

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
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MEMORANDUM

TO: Regina Dick-Endrizzi, Director
Small Business Commission, City Hall, Room 448

FROM: Linda Wong, Assistant Clerk by *Victor Young*
Budget and Finance Committee

DATE: June 23, 2020

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Budget and Finance Committee

The Board of Supervisors' Budget and Finance Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 200653

Hearing to consider the proposed Initiative Ordinance submitted by four or more Supervisors to the voters for the November 3, 2020, Election, entitled "Ordinance amending the Business and Tax Regulations Code to impose an additional gross receipts tax or an administrative office tax on businesses with a greater than 100:1 ratio of the compensation of the business's highest-paid employee to the median compensation paid to the business's employees based in the City; and increasing the City's appropriations limit by the amount collected under the additional tax for four years from November 3, 2020."

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

No Comment

Recommendation Attached

Chairperson, Small Business Commission

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2020 JUN 16 AM 10:25

BY *JZ*

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**Submittal Form
For Proposed Initiative Measure(s)
Prior to Submittal to the Department of Elections**

by 4 or more Supervisors or the Mayor

I, hereby submit the following proposed initiative measure(s) for hearing before the Board of Supervisors' Rules Committee prior to the submittal of the proposed initiative measure to the Department of Elections (per Proposition C, November 2007).

This matter is for the November 3, 2020 Election.

Sponsor(s): Supervisors Matt Haney, Hillary Ronen, Shamann Walton and Gordon Mar, and Dean Preston

Subject: Overpaid Executive Tax

The text is listed below or attached:

(See attached.)

Supervisor Matt Haney: *[Signature]*

Supervisor Hillary Ronen: *[Signature]*

Supervisor Gordon Mar: *[Signature]*

Supervisor Shamann Walton: *[Signature]*

Supervisor Dean Preston: *[Signature]*

(Clerk of the Board's Time Stamp)

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2020 JUN 16 AM 10:26

2020 JUN 16 AM 10:15

BY 9 **PROPOSED INITIATIVE ORDINANCE TO BE SUBMITTED BY FOUR OR MORE SUPERVISORS TO THE VOTERS AT THE NOVEMBER 3, 2020 ELECTION.**

[Under Charter Section 2.113(b), this measure must be submitted to the Board of Supervisors and filed with the Department of Elections no less than *45 days prior* to the deadline for submission of such initiatives to the Department of Elections set in Municipal Elections Code Section 300(b).]

[Initiative Ordinance - Business and Tax Regulations Code - Tax on Businesses With Disproportionate Executive Pay]

Ordinance amending the Business and Tax Regulations Code to impose an additional gross receipts tax or an administrative office tax on businesses with a greater than 100:1 ratio of the compensation of the business's highest-paid employee to the median compensation paid to the business's employees based in the City; and increasing the City's appropriations limit by the amount collected under the additional tax for four years from November 3, 2020.

NOTE: **Unchanged Code text and uncodified text** are in plain font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in *strikethrough italics Times New Roman font*.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

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

Section 1. Pursuant to Article XIII C of the Constitution of the State of California, this ordinance shall be submitted to the qualified electors of the City and County of San Francisco at the November 3, 2020, consolidated general election.

Section 2. The Business and Tax Regulations Code is hereby amended by adding Article 33, consisting of Sections 3301 through 3313, to read as follows:

(c) Compensation paid to an employee who was employed by the person or combined group for only a portion of the tax year shall be “annualized” by multiplying the employee’s Compensation (or, as stated, for a part-time employee, full-time equivalent Compensation) for the tax year by 52, and dividing the result by the number of weeks that the employee was employed by that person or combined group during the tax year.

“Highest-Paid Employee” means the individual employee or officer of a person or combined group who received the most Compensation for a tax year.

SEC. 3303. IMPOSITION OF TAX.

(a) Except as otherwise provided in this Article 33, commencing with tax years beginning on or after January 1, 2022, for the privilege of engaging in business in the City, the City imposes an annual Overpaid Executive Gross Receipts Tax on each person engaging in business within the City where the Executive Pay Ratio for the tax year of that person or the combined group of which it is a part exceeds 100:1.

(b) The Overpaid Executive Gross Receipts Tax shall be calculated as follows:

(1) 0.1% of the person or combined group’s taxable gross receipts for a tax year if the person or combined group has an Executive Pay Ratio for that tax year of greater than 100:1, but less than or equal to 200:1;

(2) 0.2% of the person or combined group’s taxable gross receipts for a tax year if the person or combined group has an Executive Pay Ratio for that tax year of greater than 200:1, but less than or equal to 300:1;

(3) 0.3% of the person or combined group’s taxable gross receipts for a tax year if the person or combined group has an Executive Pay Ratio for that tax year of greater than 300:1, but less than or equal to 400:1;

(d) Notwithstanding any other subsection of this Section 3303, every person engaging in business within the City as an administrative office, as defined in Section 953.8 of Article 12-A-1, shall pay an annual overpaid executive administrative office tax if the Executive Pay Ratio for the tax year of that person or the combined group of which it is a part exceeds 100:1. This overpaid executive administrative office tax shall be measured by the person's total payroll expense, as defined in Section 953.8(f) of Article 12-A-1, that is attributable to the City. If a person is a member of a combined group, then its tax shall be measured by the total payroll expense of the combined group attributable to the City. Such person or combined group shall pay only the overpaid executive administrative office tax, and not the tax imposed under other subsections of this Section 3303, but a person or combined group may be liable for the administrative office tax imposed by Section 953.8 of Article 12-A-1 and the homelessness administrative office tax imposed by Section 2804(d) of Article 28, in addition to the overpaid executive administrative office tax imposed by this subsection (d). Unless specified otherwise, this overpaid executive administrative office tax shall be considered part of the Overpaid Executive Gross Receipts Tax for all purposes. The overpaid executive administrative office tax shall be calculated as follows:

