Tax Collector. For prepayments of taxes or for taxes required to
15 be deposited monthly, the Tax Collector may only extend the time for filing a return for a
16 period not to exceed 30 days. As a condition of such extension, the person seeking the
17 extension shall make a payment of not less than 90 percent of such person's estimated
18 liability *for such period. For purposes of determining the amount of the conditional payment, the Tax*
19 *Collector may independently establish the taxpayer's estimated tax liability.*

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

22 (c) Notwithstanding ~~subsection~~*Subsection* (a) of this Section, the Tax Collector may
23 extend any time for filing any return or payment of tax or excuse penalties for any late filing or
24 late payment *by a period not to exceed 60 days* if billing or other administrative duties of the Tax
25 Collector cannot be performed in a timely manner.

1 **SEC. 6.9-5. DETERMINATIONS, RETURNS AND PAYMENTS; CREDITS AND**
2 **EXEMPTIONS.**

3 The credits and exemptions set forth in Articles 6, 7, 9, 10, ~~10B10A~~, 11, 12, ~~and 12-A,~~
4 ~~and 12-C~~ are provided on the assumption that the City has the power to offer such credits and
5 exemptions. If a credit or exemption is invalidated by a court of competent jurisdiction, the
6 taxpayer must pay any additional amount that the taxpayer would have owed but for such
7 invalid credit or exemption. Amounts owed as a result of the invalidation of a credit or
8 exemption that are paid within ~~three~~3 years after the decision of the court becomes final shall
9 not be subject to interest or penalties.

10
11 **SEC. 6.10-1. COLLECTION OF TAX; SECURITY.**

12 The Tax Collector, whenever he or she deems it necessary to ~~insure~~ensure compliance
13 with the Business and Tax Regulations Code, may require any person subject thereto to
14 deposit with the Tax Collector such security as the Tax Collector may determine. The amount
15 of the security shall be fixed by the Tax Collector, but shall not be greater than twice the
16 person's estimated average liability for the period for which said person files returns,
17 determined in such manner as the Tax Collector deems proper. The amount of the security
18 may be increased or decreased by the Tax Collector subject to the limitations herein provided.
19 The Tax Collector may sell the security at public auction if it becomes necessary ~~se~~to do so in
20 order to recover any tax or any amount required to be collected and remitted to the City,
21 including any interest, or penalty due. Notice of the sale shall be served upon the person who
22 deposited the security and upon the taxpayer, if different, personally or by mail; if by mail,
23 service shall be made in the manner prescribed for service of a notice of a deficiency
24 determination as set out in Section 6.11-2 herein, and shall be addressed to the person at
25 said person's address as it appears in the records of the Tax Collector. Upon any sale, any

1 surplus above the amounts due shall be returned to the person who deposited the security.

2 The return of a cash security shall include interest at a rate equal to the annual fiscal year interest rate
3 earned by the City and County of San Francisco's "Pooled Interest Account" invested and managed by
4 the Treasurer.

5
6 **SEC. 6.10-2. COLLECTION OF TAX FROM THIRD PARTY.**

7 If any person is delinquent in the payment of the amount required to be paid by said
8 person, or in the event a determination has been made against any person which remains
9 unpaid, the Tax Collector may, not later than ~~three~~³ years after the payment became
10 delinquent, give notice thereof by mail or by personal service to any persons in the State of
11 California ~~City~~ having in their possession or under their control any credits or other personal
12 property belonging to the delinquent person, or owing any debts to the delinquent person. After
13 receiving such notice, the persons so notified shall, within 5 days of the receipt of the notice,
14 advise the Tax Collector by sworn writing of all such credits, personal property, or debts. Further, the
15 persons so notified shall neither transfer nor make any other disposition of the credits, other
16 personal property, or debts in their possession or under their control at the time they receive
17 the notice until the Tax Collector consents to a transfer or disposition or until ~~30~~²⁰ days elapse
18 after the person has advised the Tax Collector in a sworn writing of all such credits, personal
19 property, or debts. receipt of the notice. All persons so notified shall, within five days after receipt of
20 the notice, advise the Tax Collector of all such credits, other personal property, or debts in their
21 possession, under their control, or owing by them. Unless otherwise required by law, if persons so
22 notified transfer such assets in violation of the provisions of this Section~~section~~, they shall
23 become indebted to the Tax Collector for the value of the property transferred, or the amount
24 owed to the City by the delinquent, whichever is less.

1 **SEC. 6.10-3. COLLECTION OF TAX; LEGAL ACTIONS.**

2 (a) The Tax Collector may bring an action in the courts of this State, or any other
3 state, or of the District of Columbia, or of the United States and its territories or possessions,
4 or any other forum where permitted by law to recover in the name of the City any amount of
5 taxes due and payable under the Business and Tax Regulations Code and remaining unpaid,
6 together with penalties, interest, and costs, including reasonable attorneys' fees.

7 In any action filed pursuant to this subdivision, the Complaint shall attach a certificate executed
8 by the Tax Collector or his representative that contains the following information: (1) the name of the
9 operator, taxpayer or other person determined to be liable for the tax; (2) the description of the
10 operator's, taxpayer's or other person's business against which the tax has been assessed; (3) the
11 location and/or address of the business; (4) the amount of the tax, penalty and interest remaining
12 unpaid as of the last day of the month prior to the month in which the Complaint is filed; and (5) the
13 fact that the City has complied with all provisions of the Business and Tax Regulations Code in the
14 computation and the levy of the tax, penalty or interest.

15 In prosecuting such actions, the Tax Collector shall be entitled to all of the provisional
16 remedies provided by law. Any such action shall be commenced within ~~three~~3 years from the
17 date any amount of taxes became due and payable, or from the date the return is required to
18 be filed or actually filed, whichever period expires later; except in the case of any deficiency
19 determination pursuant to Sections 6.12-1 et seq. or 6.13-1 et seq., in which case any such
20 action shall be commenced within ~~three~~3 years after such determination became final.
21 However, there shall be no limitation on the time in which such actions may be commenced in
22 cases of fraud, intent to evade the Business and Tax Regulations Code, or failure to file a
23 return.

24 (b) When the amount of any tax, penalty or interest which has become due and
25 payable remains unpaid for 15 days, the Tax Collector may record a tax lien with the

1 Assessor-Recorder, thereby creating a tax lien on all of the assessee's property and rights to
2 property, including realty, personalty, or intangibles. The Tax Collector may record or file such
3 tax lien in the office of the Recorder of any California county, with the California Secretary of State,
4 and with any other California public entity that is otherwise authorized by law to record liens. The Tax
5 Collector may record or file such tax liens in any other office of any other jurisdiction as permitted by
6 law.~~any other office of any other jurisdiction as permitted by law.~~ The tax lien shall identify the Tax
7 Collector as the lienor, ~~the property subject to the lien,~~ and the amount of the lien.

8 Simultaneously with the recording, a copy of the tax lien shall be mailed to or personally
9 served upon the taxpayer or other person determined to be liable for the tax at said person's
10 last known address based upon the information, contained in the Tax Collector records. The
11 tax lien after recordation has the force, effect and priority of a judgment lien and continues for
12 10 years from the date of recording, unless sooner released or otherwise discharged. This
13 remedy and any other remedies for collection of any taxes, together with all administrative
14 collection costs, interest, penalties and other costs and charges, including reasonable
15 attorneys' fees, are cumulative and may be pursued alternatively and consecutively as the
16 Tax Collector determines.

17
18 **SEC. 6.11-1. DEFICIENCY DETERMINATIONS; RECOMPUTATION; INTEREST.**

19 If the Tax Collector determines that a taxpayer has failed to pay or has underpaid a tax, that
20 an operator has failed to collect and remit all of a third-party tax, or there is a deficiency with the
21 return or returns of the tax or the amount of any tax required to be paid to the City by any person, or
22 the Tax Collector determines that a person other than the taxpayer is jointly and severally liable
23 for any unpaid or underpaid tax, including third-party taxes, the Tax Collector may compute and
24 determine any tax deficiency~~the amount required to be paid~~ upon the basis of the ~~facts contained in~~
25 ~~the~~ return or returns or upon the basis of any other information within the Tax Collector's

1 possession or that may come into the Tax Collector's possession. One or more deficiency
2 determinations may be made of the amount due for one or for more than one period.

3 The amount of the determination, inclusive of penalties, shall bear interest at the rate of
4 ~~one~~ percent per month, or fraction thereof, from the ~~fifteenth~~ 15th day after the close of the
5 month or the quarterly period for third-party taxes, or from the last day of February following
6 the close of the annual period, for which the amount or any portion thereof should have been
7 returned until the date of payment, or, in the case of stadium operator admission taxes, from
8 the due dates of said tax as set forth in Article 11, Section 804.

9 In making a determination, the Tax Collector may offset overpayments for a period or
10 periods together with interest on the overpayments, against underpayments for another period
11 or periods, against penalties, and against the interest on the underpayments. The interest on
12 underpayments and overpayments shall be computed in the manner set forth in Section
13 6.17-1 for underpayments and in Section 6.15-2 for overpayments.

14
15 **SEC. 6.11-2. DEFICIENCY DETERMINATIONS; REVOCATION AND SUSPENSION**
16 **DETERMINATIONS; NOTICE AND SERVICE.**

17 Upon making a determination pursuant to Section 6.11-1, or upon making a
18 determination pursuant to Section 6.6-1 that a certificate shall not be issued or to suspend or
19 revoke a registration, the Tax Collector shall give to the taxpayer or other person *determined to*
20 *be liable for the tax affected* written notice of the Tax Collector's determination. Except in the
21 case of fraud, intent to evade the Business and Tax Regulations Code or rules and
22 regulations issued or promulgated by the Tax Collector, or failure to file a return, in which case
23 there is no statute of limitations, every notice of a deficiency determination shall be served
24 within ~~three~~ 3 years after the date that a return was due for a tax for the reporting period or 3 years
25 after the return was actually filed for that reporting period, whichever is later. This limitations period

1 shall apply only to tax periods commencing after December 31, 2007. The notice requirements
2 specified in Board of Supervisors Ordinance No. 26-04 shall continue to apply to obligations arising in
3 prior tax periods. the fifteenth day of the calendar month following the month or the quarterly period
4 for which the amount is proposed to be determined for third party taxes, or within three years after the
5 last day of February following the period for which a return is required to be filed, whichever period
6 expires later. The Taxpayer may agree in writing to extend the period for service of a notice of
7 a deficiency determination otherwise provided in this paragraph.

