

1 [Business Tax.]

2

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

19

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

23

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

24

25

1 Section 1. The San Francisco Business and Tax Regulations Code is hereby amended  
2 by repealing Sections 902.1, 902.2, 902.4, 902.5 and 905, and by amending Sections 902,  
3 902.1, 902.3, 902.6, 903, 903.1, 904, 905-A, 906 and 907, of Article 12-A (Payroll Expense  
4 Tax Ordinance) thereof, to read as follows:

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

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

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

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

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

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

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

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

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

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

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

1  
2 SEC. 903. IMPOSITION OF PAYROLL EXPENSE TAX. (a) A tax for general ~~revenue~~  
3 governmental purposes is hereby imposed upon every person ~~who, in connection with said~~  
4 ~~person's business, engages, hires, employs or contracts with one or more individuals as employee, to~~  
5 ~~perform work or render services in whole or in part~~ engaging in business within the City ~~and County~~  
6 ~~of San Francisco~~ as defined in Section 6.2-13 of Article 6; provided, that such tax shall be levied  
7 only upon that portion of the person's payroll expense ~~which that~~ is attributable to the City ~~and~~  
8 ~~County of San Francisco~~ as set forth in Section 904.

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

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

1 profit or loss shall be presumed to be distributions "by way of salary" and for personal services  
2 rendered, unless the taxpayer proves otherwise by clear and convincing evidence.

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

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

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

21 (c) If it is impracticable, unreasonable or improper to apportion such payroll expenses  
22 as aforesaid either because of the peculiar particular nature of the services of such individual,  
23 or on account of the unusual basis of compensation, or for any other reason, then the amount  
24 of such payroll earnings reasonably attributable to work performed or services rendered, in  
25 the City ~~and County~~, shall be determined on the basis of all relevant facts and circumstances of the

1 ~~particular case,~~ in accordance with ~~rules~~ any rulings or regulations ~~adopted~~ issued or promulgated  
2 by the Tax Collector for the purpose.

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

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

20  
21 ~~SEC. 905. NEXUS WITH TAXPAYER. This tax shall not apply to any person unless such~~  
22 ~~person is doing business within the City and County of San Francisco. A person is doing business~~  
23 ~~within the City and County of San Francisco, within the meaning of this ordinance, if he or she~~  
24 ~~engages, hires, employs or contracts with one or more individuals, as an employee, to perform work or~~  
25

1 ~~render services in whole or in part within the City and County of San Francisco and, in addition,~~  
2 ~~either:~~

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

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

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

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

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

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

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

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

22  
23 SEC. 905-A. SMALL BUSINESS TAX EXEMPTION. (a) Notwithstanding any other  
24 provisions of this ~~Payroll Expense Tax Ordinance Article~~, ~~except Sections 907 and 909 herein~~, "small  
25 business enterprises" as hereinafter defined, shall be exempt from ~~taxation under this ordinance~~



1 payment of the Payroll Expense Tax; provided, however, that small business enterprises shall  
2 pay the annual registration fee pursuant to Section ~~885~~ 855 of ~~this Code~~ Article 12.

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

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

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

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

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

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

1 delinquent, up to a maximum amount equal to the person's liability for such tax but for  
2 the small business exemption.

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

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

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

1 unusual basis of compensation, or for any other reason, then the amount of such payroll expense  
2 reasonably attributable to work performed or services rendered in the City shall be determined on the  
3 basis of all relevant facts and circumstances of the particular case, in accordance with any rulings or  
4 regulations issued or promulgated by the Tax Collector for the purpose.

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

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

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

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

23 (~~f~~) — ~~The following persons are exempt from this tax, as provided in Section 1005.4, of Article~~  
24 ~~12-B:~~

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

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

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

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

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

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

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

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

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

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

23          (g) Nothing in this Article shall be construed as requiring the payment of any tax for  
24 engaging in a business or the doing of an act when such payment would be in violation of the  
25

1 Constitution or a statute of the United States or of the Constitution or a statute of the State of  
2 California.

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

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

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

1           (c) — *Prepayments. Notwithstanding the date otherwise provided for herein for the payment of*  
2 *the tax due hereunder, every person who, for any calendar year commencing with 1973, becomes liable*  
3 *for payment of a total Payroll Expense Tax in excess of \$1,000, shall be required to make tax payment*  
4 *for the following calendar year in two installments; provided however that, for any calendar year*  
5 *commencing with 1982 and ending with 1993, no person shall be required to make tax payment for the*  
6 *following calendar year in two installments unless said person becomes liable for payment of a total*  
7 *Payroll Expense Tax in an amount which exceeds \$2,500.*