(1) 0.4% of the person or combined group's total payroll expense attributable to the City for a tax year if the person or combined group has an Executive Pay Ratio for that tax year of greater than 100:1, but less than or equal to 200:1;

(2) 0.8% of the person or combined group's total payroll expense attributable to the City for a tax year if the person or combined group has an Executive Pay Ratio for that tax year of greater than 200:1, but less than or equal to 300:1;

(3) 1.2% of the person or combined group's total payroll expense attributable to the City for a tax year if the person or combined group has an Executive Pay Ratio for that tax year of greater than 300:1, but less than or equal to 400:1;

SEC. 3304. EXEMPTIONS AND EXCLUSIONS.

(a) An organization that is exempt from income taxation by Chapter 4 (commencing with Section 23701) of Part 11 of Division 2 of the California Revenue and Taxation Code or Subchapter F (commencing with Section 501) of Chapter 1 of Subtitle A of the Internal Revenue Code of 1986, as amended, as qualified by Sections 502, 503, 504, and 508 of the Internal Revenue Code of 1986, as amended, shall be exempt from taxation under this Article 33, only so long as those exemptions continue to exist under state or federal law.

(b) For only so long as and to the extent that the City is prohibited from imposing the Overpaid Executive Gross Receipts Tax, any person upon whom the City is prohibited under the Constitution or laws of the State of California or the Constitution or laws of the United States from imposing the Overpaid Executive Gross Receipts Tax shall be exempt from the Overpaid Executive Gross Receipts Tax.

(c) For purposes of this Article 33, gross receipts shall not include receipts that are excluded from gross receipts for purposes of the gross receipts tax imposed by Article 12-A-1.

(d) A person or combined group exempt from the gross receipts tax as a small business enterprise under Section 954.1 of Article 12-A-1 shall also be exempt from taxation under this Article 33. But the exemption in this subsection (d) of Section 3304 shall not apply to persons subject to the overpaid executive administrative office tax in subsection (d) of Section 3303.

SEC. 3305. COMBINED RETURNS.

(a) Persons subject to the Overpaid Executive Gross Receipts Tax shall file returns at the same time and in the same manner as returns filed for the gross receipts tax imposed by Article 12-A-1, including the rules for combined returns under Section 956.3, as amended from time to time.

(b) If a person is subject to the Overpaid Executive Gross Receipts Tax, but is not required to file a gross receipts tax return under Article 12-A-1, such person or combined group's Overpaid

either the gross receipts tax or the Overpaid Executive Gross Receipts Tax, but not both, shall pay the tax from which they are not exempt.

SEC. 3308. ADMINISTRATION OF THE OVERPAID EXECUTIVE GROSS RECEIPTS TAX ORDINANCE.

Except as otherwise provided under this Article 33, the Overpaid Executive Gross Receipts Tax Ordinance shall be administered pursuant to Article 6 of the Business and Tax Regulations Code, as amended from time to time, including all penalties and other charges imposed by that Article.

SEC. 3309. DEPOSIT OF PROCEEDS; EXPENDITURE OF PROCEEDS.

The Overpaid Executive Gross Receipts Tax is a general tax. Proceeds from the tax shall be deposited in the City's general fund and may be expended for any City purposes.

SEC. 3310. AMENDMENT OF ORDINANCE.

The Board of Supervisors may amend or repeal this Article 33 by ordinance without a vote of the people except as limited by Article XIII C of the California Constitution.

SEC. 3311. EFFECT OF STATE AND FEDERAL AUTHORIZATION.

To the extent that the City's authorization to impose or to collect any tax imposed under this Article 33 is expanded or limited as a result of changes in state or federal statutes, regulations, or other laws, or judicial interpretations of those laws, no amendment or modification of this Article shall be required to conform the taxes to those changes, and the taxes are hereby imposed in conformity with those changes, and the Tax Collector shall collect them to the full extent of the City's authorization up to the full amount and rate of the taxes imposed under this Article.

FRANCISCO
FILED
2020 JUN 16 AM 10:15
OFFICE OF THE CLERK

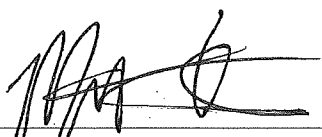
Section 4. Effective and Operative Dates.

(a) The effective date of this ordinance shall be ten days after the date the official vote count is declared by the Board of Supervisors.

(b) This ordinance shall become operative on January 1, 2022.

* * *

SUBMITTED.



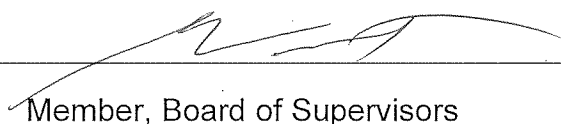
Date: 6/10/2020

Member, Board of Supervisors



Date: 6/9/2020

Member, Board of Supervisors



Date: 6/9/2020

Member, Board of Supervisors



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Date: 6/10/2020

Member, Board of Supervisors