8 The notice of any determination under this Section may be served upon the taxpayer or
9 other affected person determined to be liable for the tax personally or by mail; if by mail, service
10 shall be (1) to the last known address that appears or is shown in the Tax Collector's records,
11 provided there is such an address in the Tax Collector's record, or (2) to an address that the Tax
12 Collector concludes in his discretion is the last known address of the person(s) by mail to the last
13 known address as indicated in the Tax Collector's records.

14 In case of service by mail of any notice required by this Article to be served upon the
15 taxpayer or other person, the service is complete at the time of deposit with the United States
16 Postal Service Post Office.

17
18 **SEC. 6.11-3. DETERMINATION IF NO RETURN MADE; ESTIMATE OF LIABILITY,**
19 **PENALTIES AND INTEREST.**

20 If any taxpayer or person responsible for paying a tax or remitting a third-party tax fails
21 to make a timely return or estimated tax prepayment, the Tax Collector may make a
22 determination based upon an estimate of the amount of the total tax liability of the taxpayer.
23 The estimate shall be made for the period or periods in respect to which the person failed to
24 timely make a return, failed to timely make a prepayment or failed to timely remit a tax, and
25 may be based upon any information which is in the Tax Collector's possession or may come

1 into his or her possession. Upon the basis of this estimate, the Tax Collector shall compute
2 and determine the amount required to be paid to the City, adding to the sum thus computed a
3 penalty equal to 20 percent thereof. One or more determinations may be made for one or
4 more than one period. Any such determination shall be prima facie evidence of the person's
5 liability in any subsequent administrative or judicial proceeding.

6 In making a determination, the Tax Collector may offset overpayments for a period or
7 periods, together with interest on the overpayments, against underpayments for another
8 period or periods, against penalties, and against the interest on the underpayments. The
9 interest on underpayments and overpayments shall be computed in the manner set forth in
10 Sections 6.17-1 and 6.15-2, respectively. The amount of the determinations, *including exclusive*
11 *of penalties*, shall bear interest at the rate of one percent per month, or fraction thereof, from
12 the date of delinquency until the date of payment.

13 *The Tax Collector shall serve the person or persons determined to be liable for the tax as*
14 *determined under Section 6.11-3 with written notice of the determination and penalty. The Tax*
15 *Collector shall serve the notice upon such person(s) personally or by mail. Service by mail shall be*
16 *(1) to the last known address as indicated in the Tax Collector's records, provided there is such an*
17 *address in the Tax Collector's record, or (2) to an address that the Tax Collector concludes in his*
18 *discretion is the last known address of the person(s).*

19
20 ~~**SEC. 6.11 4. DETERMINATION IF NO RETURN MADE; NOTICE AND SERVICE.**~~

21 ~~*The Tax Collector shall serve the person or persons determined to be liable for the tax as*~~
22 ~~*determined under Section 6.11 3 with written notice of the determination and penalty. The Tax*~~
23 ~~*Collector shall serve the notice upon such person(s) personally or by mail.*~~

1 SEC. 6.12-2. JEOPARDY DETERMINATIONS; WHEN DUE AND PAYABLE; STAY OF
2 COLLECTION; PETITION FOR REDETERMINATION; TIME OF HEARING.

3 (a) A jeopardy determination of tax, interest or penalty is immediately due and
4 payable upon the service of the notice of jeopardy determination ~~to~~on the taxpayer or other
5 person determined to be liable therefor. A lien for the amount due in the notice of jeopardy
6 determination may be recorded immediately notwithstanding the provisions of Section 6.10-1
7 et seq., summary judgment pursuant to Section 6.18-1 et seq. may be sought at once, and judicial
8 proceedings for collection may be commenced at once. Prior to service of such notice, the Tax
9 Collector may, notwithstanding the provisions of Section 6.10-1 et seq., record a lien in the amount due
10 as set forth in the notice of jeopardy determination. Immediately upon service of such notice, the Tax
11 Collector may, notwithstanding the provisions of Section 6.10-1 et seq., seek summary judgment
12 pursuant to Section 6.18 et seq., and may commence a collection action in any court having jurisdiction
13 over the matter.

14 (b) The taxpayer may stay the enforcement of a jeopardy assessment~~collection of the whole or~~
15 ~~any amount of a jeopardy determination may be stayed~~ by filing with the Tax Collector: (i) a bond in
16 an amount equal to the amount of the assessment (together with interest thereon to the date of
17 payment) payable on the Tax Collector's certification of the amount of the assessment after the Tax
18 Collector makes a final determination of the taxpayer's petition as to which the stay is desired,
19 ~~conditioned upon the payment of the amount, the collection of which is stayed by the bond, upon notice~~
20 ~~and demand by the Tax Collector after a final determination is reached on the appeal,~~ or (ii) other
21 security of a value in such amount as the Tax Collector ~~deems~~may deem necessary, but not
22 exceeding double the amount of the assessment (together with interest thereon to the date of
23 payment) together with a security agreement that authorizes the Tax Collector to use or dispose of the
24 security to satisfy the amount of the assessment after the Tax Collector makes a final determination of
25 the taxpayer's petition as to which the stay is desired. The taxpayer must also agree to pay the

1 assessment, upon notice and demand by the Tax Collector, after the Tax Collector makes a final
2 determination of the petition. If the penal amount of the bond is less than the assessment, the Tax
3 Collector may collect the part of the assessment that exceeds that penal amount. If the value of other
4 security is less than twice the assessment, the Tax Collector may collect the assessment until the unpaid
5 balance is reduced to twice the value of the security. Any stay pursuant to this subsection shall be
6 effective only against the person on whose behalf the bond or other security is provided.

7 (c) Upon filing of the bond or other security, the collection of so much of the jeopardy
8 determination amount as is covered by the bond or other security shall be stayed pending the
9 exercise by the taxpayer or other person determined to be liable for the tax of his or her
10 appeal rights. The person on whose behalf the bond or other security is submitted, shall have
11 the right to waive such stay at any time in respect of the whole or any part of the amount
12 covered by the bond or other security, and if as a result of such waiver any part of the amount
13 covered by the bond or other security is paid, then the bond or other security shall, at the
14 request of said person, be proportionately reduced. If any portion of the jeopardy
15 determination is abated, the bond or other security shall be proportionately reduced, at the
16 request of the person on whose behalf the bond or other security was provided.

17 (d) Where collection of the whole or any amount of a jeopardy determination has been
18 stayed under this Section, the period of limitation on any action to collect from the person on
19 whose behalf the bond or other security has been provided shall be tolled during the period of
20 such stay.

21
22 **SEC. 6.12-5. JEOPARDY DETERMINATIONS; PETITION FOR REDETERMINATION.**

23 Any person against whom a jeopardy determination is made may petition for the
24 redetermination thereof pursuant to Section 6.13-1 et seq. of this Article. The taxpayer shall,
25 however, file the petition for redetermination with the Tax Collector within 15 days after the

1 service of notice of determination. If a petition for redetermination of a jeopardy determination
2 is not filed within the foregoing 15-day period, the determination becomes final at the
3 expiration of that period.

4 The filing of a petition for redetermination of a jeopardy determination shall not operate
5 to stay collection. Collection may be stayed only as provided in Section 6.12-2 above.

6 If a timely petition for redetermination of a jeopardy determination is filed, the Tax
7 Collector shall review the matters raised in the petition including, if requested, whether the
8 issuance of the jeopardy determination was warranted under the circumstances. In making
9 this determination, the Tax Collector shall grant the taxpayer or other person determined to be
10 liable for the tax or such taxpayer or person's authorized representative an oral hearing if
11 requested in the petition.

12 If, in the review process, the Tax Collector determines that the determination of
13 jeopardy was improper or unwarranted, any collection action taken shall be withdrawn,
14 pending the ultimate administrative determination of the amount of the deficiency due from the
15 taxpayer or other person claimed to be liable for the tax claimed to be due in the jeopardy
16 determination notice. Neither the validity of the determination of tax, nor the burden of proof,
17 shall be affected by the Tax Collector's determination that the determination of jeopardy was
18 improper or unwarranted.

19 The taxpayer or other person determined to be liable for the tax has the right to an oral
20 hearing and determination by the Tax Collector upon the matters raised in the petition within
21 45 days from the date of the filing of the petition for redetermination, as scheduled by the Tax
22 Collector, unless the taxpayer waives said time period. The 45-day period shall be tolled
23 ~~during the period~~ between the date the Tax Collector serves of service of a written notification
24 ~~under authorized by~~ Section 6.13-1(b) that the Tax Collector requires of the additional information or
25

1 records ~~necessary for the Tax Collector~~ to evaluate and decide the petition, and the date the Tax
2 Collector receives that of receipt of all such information and those records ~~by the Tax Collector~~.

3
4 **SEC. 6.13-1. REDETERMINATIONS; PETITION; TIME FOR FILING; INCOMPLETE**
5 **PETITIONS.**

6 (a) Any person against whom a determination is made under the Business and Tax
7 Regulations Code may petition the Tax Collector for a redetermination within 30 days after
8 service of the notice thereof, except for a petition for redetermination of a jeopardy
9 determination, which the person may file within 15 days after service of the notice as provided
10 in Section 6.12-5. If a petition for redetermination is not filed within the applicable period, the
11 determination becomes final at the expiration of the period. The final determination may be
12 enforced or collected by any method authorized by law, including but not limited to lien, levy,
13 and judicial enforcement, including provisional remedies and injunctive relief.