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

1           (d) — *Large Firm Prepayments.* Notwithstanding the dates otherwise provided for herein for  
2 *the payment of the tax due hereunder, commencing January 1, 1994, each person subject to the tax*  
3 *imposed by this Article with a total tax liability of \$50,000 or more in the preceding year shall be*  
4 *required to make tax payment for the taxes due on the last day of February of the following year in four*  
5 *quarterly installments. The first, second and third quarterly installments (“quarterly prepayments”),*  
6 *which shall become due and payable every April 1st, July 1st and October 1st and shall become*  
7 *delinquent every May 1st, August 1st and November 1st respectively, shall be a credit against the*  
8 *payments due on the first day of January of the following year. Quarterly prepayments due hereunder*  
9 *shall be in an amount equal to 1/4 the estimated Payroll Expense Tax liability for the then current year.*  
10 *Said estimated Payroll Expense Tax liability shall be computed by using 1/4 of the taxable payroll*  
11 *expense for the preceding year plus a two percent growth factor and the rate of tax (for each business*  
12 *category) applicable to the current tax year. The fourth installment shall be in an amount equal to the*  
13 *total business tax liability for the annual period, less the amount of any quarterly prepayments actually*  
14 *paid. Any quarterly prepayment required hereunder which is not paid before the delinquency date shall*  
15 *bear a penalty of 10 percent of the amount of delinquent quarterly prepayment and shall also bear*  
16 *interest from the date of the delinquency on the amount of delinquent tax payment, at the rate of one*  
17 *percent per month or fraction thereof, for each month of said delinquency. Said quarterly prepayment*  
18 *shall be accompanied by a prepayment form prepared by the Tax Collector, but failure of the Tax*  
19 *Collector to furnish the taxpayer with a prepayment form shall not relieve the taxpayer of the tax*  
20 *prepayment obligation set forth herein. If the taxpayer can establish by clear and cogent evidence that*  
21 *any quarterly prepayment will make the sum of all prepayments made in an annual filing period exceed*  
22 *the total tax liability for the annual filing period in which the tax prepayment becomes due, the Tax*  
23 *Collector may, in writing, adjust the amount of the tax prepayment.*

24           (e) — *Extension of Time for Filing a Return and Paying Tax.* Notwithstanding the dates  
25 *provided for herein for the payment of tax due hereunder, the Tax Collector hereby is authorized for a*

1 ~~good cause, to grant extensions not in excess of 60 days, for the payment of such tax or prepayment and~~  
2 ~~for the making of such return, in which case no penalty shall be added to the amount due and payable~~  
3 ~~if, and only if, said tax is paid within the extension period granted by the Tax Collector; provided,~~  
4 ~~however, that all taxes and tax prepayments required to be paid which become delinquent, shall bear~~  
5 ~~interest beginning with the first day of delinquency to the date of return and payment at the rate of one~~  
6 ~~percent per month, or fraction thereof, notwithstanding the granting of an extension by the Tax~~  
7 ~~Collector.~~

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

13  
14 SEC. 852. OPERATION OF DEFINITIONS. Except where the context otherwise  
15 requires, (i) the terms used in this Article shall have the meanings given to them in Sections  
16 852.1 through ~~852.9~~ 852.4, inclusive, of this Article, and (ii) terms ~~Terms~~ not defined in this  
17 Article that are defined in Article 6 of the Business and Tax Regulations Code shall have the  
18 same meaning as given to them in that Article.