14 (b) Every petition for redetermination shall be verified by the person against whom the
15 Tax Collector made the determination, stating under penalty of perjury the specific grounds
16 upon which the petition is founded, with specificity sufficient to enable the Tax Collector to
17 understand and evaluate the petition, and verifying the information and authenticating the
18 records upon which the petitioner relies in support of the petition. Any ground for
19 redetermination that is not specified in the petition for redetermination shall be deemed waived by the
20 petitioner in any later judicial proceeding. ~~to collect the tax specified in the notice of~~
21 ~~determination.~~

22 If the Tax Collector determines that the petition fails to state specific grounds for
23 redetermination, lacks sufficient specificity to understand and evaluate the petition, or is not
24 accompanied by information and records in support of the petition the Tax Collector
25 reasonably deems necessary to evaluate and decide the petition, the Tax Collector in his or

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

11
12 **SEC. 6.13-3. REDETERMINATIONS; ALTERATION OF DETERMINATION.**

13 The Tax Collector may decrease or increase the amount of the determination, including
14 the amount of the tax, penalties or interest, before it becomes final. The amount may be
15 increased only if a claim for the increase is asserted by the Tax Collector, and the Tax
16 Collector provides written notice thereof to the person against whom the Tax Collector issued
17 the determination at least five days before the hearing. If the Tax Collector increases the amount
18 before the hearing described in Section 6.13-2, such written notice shall be served at least 15 days
19 before the hearing and the person receiving such notice shall file a supplemental petition for
20 redetermination addressing the increased deficiency amount at least 5 days before the hearing date.
21 The Tax Collector may reschedule the hearing for purposes of allowing the requisite notice of increase.
22 If the Tax Collector increases the amount after the hearing described in Section 6.13-2, the Tax
23 Collector shall serve notice of such increase before issuing a final decision. Within 15 days of service
24 of such notice, the person against whom a claim for increase is asserted by the Tax Collector may serve
25 a supplemental petition for redetermination contesting the increased deficiency amount. The Tax

1 Collector shall hold an additional oral hearing on the increased amount upon the request of the
2 petitioner. A supplemental petition for redetermination filed pursuant to this Section shall state any
3 additional specific grounds for redetermination applicable to the increased deficiency amount. Any
4 specific ground for redetermination that is not specified in either the initial petition for redetermination
5 or the supplemental petition for redetermination shall be deemed waived by the petitioner in any later
6 judicial proceeding. ~~to collect the tax specified in the notice of determination. Nothing in this~~
7 Section shall preclude a new audit or determination by the Tax Collector of a new or
8 supplemental deficiency. The burden of proof in any proceeding for redetermination or appeal
9 thereof shall be on the taxpayer, who shall have the burden of proving that the Tax Collector's
10 determination is incorrect.

11
12 **SEC. 6.13-5. EXHAUSTION OF ADMINISTRATIVE REMEDIES.**

13 Prior to seeking judicial relief, persons against whom a jeopardy determination or
14 deficiency determination is made must exhaust their administrative remedies by: (i) petitioning
15 to the Tax Collector for redetermination and including all specific grounds supporting the petition
16 for redetermination; ~~and~~ (ii) paying the full amount owed as set ~~forth~~ ~~forth~~ in the final
17 determination; and (iii) presenting a claim for refund to the Controller under ~~Section~~ ~~Sections~~
18 6.15-1 et seq. which the City Attorney has denied or which the claimant has deemed denied under
19 Section 6.15-1(d).

20
21 **SEC. 6.13-6. EFFECT OF TAX COLLECTOR'S NOTICE OF DEFICIENCY EXAMINATION**
22 **OF RECORDS.**

23 The Tax Collector's issuance of a notice of deficiency or failure to issue such a notice
24 for any period may not be treated as precedent for any particular method or manner of
25 reporting or treating any item included or excluded on any return for purposes of any other or

1 future item appearing or reported on a return. The Tax Collector's making of a determination or
2 jeopardy determination as to a person for a period shall not bar the Tax Collector from making further
3 determinations regarding the liability of the person for that period.

4
5 **~~SEC. 6.14 1. BOARD OF REVIEW; JURISDICTION TO DECIDE PENDING TAXPAYER~~**
6 **~~PETITIONS; TAX COLLECTOR RULES AND REGULATIONS.~~**

7 (a) ~~From and after the effective date of the repeal of Sections 6.14 2 and 6.14 3 of this Article,~~
8 ~~the Board of Review shall lack jurisdiction to accept any new petition for redetermination or petition~~
9 ~~for refund, or any modification or amendment to such petitions pending before the Board of Review~~
10 ~~upon such effective date.~~

11 (b) ~~The Board of Review shall promptly review and rule upon all petitions for redetermination~~
12 ~~and petitions for refund pending before it upon the effective date of the repeal of Sections 6.14 2 and~~
13 ~~6.14 3 of this Article. Such reviews and rulings shall be made in accordance with the provisions of~~
14 ~~Sections 6.14 1 through 6.14 3 of this Article, inclusive, as such sections read on the date immediately~~
15 ~~preceding the effective date of the repeal of Sections 6.14 2 and 6.14 3 of this Article.~~

16 (c) ~~From and after the effective date of the repeal of Section 6.14 3 of this Article, the Board of~~
17 ~~Review shall lack jurisdiction to approve or disapprove any rule or regulation adopted by the Tax~~
18 ~~Collector. Any rule or regulation adopted by the Tax Collector that is pending before the Board of~~
19 ~~Review on the date immediately preceding the effective date of the repeal of Section 6.14 3 of this~~
20 ~~Article shall take effect by operation of law on the effective date of the repeal of Section 6.14 3 of this~~
21 ~~Article.~~

22 (d) ~~Upon issuance of the ruling by the Board of Review or other disposition on all petitions for~~
23 ~~redetermination and petitions for refund pending before the Board of Review on the effective date of the~~
24 ~~repeal of Section 6.14 2 of this Article, the Clerk of the Board of Review shall issue a written~~
25 ~~certification to the Mayor, Clerk of the Board of Supervisors and Tax Collector that the Board of~~

1 ~~Review has concluded its work. Upon issuance of such certification, the Board of Review shall cease to~~
2 ~~exist.~~

3
4 **SEC. 6.15-1. REFUNDS.**

5 (a) Except as otherwise provided in subdivision (c) below, the Controller shall refund
6 or cause to be refunded the amount of any tax, interest or penalty that has been overpaid or
7 paid more than once, or has been erroneously or illegally collected or received by the City,
8 provided the person that paid such amount files with the Controller, within the later of ~~one~~¹
9 year of payment of such amount or when the return accompanying such payment was due, a
10 verified claim in writing therefor, stating under penalty of perjury: (i) the specific amount
11 claimed to have overpaid or paid more than once, or erroneously or illegally collected or
12 received by the City, (ii) the tax periods at issue, and (iii) the grounds upon which the claim is
13 founded, with specificity sufficient to enable the Tax Collector and other responsible City
14 officials to understand and evaluate the claim. The Controller shall enter the claim in the claim
15 register, and shall forthwith forward it to the City Attorney. If the City Attorney determines the
16 claim is insufficient, the City Attorney shall give the claimant written notice of how the claim is
17 insufficient, stating with particularity the defects or omissions therein. The City Attorney shall send the
18 claimant that notice within 20 days after the claimant presents the claim. The City Attorney shall review
19 the claim for compliance with this section and other laws as may be applicable thereto. Within 20 days
20 after the claim is presented the City Attorney shall give written notice of its insufficiency, stating with
21 particularity the defects or omissions therein. Upon receipt of the claim, the City Attorney shall
22 forthwith request an investigation by the Tax Collector. The Tax Collector shall submit a report with
23 respect to the claim and recommendation thereon to the City Attorney within 30 days of receipt of the
24 City Attorney's request. The City Attorney may reject any and all claims the Controller forwards
25 to the City Attorney, and shall notify the claimant of such rejection. Allowance or compromise

1 and settlement of claims under this ~~Section~~section in excess of \$25,000 shall require the written
2 approval of the City Attorney and approval of the Board of Supervisors by resolution. The City
3 Attorney may allow or compromise and settle such claims if the amount is \$25,000 or less. No
4 claim may be paid until the Controller certifies that monies are available from the proper funds
5 or appropriations to pay the claim as allowed or as compromised and settled. For purposes of
6 this Section ~~6.15-1~~, a claim shall be deemed to accrue on the later of the date the return was
7 due or the tax was paid.

8 (b) The claim shall be on a form furnished by the Controller. A claim may be returned
9 to the person if it was not presented using the form. A refund claim may ~~only be signed~~be made
10 only by the taxpayer or other person determined to be liable for the tax or said person's
11 guardian or conservator. No other agent, including the taxpayer's attorney, may sign a refund
12 claim. Class claims for refunds shall not be permitted. The customer who pays a third-party tax
13 to an operator is the proper party to seek the refund of a disputed third-party tax. No operator or other
14 person responsible for collecting or remitting a disputed third-party tax may obtain a tax refund unless
15 that operator or other person has paid the tax to the Tax Collector pursuant to a deficiency
16 determination or a jeopardy determination in which case the operator or other person who paid the
17 tax, and not the individual customer, may seek a refund. If the claim is approved as set forth in
18 subsectionssubdivision (a) above, the excess amount collected or paid may be refunded or may
19 be credited on any amount due and payable, from the person from whom it was collected or
20 by whom paid and the balance may be refunded to such person, his administrator or
21 executors.

22 (c) The City Attorney, in his or her discretion and upon good cause shown, prior to the
23 expiration of the ~~one~~-year limitations period, may waive the requirement set forth in
24 subdivision (a) above that a taxpayer file a written verified claim for a refund in any case in
25 which the Tax Collector and City Attorney determine on the basis of other evidence that (i) an

1 amount of tax, interest or penalty has been overpaid or paid more than once, or has been
2 erroneously or illegally collected or received by the City, and (ii) all other conditions precedent
3 to the payment of a refund to the taxpayer have been satisfied.

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
6 the Controller. If the claim is amended, the City Attorney shall act on the amended claim
7 within 45 days after the amended claim is presented. The claimant may agree in writing to
8 extend the period within which the City Attorney must act on the claim for refund prior to
9 expiration of the original 45-day period. The claimant may deem the claim for refund denied
10 and seek judicial relief if the City Attorney does not act upon the claim within the 45-day
11 period, or such extended period to which the claimant has agreed.

12 (e) The Tax Collector may authorize the Controller to refund tax payments, without a refund
13 claim having been filed, without the need for a refund claim, and without review by the City Attorney, if
14 the Tax Collector determines:

15 (i) the tax was paid more than once; or

16 (ii) the amount paid exceeds the amount due as a result of an arithmetic or clerical error.