19  
20 ~~SEC. 852.1. "BUSINESS." The term "business" means any activity, enterprise, profession,~~  
21 ~~trade or undertaking of any nature conducted or engaged in, or ordinarily conducted or engaged in,~~  
22 ~~with the object of gain, benefit or advantage, whether direct or indirect, to the taxpayer or to another~~  
23 ~~or others. The term "business" includes nonprofit businesses, trade associations and subsidiary or~~  
24 ~~independent entities which conduct operations for the benefit of others and at no profit to themselves.~~  
25 ~~The term "business" also includes an organization having a formally recognized exemption from~~



1 ~~income taxation pursuant to Section 501(c), 501(d) or 401(a) of Title 26 of the United States Code, as~~  
2 ~~amended from time to time, as qualified by Sections 502, 503, 504 and 508 of Title 26 of the United~~  
3 ~~States Code, as amended from time to time, or the successor statutes of any of them.~~

4  
5 ~~SEC. 852.2. "CITY." The term "City" means the City and County of San Francisco.~~

6  
7 ~~SEC. 852.3. "DOMESTIC PARTNERSHIPS." For all purposes of this ordinance, a domestic~~  
8 ~~partnership established pursuant to Chapter 62 of the San Francisco Administrative Code, as amended~~  
9 ~~from time to time, shall be treated the same as a married couple.~~

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

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

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

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

23 (b) The Tax Collector may, on written application by the taxpayer, and after  
24 considering all the facts and circumstances, determine that a business described in  
25

1 Subsection (a) of this Section is in fact newly established and not a continuation of a business  
2 conducted within the City during the immediately preceding tax year.

3  
4 ~~SEC. 852.5. "PAYROLL EXPENSE TAX ORDINANCE"; "PAYROLL EXPENSE TAX."~~  
5 ~~"Payroll Expense Tax Ordinance" means Article 12-A of the Business and Tax Regulations Code of the~~  
6 ~~San Francisco Municipal Code; "Payroll Expense Tax" means the tax imposed thereunder.~~

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

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

1 SEC. ~~852.7~~ 852.2. REGISTRATION CERTIFICATE. The term "registration certificate"  
2 means a registration certificate issued by the Tax Collector in accordance with the provisions  
3 of this Article.

4  
5 SEC. ~~852.8~~ 852.3. REGISTRATION TRANSITION PERIOD. The term "Registration  
6 Transition Period" means the six-month period commencing January 1, 2003, and ending  
7 June 30, 2003.

8  
9 SEC. ~~852.9~~ 852.4. REGISTRATION YEAR. The term "Registration Year" means the  
10 fiscal year commencing July 1 of each calendar year and ending on June 30 of the  
11 subsequent calendar year.

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

19  
20 ~~SEC. 852.11. "TAX YEAR." The term "tax year" means the year commencing on January 1st of~~  
21 ~~each calendar year ending on December 31st of the same calendar year.~~

22  
23 SEC. 853. REGISTRATION CERTIFICATE - REQUIRED. (a) Except as provided in  
24 Subsection (d), no ~~No~~ person may engage in business within the City unless the person has  
25 obtained a current registration certificate pursuant to this Article. Every person engaging in

1 business within the City shall conspicuously display a current registration certificate on the  
2 business premises, regardless of whether such person is subject to tax pursuant to ~~Article 12-~~  
3 ~~A of the provisions of the~~ Business and Tax Regulations Code.

4 (b) Any organization having a formally recognized exemption from income taxation  
5 pursuant to Section 501(c), 501(d) or 401(a) of ~~Title 26 of the United States Code~~ the Internal  
6 Revenue Code of 1986, as amended ~~from time to time~~, as qualified by Sections 502, 503, 504 and  
7 508 of ~~Title 26 of the United States Code~~ the Internal Revenue Code of 1986, as amended ~~from time~~  
8 ~~to time, or the successor statutes of any of them~~, and engaging in business within the City shall  
9 obtain a registration certificate.

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

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

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

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

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

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

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

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

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

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

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

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

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

18                   (b) — ~~Notwithstanding Subsection (a) of this Section, a person receiving rental income in~~  
19 ~~connection with the operation of any of the following shall not, by reason of that fact alone, be deemed~~  
20 ~~to be engaging in business within the City: (1) a cooperative housing corporation, as defined in Section~~  
21 ~~216(b) of Title 26 of the United States Code, as amended from time to time, or any successor statute;~~  
22 ~~(2) a residential structure consisting of fewer than four units; or (3) a residential condominium.~~

23                   (c) — ~~A person shall not be considered to be engaging in business within the City solely by~~  
24 ~~reason of the receipt of passive investment income. "Passive investment income" for this purpose~~  
25

1 ~~includes dividends, interest, royalties, annuities and gains from the sale or exchange of stock or~~  
2 ~~securities solely for a person's own account, not derived in the ordinary course of a business.~~