17 The Tax Collector may authorize such a refund no later than 1 year after payment of the tax.

18
19 **SEC. 6.15-2. REFUNDS; INTEREST.**

20 (a) Any amounts refunded shall bear interest at the rate of 2/3 of ~~one~~ one percent per
21 month or fraction thereof; or the average rate of interest computed over the preceding ~~six~~
22 month period ~~obtained, lawfully obtainable~~ by the San Francisco Treasurer on deposits of public
23 funds at the time refund is made, whichever rate is lower, and shall be computed from the
24 date of payment to the date of refund ~~except for amounts refunded as a result of a final judicial~~
25 ~~determination of the invalidity of any portion of or amendment to the Business and Tax Regulations~~

1 ~~Code, or the invalidity of any administrative interpretation thereof, in which case interest shall be~~
2 ~~computed from the date of the claim for refund to the date of refund.~~

3 (b) If the Controller offsets overpayments for a period or periods against
4 underpayments for another period or periods, against penalties or against interest on the
5 underpayments, the taxpayer will be credited with interest on the amount so applied at the
6 rate of interest set forth above, computed from the date of payment.

7 (c) If a taxpayer chooses to apply all or part of a refund against a ~~future year's liability,~~
8 San Francisco tax liability for a future period, the taxpayer will not be credited with interest on the
9 amount so applied.

10
11 **SEC. 6.15-3. REFUNDS; NOTICE OF DENIAL.**

12 If the claim for refund is denied, the City Attorney shall serve or cause to be served
13 notice of such denial upon the taxpayer personally or by mail. The notice of denial of such
14 claim shall be in a form substantially similar to the form for notice of rejection of claims set
15 forth in Government Code Section 913. If the City Attorney does not serve such a notice of denial
16 of claim, then the statute of limitations for filing a suit for refund shall be as set forth in Section 6.15-4.

17
18 **SEC. 6.15-4. EXHAUSTION OF ADMINISTRATIVE REMEDIES; PRESENTATION OF**
19 **CLAIM FOR REFUND AS PREREQUISITE TO SUIT; PAYMENT OF DISPUTED AMOUNT**
20 **AND PETITION FOR REFUND; LIMITATIONS.**

21 (a) Persons claiming they are aggrieved under the Business and Tax Regulations
22 Code must ~~first pay the amount of the disputed tax, penalty and interest, and present a claim for~~
23 ~~refund to the Controller,~~ prior to seeking judicial relief: (1) pay the amount of the disputed tax,
24 penalty and interest; (2) if the disputed tax was paid pursuant to the Tax Collector's jeopardy
25 determination or deficiency determination, file a petition for redetermination, pursuant to

1 Section 6.12-5 or Section 6.13-1; and (3) present a claim for refund to the Controller and allow action
2 to be taken on such claim, pursuant to Section 6.15-1.

3 (b) Any suit for tax refund shall be commenced no later than 6 months from the date the notice
4 of denial of the claim for refund was personally delivered or deposited in the mail, or within 2 years of
5 accrual of the cause of action if notice of denial of the claim for refund is not served on the person as
6 set forth in Section 6.15-3. Persons claiming they are aggrieved under the Business and Tax
7 Regulations Code may not seek any type of judicial relief other than a refund action. Notwithstanding
8 any other section of this Code, no claim or defense that, for any reason, a tax is not due or cannot be
9 applied under this Code may be raised in any judicial proceeding except as specified in the preceding
10 sentence. Presentation of a claim for refund that substantially complies with Sections 6.15 et seq. is a
11 prerequisite to suit.

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

17 **SEC. 6.16-1. RULES AND REGULATIONS.**

18 The Tax Collector may promulgate regulations and issue rules, and issue determinations
19 and interpretations consistent with the provisions of the Business and Tax Regulations Code
20 as may be necessary or appropriate for the purpose of carrying out and enforcing the
21 payment, collection and remittance of taxes and to apply such Code and any rules and
22 regulations promulgated thereunder in a lawful manner. The Tax Collector shall hold a public
23 hearing and allow public comment on any proposed rule or regulation prior to adoption
24 thereof. The Tax Collector shall provide not less than 10 ~~days~~days' notice of such public
25 hearing. A copy of such rules and regulations shall be on file and available for public

1 examination in the Tax Collector's Office~~office~~. Failure or refusal to comply with any rules and
2 regulations promulgated by the Tax Collector shall be deemed a violation of the Business and
3 Tax Regulations Code. ~~The Tax Collector may prescribe the extent to which any ruling or regulation~~
4 ~~shall be applied without retroactive effect.~~

5
6 **SEC. 6.17-1. PENALTIES AND INTEREST FOR FAILURE TO PAY.**

7 (a) Any person who fails to pay any tax to the City, or any operator or other person who
8 fails to collect and remit any third-party taxes amount of tax required to be collected and paid to the
9 City, from the date such tax becomes delinquent under Section 6.9-1 shall pay a penalty of five
10 percent of the tax ~~or amount of the tax, in addition to the tax or amount of tax~~, if the failure is for
11 not more than ~~one~~ 1 month after the tax became delinquent, plus with an additional 5 percent for
12 each following month or fraction of a month during which such failure continues, up to 20
13 percent ~~20%~~ in the aggregate, ~~plus interest at the rate of one percent per month, or fraction of a~~
14 ~~month, from the date such tax or the amount of such tax becomes delinquent under Section 6.9-1~~ until
15 the date of payment. Any taxes remaining unpaid for a period of 90 days after notification that
16 the tax is delinquent shall be subject to an additional penalty of 20 percent of the tax or
17 amount of the tax.

18 (b) If the failure to pay any tax is due to fraud or an intent to evade the Business and
19 Tax Regulations Code or the Tax Collector's rules and regulations, an additional penalty in the
20 amount of 50 percent of the amount due, in addition to ~~exclusive of~~ any other penalties and
21 interest, shall be added thereto. A taxpayer or other person against whom a fraudulent failure
22 to pay penalty is asserted is entitled to a notice of such determination to be issued in
23 accordance with the provisions of Section 6.11-1 et seq. and to the appeal rights set forth in
24 Section ~~Sections~~ 6.13-1 et seq.

1 (c) Unpaid taxes and penalties shall also accrue interest at the rate of 1 percent per month, or
2 fraction of a month, from the date the taxes become delinquent through the date the taxpayer or
3 operator pays the delinquent taxes, penalties, interest and fees accrued to the date of payment in full.

4
5 **SEC: 6.17-2. PENALTIES FOR UNDERREPORTING OF TAX.**

6 (a) Penalties for Negligence. If the Tax Collector determines that all or part of any tax
7 required to be reported on any return was underreported and that such underreporting was
8 attributable to negligence, ~~or intentional disregard of rules and regulations,~~ the Tax Collector may
9 impose a penalty ~~upon the taxpayer~~ in the amount of 5 percent of the amount of the
10 underreported tax, in addition to the tax or amount of tax, if the negligence ~~or intentional~~
11 ~~disregard of rules and regulations~~ is for not more than ~~one~~ 1 month, with an additional 5 percent
12 for each month or fraction of a month during which such negligence ~~or intentional disregard of~~
13 ~~rules and regulations~~ continues, up to 20 percent in the aggregate.

14 (b) Penalties for Intentional Disregard of Rules, Fraud, or Intend to Evade Tax. When it is
15 determined by the Tax Collector that all or part of any tax required to be reported on any
16 return was underreported and such underreporting was attributable to fraud or an intent to
17 evade the Business and Tax Regulations Code, the Tax Collector may impose a penalty ~~upon~~
18 ~~the taxpayer~~ in the amount of 50 percent of the amount of the underreported tax. The taxpayer
19 or other person determined to be liable for penalties pursuant to this Section ~~is~~ are entitled to a
20 notice of ~~deficiency~~ ~~such~~ determination ~~or jeopardy determination~~ ~~to be issued in accordance with the~~
21 ~~provisions of Section 6.11-1 et seq.~~ and to the appeal rights ~~as to such determinations~~ ~~set forth in~~
22 ~~Sections 6.13-1 et 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.

5 (a) Any person who fails to register, fails to ~~amend up~~ *date* a registration within ~~seven~~ *7*
6 days of a material change or *who makes a material misrepresentation in a registration whose*
7 ~~registration contains a material misstatement~~, or *who* fails to comply with a rule or regulation
8 promulgated by the Tax Collector *in a timely manner pursuant to the provisions of the Business and*
9 ~~Tax Regulations Code within the prescribed time limits~~ shall pay, in addition to any other liability
10 that may be imposed under the provisions of this Article, a penalty in an amount equal to the
11 penalized taxpayer's annual fee for obtaining a registration certificate as set forth in Article 12.

12 (b) ~~The Tax Collector may impose a penalty upon any~~ Any person who fails to file a return
13 or returns required under this Article on or before the date prescribed for filing ~~shall pay a~~
14 ~~penalty in up to~~ the amount of ~~\$500~~ *\$100* for each such failure. The penalty under this provision
15 shall be in addition to any other liability that may be imposed under the provisions of this
16 Article. *Filing a return that the Tax Collector determines to be incomplete in any material aspect may*
17 *be deemed failure to file a return in violation of this Section.*

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

22 (d) Unless the failure to allow inspection was due to reasonable cause and not willful
23 neglect, any person who fails to ~~provide~~ *allow a full inspection of* records pursuant to a written
24 request made by the Tax Collector may not contest the Tax Collector's decision regarding the
25 amount of such person's liability for any taxes, administrative collection costs, interest,

1 penalties or other costs and charges imposed under the Business and Tax Regulations Code,
2 or oppose the collection of such amount, in any subsequent administrative or judicial
3 proceeding, on the basis of any record the Tax Collector previously requested in writing that
4 such person failed to make available to the Tax Collector on or before the earliest to occur of
5 the following:

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

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

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

12
13 **SEC. 6.17-4. WAIVER OF PENALTIES.**

14 Any penalty or interest assessed under Sections 6.17-1, ~~6.17-2, 6.17-2~~ or 6.17-3 may be
15 waived by the Tax Collector, in whole or in part, upon a finding of any of the following:

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

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

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

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

1 **SEC. 6.18-1. SUMMARY JUDGMENT; NOTICE; CERTIFICATE.**

2 If any tax imposed pursuant to the Business and Tax Regulations Code is not paid by
3 the last day of the month after the delinquency date, or after any jeopardy determination, or
4 after any deficiency determination of the Tax Collector becomes final pursuant to Sections
5 6.12-1 et seq. or 6.13-1 et seq., the Tax Collector may file, no sooner than 20 days after the
6 mailing of the notice required in subsection~~Subdivision~~ (b), in the office of the Clerk of the Court,
7 without fee, a certificate specifying as follows:

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

12 (b) The fact that the notice required in subsection~~Subdivision~~ (a) set forth the following
13 information:

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

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

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

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

21 (5) The fact that, upon issuance and recordation of the judgment, additional
22 interest will continue to accrue at the rate prescribed by the Enforcement of Judgments Law (Title
23 9 of Part 2 of the Code of Civil Procedure) ~~in this Article~~, and that any bond premium posted or
24 other costs to enforce the judgment shall be an added charge, and

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

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

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

7 (e) The fact that the City has complied with all provisions of the Business and Tax
8 Regulations Code in the computation and the levy of the tax, penalty or interest; and

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

11
12 **SEC. 6.18-2. SUMMARY JUDGMENT; FILING OF CERTIFICATE; ENTRY OF JUDGMENT.**

13 The ~~County~~ Clerk of the Court, immediately upon the filing of the certificate shall enter a
14 judgment for the City and County against the operator, taxpayer or other person determined to
15 be liable for the tax in the amount of the tax, penalty and interest set forth in the certificate.