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

7 Computed Payroll Expense Tax 8 for the Immediately Preceding Tax Year	Annual Registration Fee
9 Less than \$ 1	\$ 25
10 \$ 1 to \$ 10,000	\$ 150
11 \$ 10,000. <u>01</u> to \$ 50,000	\$ 250
12 More than \$ 50,000	\$ 500

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

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

23 (d) Any organization having a formally recognized exemption from income taxation  
24 pursuant to Section 501(c), 501(d) or 401(a) of ~~Title 26 of the United States Code~~ the Internal  
25 Revenue Code of 1986, as amended ~~from time to time~~, as qualified by Sections 502, 503, 504 and

1 508 of ~~Title 26 of the United States Code~~ the Internal Revenue Code of 1986, as amended ~~from time~~  
2 ~~to time, or the successor statutes of any of them~~, shall not be required to pay a registration fee  
3 under this Article unless the organization is also engaged within the City in an unrelated trade  
4 or business within the meaning of Section 906 of Article 12-A ~~of the Business and Tax~~  
5 ~~Regulations Code~~.

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

9  
10 SEC. 856. REGISTRATION CERTIFICATE - APPLICATION AND ISSUANCE. (a)  
11 Each person engaging in business within the City shall apply to the Tax Collector, on a form  
12 prescribed by the Tax Collector, for a registration certificate. The application shall be  
13 accompanied by the person's registration fee as determined under this Article. To ease  
14 administrative burdens on taxpayers (by consolidating the deadlines to file annual tax returns  
15 and apply for renewal of registration certificates), the term of registration certificates shall be  
16 changed from the calendar year basis to a fiscal year basis. The purpose of Subsections (b)  
17 through (e) of this Section is to facilitate such change and shall be interpreted in accordance  
18 with this purpose.

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

1           (c)     To accomplish the change from the calendar year registration period to a fiscal  
2 year registration period, there shall be a Registration Transition Period commencing January  
3 1, 2003, and ending June 30, 2003. A registration certificate issued for the Registration  
4 Transition Period shall be valid through June 30, 2003. Except as provided in Subsection (f)  
5 of this Section, any person engaging in business within the City during the calendar year  
6 preceding the Registration Transition Period shall, before October 31, 2002, apply to the Tax  
7 Collector for a registration certificate covering the Registration Transition Period. The  
8 application for renewal of the registration certificate covering the Registration Transition  
9 Period shall become delinquent if the registration fee is not paid on or before October 31,  
10 2002. Except as provided in Subsection (f) of this Section, the fee for a registration certificate  
11 covering the Registration Transition Period shall be 50 percent of the amount of the annual  
12 registration fee otherwise applicable under Section 855 of this Article.

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

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

25



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

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

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

23 (3) For the Registration Transition Period, the fee for obtaining a registration  
24 certificate for a newly established business shall be determined pursuant to Section ~~905~~  
25 855 of this Article using the applicant's estimated tax liability under Article 12-A (Payroll

1 Expense Tax Ordinance) for the 2003 tax year. For any person who commences  
2 business operations within the City on or after January 1, 2003, and before April 1,  
3 2003, the registration fee shall be as set forth in Subsection (c) of this Section. For any  
4 person who commences business operations within the City on or after April 1, 2003,  
5 and before July 1, 2003, the registration, fee shall be 25 percent of the amount of the  
6 annual registration fee otherwise applicable under Section ~~905(a)~~ 855(a) of this Article.

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

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

1           prorate the registration fee under this Section, but instead shall pay the \$25 minimum  
2           registration fee.

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

6           (h)    Promptly after receiving a properly completed application and registration fee  
7           from any person, the Tax Collector shall determine whether the applicant has paid all  
8           outstanding: (1) Payroll Expense Taxes, (2) costs and/or charges assessed pursuant to  
9           Section 174.2 of Article 5.1 of the Public Works Code, as amended from time to time, for  
10          failure to abate a nuisance regarding the cleanliness of an abutting public sidewalk or right-of-  
11          way, and (3) other taxes and license fees due to the City. In addition, the Tax Collector may  
12          investigate 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  
15          Collector shall issue a registration certificate to the applicant for each place of business  
16          maintained by 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 nonassignable and nontransferable, ~~except~~  
23          ~~in cases in which the business is transferred, whether by sale or otherwise, to another person or legal~~  
24          ~~entity and the ultimate beneficial ownership of the business, both before and after the transfer, is~~  
25          ~~substantially the same. For purposes of this Section, shareholders, partners, or other persons holding~~

1 ~~a direct or indirect interest in a legal entity shall be deemed to be the ultimate beneficial owners of~~  
2 ~~such legal entity. Except as provided above, the~~ The holder of the registration certificate shall  
3 surrender the certificate to the Tax Collector immediately upon the sale or transfer of the  
4 business for which the Tax Collector issued the registration certificate. The holder of the  
5 registration certificate shall also surrender the certificate to the Tax Collector when such  
6 holder ceases to conduct business at the location designated in the certificate.

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

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

1 certificate shall be signed by the sole proprietor; in the case of a partnership, the registration  
2 certificate shall be signed by a general partner; in the case of a limited liability company, the  
3 registration certificate shall be signed by the managing member; and in the case of a  
4 corporation, the registration certificate shall be signed by the person authorized by the  
5 corporation to sign on its behalf.

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

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

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

1 7, 6.10-1, 6.10-2, 6.10-3, 6.11-1, 6.11-2, 6.11-3, 6.11-4, 6.12-1, 6.12-5, 6.13-1, 6.13-2, 6.13-3,  
2 6.13-4, 6.14-1, 6.15-1, 6.15-3, 6.16-1, 6.17-1, 6.17-2, 6.17-3, 6.17-4, 6.17-5, 6.18-1, 6.18-3,  
3 6.18-5, 6.18-7, 6.18-8, 6.19-1, 6.19-3, 6.19-4, 6.19-5, 6.19-6, 6.19-9, 6.19-11, 6.20-1, 6.21-1,  
4 6.22-1 and 6.23-1, by adding Sections 6.2-2, 6.2-3, 6.2-4, 6.2-5, 6.2-9, 6.2-10, 6.2-11, 6.2-13,  
5 6.2-15, 6.2-17, 6.2-19, 6.2-21, 6.13-5, 6.13-6 and 6.15-4, and by repealing Sections 6.14-2  
6 and 6.14-3, of Article 6 (Common Administrative Provisions) thereof, to read as follows:  
7

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

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

17 (c) For purposes of this Article, a domestic partnership established or recognized  
18 pursuant to Chapter 62 of the San Francisco Administrative Code shall be treated the same  
19 as a married couple.  
20

21 SEC. 6.2-2. AGENT. The term "agent" means an agent as that term is defined in Title 9,  
22 Chapter 1, Article 1 of the Civil Code of the State of California (Sections 2295 et seq.), and includes,  
23 without limitation, an actual agent, ostensible agent, general agent, or special agent.  
24  
25

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

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

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

16  
17            ~~SEC. 6.2-7~~ 6.2-6. CITY; CITY AND COUNTY. The terms "City" and "City and County"  
18 shall mean the City and County of San Francisco.

19  
20            ~~SEC. 6.2-6~~ 6.2-7. CONTROLLER. The term "Controller" shall mean  
21 the Controller of the City and County of San Francisco, or his or her designee.

22  
23            ~~SEC. 6.2-9~~ 6.2-8. DAY. The term "day" shall mean  
24 a calendar day. If the last day for performance of any act provided for or required by ~~Part III of the Municipal~~ the Business and Tax  
25 Regulations Code shall be a holiday, as defined in Chapter 7 (commencing with Section 6700)

1 of Division 7 of Title 1 of the California Government Code, or a Saturday or Sunday, the act may  
2 be performed upon the next business day with the same effect as if it had been performed  
3 upon the day appointed. For purposes of this Section, the Friday in November immediately  
4 after Thanksgiving Day shall be considered a holiday.

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

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

16  
17 SEC. ~~6.2-8~~ 6.2-11. MONTH. The term "month" ~~shall~~ means a calendar month.

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

24 (1) The person maintains a fixed place of business within the City; or  
25



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1            SEC. 6.2-18. SUCCESSOR. The term "successor" means any person who, through direct or  
2 mesne conveyance, purchases or succeeds to the business or portion thereof, or the whole or any part  
3 of the stock of goods, wares, merchandise, fixtures or other assets, or any interest therein of a taxpayer  
4 quitting, selling out, exchanging or otherwise disposing of his or her business. Any person obligated to  
5 fulfill the terms of a contract shall be deemed a successor to any contractor defaulting in the  
6 performance of any contract as to which such person is a surety or guarantor.