16 The ~~County~~ Clerk of the Court may file the judgment in a loose-leaf book entitled "City and
17 County Summary Tax Judgments."

18
19 **SEC. 6.18-3. SUMMARY JUDGMENT; RECORDING OF JUDGMENT; LIEN.**

20 An abstract or copy of the judgment shall be recorded, without fee, in the Office ~~office~~ of
21 the Assessor-Recorder, and may be recorded in any other office in which such filing is
22 permitted by law. The summary judgment shall be enforceable pursuant to the Enforcement of
23 Judgments Law (Title 9 of Part 2 of the Code of Civil Procedure). ~~From the time of the recording, the~~
24 ~~amount of the tax, penalty and interest set forth constitutes a lien upon all property of the judgment~~
25 ~~debtor in the City, and upon all property of the judgment debtor in any other jurisdiction where such~~

1 ~~abstract or copy of the judgment is recorded, owned by the judgment debtor on the date of recording or~~
2 ~~acquired by the judgment debtor thereafter, and before the lien expires, acquired by the judgment~~
3 ~~debtor. The lien has the force, effect and priority of a judgment lien and continues for 10 years from the~~
4 ~~date of the recording unless sooner released or otherwise discharged.~~

5
6 **~~SEC. 6.18-4. SUMMARY JUDGMENT; PENALTY IN LIEU OF JUDGMENT INTEREST.~~**

7 ~~Notwithstanding any other provision of law relating to interest authorized or allowed as a result~~
8 ~~of any judgment duly entered, the additional penalties and interest provided for in Sections 6.17-1 shall~~
9 ~~be imposed in lieu of any such judgment interest.~~

10
11 **SEC. 6.18-5. SUMMARY JUDGMENT; ADDITIONAL PENALTY.**

12 In addition to any penalty or fee imposed pursuant to the Business and Tax
13 Regulations Code, a penalty equal to the costs incurred to enforce the judgment entered
14 pursuant to ~~Section~~Sections 6.18-1 et seq., including reasonable attorneys' attorney's fees and
15 costs, and the City's cost of salary and benefits for City staff to enforce the judgment, shall be
16 imposed.

17
18 **SEC. 6.19-1. CIVIL ACTIONS.**

19 In addition to the actions provided for in Section 6.10-3, ~~the attorney for the Tax~~
20 Collector may bring a civil action to enjoin any violation of the Business and Tax Regulations
21 Code. No person shall conduct business without the certificate of authority required under Section
22 6.6-1 or without the San Francisco business registration certificate required under Section 853 of
23 Article 12, ~~the~~The Tax Collector may seek an injunction to prohibit any such person from doing
24 business in San Francisco until such time as the violation is cured. Such injunction shall issue
25 notwithstanding that judicial review of the Tax Collector's action regarding such certificate of

1 authority or business registration certificate has not been completed. The Tax Collector~~City~~ shall be
 2 entitled to its attorneys'~~attorney's~~ fees and costs in any action brought pursuant to this Section
 3 where the Tax Collector~~City~~ is the prevailing party.

4
 5 **SEC. 6.19-3. ADMINISTRATIVE PENALTIES AND CITATIONS.**

6 (a) **Administrative Penalties; Citations.** An administrative penalty may be assessed
 7 for a violation of the provisions of this Code as specified below. The penalty may be assessed
 8 by means of an administrative citation issued by any person designated as an "enforcement
 9 officer" in subsection (c).

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

VIOLATION	PENALTY AMOUNT
<ul style="list-style-type: none"> Failure to obtain or post a Certificate of Authority to Collect Third-Party Taxes <i>Taxes</i> 	\$500 \$100.00
<ul style="list-style-type: none"> Failure to obtain or post an Annual Business Registration Certificate 	\$100 100.00
<ul style="list-style-type: none"> Failure to show proof of current Business <i>Registration Certificate License</i> 	\$100 100.00
<ul style="list-style-type: none"> Failure of an operator in the business of renting parking space in a parking station to post a bond 	\$500 100.00
<ul style="list-style-type: none"> Failure to produce information requested by the Tax Collector within 30 days of mailing of such request 	\$100 100.00
<ul style="list-style-type: none"> Failure to produce financial records requested by the Tax Collector 	\$500 500.00

1	• Failure to retain financial records	<u>\$500</u> 500.00
2	• Failure to allow the Tax Collector to inspect financial records	<u>\$500</u> 500.00
3	• <u>Failure to file a return, including filing a blank return or a return that the Tax</u>	<u>\$500</u>
4	<u>Collector determines to be incomplete in any material aspect</u>	
5	• <u>Failure to provide a Receipt to an Occupant as required in Article 22.</u>	<u>\$100</u>
6	<u>Each time an Operator fails to provide a Receipt shall be considered a separate</u>	
7	<u>violation.</u>	
8	• <u>Operating a Parking Station without utilizing RCE or business practices and</u>	<u>\$500</u>
9	<u>procedures as required by Article 22</u>	
10	• <u>Failure to cooperate with any City agency as required by this Article or Article</u>	<u>\$500</u>
11	<u>22</u>	
12	• <u>Failure to maintain RCE Records as required by Article 22</u>	<u>\$500</u>
13	• <u>Failure to accurately report the dates and times that the Parking Station did not</u>	<u>\$500</u>
14	<u>utilize RCE in monthly or quarterly Parking Tax statements as required by this</u>	
15	<u>Article and Article 22</u>	
16	• <u>Failure to use good faith efforts to repair non-functioning RCE</u>	<u>\$100</u>
17	• <u>Failure to certify conformance with the provisions of Article 22 concurrent with</u>	<u>\$500</u>
18	<u>payment or remittance of Parking Taxes</u>	
19	• <u>Intentionally tampering with RCE, including but not limited to altering or</u>	<u>\$500</u>
20	<u>deleting data gathered or maintained by RCE</u>	
21	• <u>Substituting a Parking Ticket with a Discount Parking Ticket for the purposes of</u>	<u>\$500</u>
22	<u>falsely reporting or falsely recording the amount of Rent collected from an</u>	
23	<u>Occupant</u>	
24		
25		

1	• <u>Refusing to produce RCE Records timely when requested by the Tax Collector or</u>	<u>\$500</u>
2	<u>other authorized agency as required under Sections 2223, 2230 and 2236 of</u>	
3	<u>Article 22 or when requested under Section 6.4-1 and 6.5-1 of this Article</u>	
4	• <u>Failure to comply with any other obligation or duty imposed under the Business</u>	<u>\$500</u>
5	<u>and Tax Regulations Code</u>	

6

7 Except in the case of failure to file a return, including filing a blank return or a return that the

8 Tax Collector determines to be incomplete, each day that an Operator does not comply with the

9 provisions of this Article shall be considered a separate violation. The penalty amounts shall be

10 increased cumulatively by ~~five~~50 percent (~~50%~~) for each subsequent violation of the same

11 provision by the same person within a ~~three (3)~~3-year period. The maximum penalty amount

12 that may be imposed by administrative citation in a calendar year for each type of violation

13 listed above shall be ~~\$25,000~~\$5,000. In addition to the penalty amounts listed above, the Tax

14 Collector may assess enforcement costs to cover the reasonable costs incurred in enforcing

15 the administrative penalty, including reasonable attorneys' fees. Enforcement costs shall not

16 count toward the ~~\$25,000~~\$5,000 annual maximum.

17 (c) **Persons Who May Issue Citations.** The following classes of employees within

18 the Office of the Treasurer and Tax Collector~~Treasurer/ Tax Collector's office~~ are designated

19 "enforcement officers" and are authorized to issue administrative citations pursuant to this

20 Article:

22 CLASSIFICATION NUMBER	CLASS TITLE
23 4334	Investigator
24 4335	Senior Investigator

1	4337	Principal Investigator
2	<u>09224340</u>	Assistant Director, <u>Bureau of Delinquent Revenue</u>
3		<u>Collections</u>
4	<u>8173</u>	<u>Legal Assistant</u>
5	<u>0931</u>	<u>Director, Bureau of Delinquent Revenue Collections</u>

7

8 **SEC. 6.19-4. VIOLATIONS.**

9 (a) **Separate and Continuing Violations; Penalties Paid Do Not Cure Violations.**

10 Each and every day that a violation exists constitutes a separate and distinct offense. Each
 11 section violated constitutes a separate violation for any day at issue. If the person or persons
 12 responsible for a violation fail to correct the violation, subsequent administrative citations may
 13 be issued for the same violation(s). ~~The enforcement officer may issue such subsequent~~
 14 ~~administrative citations for uncorrected violations(s) pursuant to this Section without issuing a new~~
 15 ~~notice as otherwise required by Section 6.19-5.~~ Payment of the penalty shall not excuse the failure
 16 to correct the violation nor shall it bar any further enforcement action by the City. If penalties
 17 and costs are the subject of administrative appeal or judicial review, then the accrual of such
 18 penalties and costs shall be stayed until the determination of such appeal or review is final.