7  
8            SEC. ~~6.2-5~~ 6.2-19. TAX COLLECTOR. The term "Tax Collector" ~~shall~~ means the Tax  
9 Collector of the City and County of San Francisco, or his or her designee.

10  
11            SEC. 6.2-20. TAX YEAR. The term "tax year" means the year commencing on January 1st of  
12 each calendar year ending on December 31st of the same calendar year.

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

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

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

1 acceptable location, and may require the taxpayer to reimburse the City for the Tax Collector's  
2 ordinary and reasonable expenses incurred in the inspection, examination and copying of  
3 such books, papers and records, including food, lodging, transportation and other related  
4 items, as appropriate.

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

24  
25

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

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

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

24 (c) Where a customer receives more than one billing, one or more being for  
25 different periods than another, the duty to collect shall arise separately for each billing period.

1 In all cases of transactions upon credit or deferred payment, the payment of tax to the Tax  
2 Collector may be deferred in accordance therewith, and the operator shall be liable therefor at  
3 the time and to the extent that such credits are paid or deferred payments are made in  
4 accordance with the rate of tax owing on the amount thereof.

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

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

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

19 (g) When third-party taxes are not paid when due, or when there is any deficiency  
20 determination or jeopardy determination of a deficiency in tax against an operator for third-party  
21 taxes, the Tax Collector may collect said liabilities, including interest and penalties accrued  
22 through the date of payment, from any person<sub>s</sub> the Tax Collector determines ~~had charge of the~~  
23 affairs of the operator and wilfully failed to remit said tax when due was responsible for performing the  
24 acts of collecting, accounting for, and remitting third party taxes to the City and failed to do so. For  
25 purposes of this Section, a person shall be considered to be responsible for performing the acts of

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

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

22 (b) On or before the last day of the month immediately following each respective  
23 period, every operator except the stadium operator shall file a return for the preceding period  
24 with the Tax Collector, on such forms as the Tax Collector may prescribe. Stadium Operators  
25

1 shall file a return within the time periods set forth in Section 804 of Article 11 ~~of Part III of the~~  
2 ~~San Francisco Municipal Code.~~

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

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

17  
18 SEC. 6.8-1. CITY, PUBLIC ENTITY AND CONSTITUTIONAL EXEMPTIONS. Nothing  
19 in ~~this~~ Articles 6, 7, 9, 10, 10A, 11, 12 or 12-A shall be construed as imposing a tax upon:

- 20 (1) The City ~~and County~~;
- 21 (2) The State of California, or any county, municipal corporation, district or  
22 other political subdivision of the State, except where any constitutional or statutory  
23 immunity from taxation is waived or is not applicable;

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

4 (4) Any person ~~when imposition of such tax upon that person would be in violation~~  
5 ~~of exempted from the particular tax by~~ the Constitution or statutes of the United States or  
6 the Constitution or statutes of the State of California.

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

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

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

19 (c) For the utility users taxes (Article 10) and the emergency response fee (Article  
20 10A), for each monthly period, on or before the last day of the following month; and

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

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

1 SEC. 6.9-2. DETERMINATIONS, RETURNS AND PAYMENTS; RETURNS. (a)

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

15 (b) With respect to each taxable year, the Tax Collector may ~~elect to exempt from the~~  
16 annual tax return filing requirement those ~~certain~~ taxpayers whose ~~tax liabilities~~ liability under the  
17 Payroll Expense Tax Ordinance, computed without regard to the small business exemption~~s~~ set  
18 forth in Section 905-A of Article 12-A ~~and Section 1005.3 of Article 12-B~~, ~~are~~ is less than the  
19 Minimum Filing Amount ~~from the annual tax return filing requirement otherwise applicable under~~  
20 ~~Article 12-A and Article 12-B~~ for such taxable year. For purposes of this Section ~~6.9-2~~, the  
21 Minimum Filing Amount shall be an amount of tax liability, computed with~~out~~ regard to ~~the~~ such  
22 small business exemption~~s~~ ~~set forth in Section 905-A of Article 12-A and Section 1005.3 of Article~~  
23 ~~12-B~~, between zero and ~~five hundred~~ one thousand dollars (~~\$500.00~~ \$1,000). ~~For each taxable~~  
24 ~~year, the~~ The Tax Collector shall specify the Minimum Filing Amount ~~for such~~ prior to the  
25 beginning of each tax year on or before the thirtieth day prior to the first day of such year; provided,



1 ~~however, that the Tax Collector may specify the Minimum Filing Amount at any time during the first~~  
2 ~~taxable year within which this amendment becomes effective. With respect to each taxable year~~  
3 ~~thereafter, if~~ If the Tax Collector fails to specify a Minimum Filing Amount ~~for such~~ prior to the  
4 start of a new taxable year, the Minimum Filing Amount for such taxable year shall be the  
5 Minimum Filing Amount for the preceding taxable year.