19 (b) **Payments to City; Due Date; Late Payment Penalty.** All penalties assessed
 20 shall be payable to the City and County. Administrative penalties and costs assessed by
 21 means of an administrative citation shall be due within ~~thirty (30)~~ 30 days from the date of the
 22 citation. The failure of any person to pay an administrative penalty and costs within that time
 23 shall result in the assessment of an additional late fee. The amount of the late fee shall be ~~ten~~
 24 ~~(10)~~ 10 percent of the total amount of the administrative penalty assessed for each month the
 25 penalty and any already accrued late payment penalty remains unpaid.

1 (c) **Collection of Penalties; Special Assessments.** The failure of any person to pay
2 a penalty assessed by administrative citation within the time specified on the citation
3 constitutes a debt to the City. The City may file a civil action, create and impose liens as set
4 forth below, or pursue any other legal remedy to collect such money.

5 (d) **Liens.** The City may create and impose liens against any property owned or
6 operated by a person who fails to pay a penalty assessed by administrative citation. The
7 procedures provided for in Section 6.10-3 Article XX of Chapter 10 of the San Francisco
8 Administrative Code shall govern the imposition and collection of such liens.

9
10 **SEC. 6.19-5. ADMINISTRATIVE CITATION; ISSUANCE NOTICE OF VIOLATION.**

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

23 ~~(b) Issuance of Citation. If the person or persons responsible for the violation fail to comply~~
24 ~~with any portion of a notice of violation within the time provided, the~~The enforcement officer may
25 issue an administrative citation to any person who violates the Code provisions identified in Section

1 ~~6.19-3(b)the violator~~. The administrative citation shall be issued on a form prescribed by the
2 Tax Collector.

3
4 **SEC. 6.19-6. ADMINISTRATIVE CITATION ~~AND NOTICE OF VIOLATION~~; SERVICE.**

5 Service of ~~a notice of violation and~~ an administrative citation may be accomplished as
6 follows:

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

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

13 (2) The enforcement officer shall serve the citation by first-class mail as follows:

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

17 (ii) A declaration of service shall be made by the person mailing the
18 administrative citation showing the date and manner of service by mail and reciting the
19 name and address of the citation addressee; and

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

22
23 **SEC. 6.19-9. REGULATIONS.**

24 The Tax Collector may promulgate and enforce rules and regulations, and issue
25 determinations and interpretations relating to the administrative penalty and citation system,

1 and the conducting of administrative hearings and rendering of decisions, pursuant to
2 Sections 6.19-3 through 6.19-11, inclusive. Any rules and regulations promulgated by the Tax
3 Collector shall be approved as to legal form by the City Attorney. The rules and regulations
4 shall become effective 30 days after ~~receipt~~^{receipt} by the Clerk of the Board of Supervisors and
5 the Clerk of the Finance Committee, unless the Board of Supervisors by resolution
6 disapproves or modifies the regulations. The Board of Supervisors' determination to modify or
7 disapprove a rule or regulation submitted by the Tax Collector shall not impair the ability of the
8 Tax Collector to resubmit the same or similar rule or regulation directly to the Board of
9 Supervisors if the Tax Collector determines it is necessary to effectuate the purposes of the
10 administrative penalty and citation system.

11
12 **SEC. 6.21-1. TRANSFEREE AND SUCCESSOR LIABILITY.**

13 ~~(a) The liability at law or in equity of a successor, transferee or alter ego of any taxpayer or~~
14 ~~other person determined to be liable for any tax, interest, cost or penalty subject to this Article,~~
15 ~~imposed upon a taxpayer shall be determined, collected and paid in the same manner and subject to the~~
16 ~~same provisions and limitations as in the case of a deficiency determination pursuant to Sections 6.12-1~~
17 ~~et seq. and 6.13-1 et seq. Nothing in this subsection shall be construed to limit the rights or procedures~~
18 ~~available to the Tax Collector to collect from any successor, transferee or alter ego, at law or in equity,~~
19 ~~as may be provided by statutory or decisional law.~~

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

1 **(b)(e)** The Tax Collector shall issue such a receipt or certificate, or a notice of the
2 amount that must be paid as a condition of issuing the certificate, to the buyer within 30 days
3 after receiving a written request. However, failure of the Tax Collector to timely mail the notice
4 will not release the buyer from his or her obligations under this Section, except to the extent of
5 penalties and interest in the event that the Tax Collector enforces the buyer's obligation in a
6 civil action authorized pursuant to the Business and Tax Regulations Code.

7 **(c)(d)** If the buyer purchases or acquires an interest in a business owing any taxes,
8 interest or penalties imposed under Articles 7, 9 or 12-A, the buyer shall withhold from the
9 purchase price and pay to the Tax Collector a sufficient amount to satisfy said taxes, interest
10 and penalties.

11 **(d)(e)** If the buyer purchases or acquires an interest in a business in violation of this
12 Section, the buyer shall become personally liable for the amount of taxes, interest and
13 penalties owed on the business.

14 **(e)(f)** The buyer's obligations shall accrue at the time the business is purchased or the
15 interest acquired, or at the time the Tax Collector determines the seller's final liability,
16 whichever is later.

17 **(f)** The liability at law or in equity of a successor, transferee or alter ego of any taxpayer or
18 other person determined to be liable for any tax, interest, cost or penalty subject to this Article,
19 imposed upon a taxpayer may be determined, collected and paid in the same manner and subject to the
20 same provisions and limitations as a deficiency determination pursuant to Sections 6.11-1, 6.11-2, and
21 6.13-1 et seq. Nothing in this subsection shall be construed to limit the rights or procedures available
22 to the Tax Collector to collect from any successor, transferee or alter ego, at law or in equity, as may
23 be provided by law.

1 **SEC. 6.22-1. CONFIDENTIALITY.**

2 (a) The information in a taxpayer's return is confidential, as is any information the Tax
3 Collector learns about a taxpayer's business from the taxpayer or in response to the Tax Collector's
4 request for information made under Sections 6.4-1 or 6.5-1. Information regarding the Tax Collector's
5 investigation of a particular taxpayer, including the fact that the Tax Collector has sent a request for
6 information to a particular taxpayer or is investigating a particular taxpayer, is also confidential.
7 Except as permitted by this Section or as otherwise required by law, neither the Tax Collector nor his
8 or her staff, nor any other of the City's current or former employees or agents may disclose any
9 taxpayer's taxpayer confidential information to any person. Except where disclosure is otherwise
10 required by law, it is a violation of this section for the Tax Collector or any officer, employee or agent
11 of the City to make known in any manner whatever the business affairs, operations or information
12 obtained by an investigation of records or any person visited or examined in the discharge of official
13 duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set
14 forth or disclosed in any return, or to permit any return or copy thereof or any book containing any
15 abstract or particulars thereof to be seen or examined by any person, except as set forth below. These
16 confidentiality provisions also apply to former Tax Collectors and employees and agents thereof.

17 (b) At the discretion of the Tax Collector, otherwise ~~otherwise~~ confidential information may
18 be disclosed in any federal, state, city or county judicial proceeding or administrative
19 proceeding pertaining to tax administration, determination, assessment, collection, or
20 enforcement, of any civil or criminal liability arising under the Business and Tax Regulations
21 Code if the information concerns a person who is a party to the proceeding, or the proceeding
22 arose out of, or in connection with determining that person's civil or criminal liability, or the
23 collection of that person's liability with respect to any tax imposed thereunder.

24 (c) At the discretion of the Tax Collector, disclosure ~~disclosure~~ of otherwise confidential
25 information may be made to the extent such disclosures are reasonably necessary to

1 obtaining information bearing a direct transactional-relationship to the determination,
2 assessment, collection, or enforcement, of any civil or criminal liability arising under the
3 Business and Tax Regulations Code.

4 (d) At the discretion of the Tax Collector, the Tax Collector may
5 disclosedisclosureDisclosure of otherwise confidential information to may be to other
6 employees or agents of the Tax Collector or other City employees of the City who are engaged
7 in matters preparatory to any judicial or administrative proceeding pertaining to the
8 administration or enforcement of any civil or criminal liability arising out of the Business and
9 Tax Regulations Code.

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

13 (f) The taxpayer, his successors, receivers, trustees, executors, administrators,
14 assignees and guarantors, and their duly authorized legal representatives if directly
15 interested, may be given information as to regarding the items included in the measure and
16 amount of any unpaid tax or amounts of tax required to be collected, interest and penalties.

17 (g) Notwithstanding any other provision of the Business and Tax Regulations Code or
18 of any City ordinance, the Tax Collector is authorized to enter into agreements with other
19 public agencies ~~the California Franchise Tax Board, the State Board of Equalization, and/or the~~
20 ~~Internal Revenue Service~~ providing for the exchange of information for official purposes of said
21 agencies, and to implement any such agreement through the exchange of information.

22 (h) Notwithstanding any other provision of the Business and Tax Regulations Code or
23 of any City ordinance, the Tax Collector shall provide any and all information to the Controller
24 that is needed to fulfill the Controller's responsibilities under Section 3.105 of the Charter.
25

1 With regard to all such information provided by the Tax Collector, the Controller shall be
2 subject to the confidentiality provisions of ~~subsection~~ *Subsection* (a) of this Section.

3 (i) The Tax Collector may disclose to any City employee or agent for official purposes
4 any information described in ~~subsection~~ *Subsection* (a) in aggregate or other form that does not
5 disclose the identity of particular taxpayers.

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

9
10 Section 2. The San Francisco Business and Tax Regulations Code is hereby amended
11 by amending Sections 604, 713, 856, and 859, to read as follows:

12
13 **SEC. 604. COLLECTION OF TAX BY OPERATOR; RECEIPT TO OCCUPANT; RULES**
14 **FOR COLLECTION SCHEDULES.**

15 (a) Every Operator maintaining a place of business in this City and County as
16 provided in Section 603 herein, and Renting a parking space in a Parking Station in this City
17 and County to an Occupant who is not exempted under Section 606 of this Article or
18 elsewhere in this Code, shall at the time of collecting the Rent from the Occupant, collect the
19 Parking Tax from the Occupant and on demand shall give to the Occupant a Receipt that
20 meets the requirements of Article 22 of this Code. In all cases in which the Parking Tax is not
21 collected by the Operator, as aforesaid, the Operator shall be liable to the Tax Collector of the
22 City and County for the amount of Parking Tax due on the amount of taxable Rent collected
23 from the Occupant under the provisions of this Article the same as though the Parking Tax
24 were paid by the Occupant. In all cases of transactions upon credit or deferred payment, the
25 remittance or payment of Parking Tax to the Tax Collector may be deferred in accordance

1 therewith, and the Operator shall be liable therefore at the time and to the extent that such
2 credits are paid or deferred payments are made in accordance with the rate of tax owing on
3 the amount thereof.

4 (b) Unless the Operator can provide an explanation or other sufficient proof that the
5 Enforcing Agency in its sole discretion deems to be credible to establish the validity of a claim
6 for a Lost Ticket or an otherwise Unaccounted Ticket (as those terms are defined in Section
7 2201 of Article 22 of this Code), every Lost Ticket and Unaccounted Ticket shall be considered
8 as a full value Parking Ticket for which the Operator is liable for transmitting to the City the full
9 value of the Parking Tax and surcharge required under this Code applicable to ~~a full day's Rent~~
10 ~~for a single Parking Space Occupancy~~ the highest maximum daily rate charged for any parking space
11 without discount, except that an Operator shall be allowed an Unaccounted Ticket Ratio of
12 1.5 percent for each Parking Station that it operates (as that term is defined and used in
13 Article 22 of this Code) in a reporting period, for which the Operator ~~shall~~may not be liable for
14 failure to remit the Parking Tax.

15 (c) The Operator shall have the burden of explaining and establishing the validity of
16 Lost Tickets and Cancelled Transactions, as those terms are defined in Article 22 of this
17 Code. The Enforcing Agency may consider a verifiable statement signed by the Occupant
18 claiming a Lost Ticket that includes the Occupant's name, address, telephone number, the
19 Occupant's Motor Vehicle license plate number, the time of entry and the time of exit as
20 sufficient proof of a valid Lost Ticket transaction. An Operator shall maintain a log of all Lost
21 Tickets and Cancelled Transactions. The Enforcing Agency may consider in its sole and
22 absolute discretion an Operator's log of Cancelled Transactions or Lost Ticket transactions
23 that includes the cashier or attendant's name and/or Log File identification number who
24 processed the Transaction, the date and time of the Transaction, and a credible reason for
25 processing the transaction as a Lost Ticket transaction.

1 (d) The Tax Collector shall have the power to adopt rules and regulations prescribing
2 methods and schedules for the collection and payment of the tax and such methods and
3 schedules shall provide that the fractional part of one cent shall be disregarded unless it
4 amounts to $\frac{1}{2}$ of one cent or more, in which case the amount (determined without regard to
5 the fractional part of one cent) shall be increased by one cent.

6
7 **SEC. 713. RECORDS.**

8 It shall be the duty of every service supplier required to collect and remit to the City and
9 County any tax imposed by this Article to keep and preserve, for a period of ~~four~~ 5 years, all
10 records as may be necessary to determine the amount of such tax service supplier may have
11 been required to collect and remit to the City and County, which records the Tax Collector
12 shall have the right to inspect at all reasonable times.

13
14 **SEC. 856. REGISTRATION CERTIFICATE—APPLICATION AND ISSUANCE.**

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

23 (b) A registration certificate issued for a calendar year commencing on or before
24 January 1, 2002, shall be valid until December 31 of such calendar year. All persons engaging
25 in business within the City during any such calendar year shall, before the last business day in

1 October, apply to the Tax Collector for a registration certificate for the succeeding calendar
2 year. The application for renewal of the annual registration certificate shall become delinquent
3 if the registration fee is not paid on or before the last business day in October.

4 (c) To accomplish the change from the calendar year registration period to a fiscal
5 year registration period, there shall be a Registration Transition Period commencing
6 January 1, 2003, and ending June 30, 2003. A registration certificate issued for the
7 Registration Transition Period shall be valid through June 30, 2003. Except as provided in
8 ~~Subsections~~subsection (f) of this Section, any person engaging in business within the City during
9 the calendar year preceding the Registration Transition Period shall, before October 31, 2002,
10 apply to the Tax Collector for a registration certificate covering the Registration Transition
11 Period. The application for renewal of the registration certificate covering the Registration
12 Transition Period shall become delinquent if the registration fee is not paid on or before
13 October 31, 2002. Except as provided in ~~Subsections~~subsection (f) of this Section, the fee for a
14 registration certificate covering the Registration Transition Period shall be 50 percent of the
15 amount of the annual registration fee otherwise applicable under Section 855 of this Article.

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

21 (e) A registration certificate issued for any registration year after the Registration
22 Transition Period shall be valid through June 30 of such registration year. Except as provided
23 in ~~Subsections~~subsection (f) of this Section, for any registration year commencing on or after
24 July 1, 2003, any person engaging in business within the City shall, between January 1 and
25 the last day of ~~February~~May, apply to the Tax Collector for a registration certificate for the

1 succeeding registration year. The application for renewal of the annual registration certificate
2 shall become delinquent if the registration fee is not paid on or before the last day of
3 ~~February~~May.

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

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

12 (2) For the tax year ending on December 31, 2002, the fee for obtaining a
13 registration certificate for a newly established business shall be determined pursuant to
14 Section 855 of this Article using the estimated Payroll Expense Tax liability for such tax year.
15 The registration fee for any person who commences business operations within the City
16 during such tax year shall be prorated as follows: For persons commencing business between
17 January 1st and March 31st, the registration fee shall be 100 percent of the annual fee; for
18 persons commencing business between April 1st and June 30th, the registration fee shall be
19 75 percent of the annual fee; for persons commencing business between July 1st and
20 September 30th, the registration fee shall be 50 percent of the annual fee; and for persons
21 commencing business between October 1st and December 31st, the registration fee shall be
22 25 percent of the annual fee. Where a registration certificate is issued for a period other than
23 for a calendar year, the Tax Collector shall have discretion to prorate the registration fee in
24 accordance with the formula set forth in this paragraph.
25

1 (3) For the Registration Transition Period, the fee for obtaining a registration
2 certificate for a newly established business shall be determined pursuant to Section 855 of
3 this Article using the applicant's estimated tax liability under Article 12-A (Payroll Expense Tax
4 Ordinance) for the 2003 tax year. For any person who commences business operations within
5 the City on or after January 1, 2003, and before April 1, 2003, the registration fee shall be as
6 set forth in ~~Subsections~~subsection (c) of this Section. For any person who commences business
7 operations within the City on or after April 1, 2003, and before July 1, 2003, the registration,
8 fee shall be 25 percent of the amount of the annual registration fee otherwise applicable under
9 Section 855(a) of this Article.

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

24 (5) Notwithstanding any other provision of this Article, no person obtaining a
25 registration certificate for a newly established business that qualifies for the \$25 minimum

1 registration fee set forth in Section 855 of this Article shall be entitled to prorate the
2 registration fee under this Section, but instead shall pay the \$25 minimum registration fee.

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

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

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

22 (j) Each registration certificate shall be non-assignable and nontransferable. The
23 holder of the registration certificate shall surrender the certificate to the Tax Collector
24 immediately upon the sale or transfer of the business for which the Tax Collector issued the
25 registration certificate. The holder of the registration certificate shall also surrender the

1 certificate to the Tax Collector when such holder ceases to conduct business at the location
2 designated in the certificate.

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

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

1 corporation, the registration certificate shall be signed by the person authorized by the
2 corporation to sign on its behalf.

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

7 **SEC. 859. BUSINESS TAX REGISTRATION TAG REQUIRED ON CERTAIN VEHICLES.**

8 (a) The Tax Collector shall require persons engaged in the businesses listed in
9 ~~subsection~~ *Subsection* (b) to display prominently upon each vehicle which is registered as a
10 commercial vehicle with the California Department of Motor Vehicles, and which is used by
11 the person in the conduct of his or her business, a registration tag in such form and color and
12 containing such information as the Tax Collector shall determine. An employee's personally
13 owned vehicles are exempt from this requirement. The Tax Collector shall charge an annual
14 fee of \$30 for each tag issued to cover the cost of issuing the tag. The registration tag shall
15 be valid for the year of issuance, or 1 year, whichever ends later one year concurrent with the business
16 tax registration certificate.

17 It is unlawful for any person, required to display a registration tag pursuant to this
18 Section, to use or cause to be used any company vehicle which is registered as a commercial
19 vehicle with the California Department of Motor Vehicles in the conduct of the person's
20 business within the City and County that does not have a business tax registration tag
21 attached thereto or to remove or deface or cover up the registration tag, or to place such
22 registration tag upon any vehicle other than a vehicle used by the person in his or her
23 business, or to use or cause to be used any such vehicle more than 30 days after the
24 expiration of the period for which the registration tag was issued. An employee's personally
25 owned vehicles are exempt from this requirement.

1 Each person required to display a registration tag on vehicles used in conduct of his or
2 her business shall keep the registration tag(s) issued by the Tax Collector firmly affixed upon
3 each vehicle for which a registration tag was issued at such location upon the vehicle as is
4 designated by the Tax Collector.

5 Subsequent to the issuance of any business tax registration certificate and prior to the
6 expiration date, any person seeking to use any company vehicle which is registered as a
7 commercial vehicle with the California Department of Motor Vehicles in his or her business,
8 for which a tag has not been issued, shall procure a tag for such vehicle from the Tax
9 Collector. Upon the payment of a fee for such tag, the Tax Collector shall deliver the tag to the
10 person, which tag shall be securely affixed to the vehicle upon the location designated by the
11 Tax Collector.

12 (b) Persons engaged in the following business(es) shall be required to display a
13 registration tag on company vehicles which are registered as commercial vehicles with the
14 California Department of Motor Vehicles and which are used in the conduct of his or her
15 business:

16 Roofing contractor and any other contractor performing work for which a reroofing
17 permit is required.

18
19 Section 3. The San Francisco Business and Tax Regulations Code is hereby amended
20 by repealing Sections 608 through 608.8 in their entirety:

21
22 ~~SEC. 608. PARKING TAX AMNESTY PROGRAM.~~

23
24 ~~SEC. 608.1. SHORT TITLE.~~

25 ~~This ordinance shall be known as the "Parking Tax Penalty Amnesty Program."~~

1 ~~SEC. 608.2.—DEFINITIONS.~~

2 ~~The terms used in this Section 608 shall have the meaning given to them in Article 9, Section~~
3 ~~601 of this Code.~~

4
5 ~~SEC. 608.3.—AMNESTY PROGRAM.~~

6 ~~(a) A Tax Penalty Amnesty Program is hereby established for Operators of Parking Stations~~
7 ~~required to collect and remit Parking Taxes under Articles 6 and 9 of this Code who have liabilities~~
8 ~~eligible for amnesty under Section 608.4 of this Article and who satisfy the eligibility requirements~~
9 ~~established in Sections 608.4 and 608.5 of this Article.~~

10 ~~(b) For any person who has a liability eligible for amnesty under Section 608.4 of the Article~~
11 ~~and who meets the eligibility requirements established in Sections 608.4 and 608.5 of this Article and~~
12 ~~who applies for and is granted amnesty:~~

13 ~~(1) The Tax Collector shall waive all penalties and interest on penalties owed for~~
14 ~~failure to collect and/or remit Parking Taxes under Article 22 and Sections 6.17-1, 6.17-2, and~~
15 ~~6.17-3 of this Code; and~~

16 ~~(2) The Tax Collector shall waive all penalties and interest on penalties owed for~~
17 ~~delinquent remittance of Parking Taxes owed under the provisions Articles 6 and 9 of the~~
18 ~~Business and Tax Regulations Code without need to make the findings required under Section~~
19 ~~6.17-4; and~~

20 ~~(3) No proceeding to suspend or revoke a business registration certificate pursuant to~~
21 ~~Section 6.6-1 of this Code shall be initiated for an Operator's failure to collect or remit parking~~
22 ~~taxes for which the Tax Collector has granted amnesty; and~~

23 ~~(4) No civil or criminal action shall be brought against an Operator, for any tax period~~
24 ~~for which the Tax Collector grants tax penalty amnesty, based upon the nonreporting, under-~~
25

1 ~~reporting, failure to remit Parking Tax and Parking Tax liabilities or the nonpayment of or~~
2 ~~failure to remit any taxes owed under the provisions of Article 22 of this Code.~~

3 ~~(c) The Amnesty Program shall not apply to Operators that do not voluntarily and in good faith~~
4 ~~contact the Tax Collector during the Amnesty Period to submit voluntarily to an audit.~~

5
6 **~~SEC. 608.4. LIABILITIES SUBJECT TO AMNESTY PROGRAM.~~**

7 ~~(a) The Tax Penalty Amnesty Program shall apply to remittance of penalties and interest on~~
8 ~~penalties for unpaid owing third party Parking Tax liabilities for the tax periods ending on or before 75~~
9 ~~days prior to the effective date of this Ordinance, with the following exceptions:~~

10 ~~(1) The Tax Collector shall not waive penalties owed as a result of any jeopardy~~
11 ~~determination or any audit deficiency determination that has become final prior to the~~
12 ~~commencement of the Amnesty Application Period.~~

13 ~~(2) The Tax Collector shall not waive, under the authority of this Article, penalties,~~
14 ~~which are included in any civil tax collection litigation commenced by the Tax Collector prior~~
15 ~~to the commencement of or during the Amnesty Application Period.~~

16 ~~(3) Taxes owed that have been reduced to a notice of deficiency prior to the~~
17 ~~commencement of the Amnesty Period are not eligible for inclusion in the Amnesty Program.~~

18 ~~(4) Parking taxes owed and interest on those owed taxes are not subject to amnesty.~~

19 ~~(b) No refund or credit shall be granted of any penalty paid by any person prior to the time the~~
20 ~~person submits an Amnesty Application pursuant to Sections 608.3 and 608.8 of this Article.~~

21
22 **~~SEC. 608.5 AMNESTY APPLICATIONS.~~**

23 ~~(a) The provisions of this Article shall apply to any person who is responsible for the collection~~
24 ~~and remittance to the City of Parking Taxes under Article 22 and Section 6.7-1 of this Code and who~~
25

1 ~~files an application for Parking Tax amnesty within the Amnesty Application Period designated by the~~
2 ~~Tax Collector pursuant to Section 608.8 of this Article and who does both of the following:~~

3 ~~(1) Files completed tax returns for all periods for which he or she has not previously~~
4 ~~filed a tax return or files amended tax returns for all periods for which he or she under reported~~
5 ~~taxes owed; and~~

6 ~~(2) Pays/remits in full all taxes, fees, and interest due.~~

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

14
15 ~~SEC. 608.6. SUBSEQUENT DEFICIENCIES.~~

16 ~~If the Tax Collector issues a deficiency determination based upon a return filed pursuant to~~
17 ~~Section 608.5 of this Article, penalties shall be imposed only with respect to the difference between the~~
18 ~~amount shown on the return and the correct amount of tax.~~

19
20 ~~SEC. 608.7. SUBSEQUENT REFUNDS.~~

21 ~~If any overpayment of tax under this Section 608 is refunded or credited, the City shall have no~~
22 ~~liability for or obligation to pay interest on that overpayment.~~

1 **~~SEC. 608.8. AUTHORITY OF TAX COLLECTOR.~~**

2 ~~Upon effective date of this Ordinance, the Tax Collector shall designate an Amnesty Application~~
3 ~~Period, which shall not exceed six months in duration, in which Amnesty Applications shall be~~
4 ~~accepted. The Tax Collector shall publicize the Tax Penalty Amnesty Program established by this~~
5 ~~Article and shall notify Operators about the amnesty program and about the new requirements of~~
6 ~~Article 22 of this Code and the increased penalties imposed by the provisions of Section 2231. The Tax~~
7 ~~Collector shall issue all forms and instructions necessary to implement this Article. The Tax Collector~~
8 ~~shall enforce the provisions of this Article and may prescribe, adopt, and enforce rules and regulations~~
9 ~~relating to the administration and enforcement of this Article.~~

10
11 Section 4. The San Francisco Administrative Code is hereby amended by amending
12 Section 10.80-2, to read as follows:

13
14 **SEC. 10.80-2. TREASURY OVERSIGHT COMMITTEE - DUTIES.**

15 The duties of the Committee shall be the following: (a) Review and monitor the
16 investment policy described in Government Code Section 27133 ~~27933~~ and annually prepared
17 by the County Treasurer; (b) Cause an annual audit to be conducted to determine the
18 Treasurer's compliance with Government Code Article 6 including Sections 27130 ~~27930~~
19 through 27137 and with this ordinance. The audit may examine the structure of the investment
20 portfolio and risk; (c) Nothing herein shall be construed to allow the Committee to direct
21 individual decisions, select individual investment advisors, brokers, or dealers, or impinge on
22 the day-to-day operations of the Treasurer.

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

3
4 By: Julie Van Nostern
5 JULIE VAN NOSTERN
6 Deputy City Attorney
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Supervisors Mirkarimi, Duffy
BOARD OF SUPERVISORS

LEGISLATIVE DIGEST

[Business and Tax Regulations Code: Common Administrative Provisions; Parking Tax; Business Registration]

Ordinance amending the San Francisco Business and Tax Regulations Code by: (1) amending Article 6 (Common Administrative Provisions) to revise provisions relating to: certificates of authority to collect third-party taxes; prepayment and remittance requirements for hotel and parking operators; enforcement procedures and penalties; and to otherwise clarify and update the provisions of Article 6; (2) amending Article 9 (Tax on Occupancy of Parking Space in Parking Stations), Article 10 (Utility Users Tax), and Article 12 (Business Registration), to lengthen the time period that service suppliers must preserve records from 4 years to 5 years and to extend the payment date of the registration certificate; and (3) repealing Sections 608 through 608.8 of Article 9 (Tax on Occupancy of Parking Space in Parking Stations); and (4) amending the San Francisco Administrative Code by amending Article XIII (Funds), Chapter 10 (Finance, Taxation, and Other Fiscal Matters), to correct references to the California Government Code.

Existing Law

The Treasurer/Tax Collector administers the City's taxes pursuant to the Common Administrative Provisions in Article 6 of the San Francisco Business and Tax Regulations Code. Article 6 imposes on taxpayers and businesses charged with collecting third-party taxes, specific requirements regarding collecting, reporting and remitting taxes. Article 6 also contains provisions describing the refund, audit and enforcement processes. Article 6 applies to Article 7: Tax on Transient Occupancy of Hotel Rooms, Article 9: Tax on Occupancy of Parking Space in parking Stations, Article 10: Utility Users Tax, Article 10B: Access Line Tax, Article 11: Stadium Operator Admission Tax, Article 12: Business Registration, Article 12-A: Payroll Expense Tax and 12-B: Business Tax Refund of the Business and Tax Regulations Code and to Chapter 105 of the Administrative Code: Cigarette Litter Abatement Fee Ordinance.

Amendments to Current Law

This ordinance would amend the Common Administrative Provisions of the San Francisco Business and Tax Regulations Code to assist the enforcement and collection of third-party taxes. The amendments will, among other things:

- Increase bond amounts for parking station operators;
- Require annual renewal of a Certificate of Authority to collect third-party taxes;
- Authorize the Tax Collector to revoke a parking station operator's business registration certificate and Certificate of Authority for failure to collect and remit parking taxes, install and maintain revenue control equipment, or maintain trust accounts as directed;
- Establish a process to collect a parking tax deficiency from an Operator's surety;
- Increase penalties for failure to file a tax return;
- Deem the filing an incomplete tax return failure to file a return;
- Eliminate the use of estimated prepayments for third-party taxes and instead require hotel and parking tax operators to remit the actual tax owed each month;

- Prohibit anyone from doing business without a Certificate of Authority or business registration certificate, through an injunction;
- Increase penalty amounts for administrative citations;
- Improve enforcement of Revenue Control Equipment requirements;
- Raise the minimum filing amount above which taxpayers must file a payroll expense tax return, from \$66,000 to \$150,000. This does not change the taxpayer's tax obligation;
- Give the Tax Collector the general power to ask questions to ascertain the tax, not just power to ask questions about books, papers, and records; and
- Apply the exhaustion of remedies requirement to any court action (such as a refund action), not only to a collection action.

Background Information

In 2004, the administrative provisions of the Business and Tax Regulations Code were amended, renumbered and enacted into law as Article 6 (Common Administrative Provisions). These changes strengthen the Treasurer/Tax Collector's ability to enforce the City's taxes. They also correct errors, delete outdated provisions and make other nonsubstantive changes to clarify the existing law.