6  
7 SEC. 6.9-3. DETERMINATIONS, RETURNS AND PAYMENTS; PREPAYMENTS. (a)  
8 Prepayments. Notwithstanding the due dates otherwise provided in Section 6.9-1, taxpayers  
9 shall make prepayments of taxes and third party taxes ("tax prepayments") to the Tax Collector as  
10 follows:

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

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

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

17                  (B) Large Firm Prepayments. Every person liable for payment of a total Payroll  
18                  Expense Tax in excess of \$50,000 for any tax year shall pay such tax for the following  
19                  tax year in four quarterly installments. The first, second and third quarterly installments  
20                  shall be due and payable, and shall be delinquent if not paid on or before, May 1<sup>st</sup>,  
21                  August 1<sup>st</sup> and November 1<sup>st</sup>, respectively. The first, second and third quarterly  
22                  installments shall be a credit against the person's total Payroll Expense Tax for the tax  
23                  year in which such first, second and third quarterly installments are due. Such quarterly  
24                  installments each shall be in an amount equal to one-quarter (1/4) of the person's  
25                  estimated Payroll Expense Tax liability for such tax year. The estimated liability for

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

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

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

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

1 prepayment based on actual tax owed ~~turns out to be~~ is less than 90 percent of the actual  
2 liability for the month, the ~~taxpayer~~ operator shall be subject to ~~penalty~~ penalties and interest for  
3 the deficiency pursuant to Section 6.17-1.

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

12  
13 SEC. 6.9-4. DETERMINATIONS, RETURNS AND PAYMENTS; EXTENSION OF  
14 TIME FOR FILING A RETURN AND PAYING TAX. (a) For good cause, the Tax Collector, in  
15 his or her discretion, may extend, for a period not to exceed 60 days, the time for ~~making~~ filing  
16 any return pursuant to this Article or regulations prescribed by the Tax Collector. For  
17 prepayments of taxes or for taxes required to be deposited monthly, the Tax Collector may  
18 only extend the time for ~~making~~ filing a return for a period not to exceed 30 days. As a  
19 condition of such extension, the person seeking the extension shall make a payment of not  
20 less than 90 percent of such person's estimated liability.

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

23 (c) Notwithstanding Subsection (a) of this Section, the Tax Collector may extend  
24 any time for ~~making~~ filing any return or payment of tax or excuse penalties for any late filing or  
25

1 late payment if billing or other administrative duties of the Tax Collector cannot be performed  
2 in a timely manner.

3  
4 SEC. 6.9-5. DETERMINATIONS, RETURNS AND PAYMENTS; CREDITS AND  
5 EXEMPTIONS. The credits and exemptions set forth in Articles 7, 9, 10, 10A, 11, 12 and 12-A  
6 and 12-B of Part III of the Municipal Code are provided on the assumption that the City has the  
7 power to offer ~~the~~ such credits and exemptions ~~as provided under current law~~. If ~~the~~ a credit or  
8 exemption is invalidated by a court of competent jurisdiction, the taxpayer must pay any  
9 additional ~~tax~~ amount that ~~he or she~~ the taxpayer would have owed ~~if the credit had not been~~  
10 ~~claimed but for such invalid credit or exemption~~. ~~Repayment of such additional amounts~~ Amounts  
11 owed as a result of the invalidation of a credit or exemption that are paid ~~made~~ within three years  
12 after the decision of the court becomes final shall not be subject to interest or penalties ~~on that~~  
13 ~~basis~~.

14  
15 SEC. 6.9-6. FILING AND PAYING BY MAIL. (a) ~~Delivery~~ Filing by Mail. Except as  
16 otherwise provided in this Section, taxpayers may file any return or other document with required  
17 ~~to be filed under Part III of the Municipal Code~~, or make any payment to, including a prepayment  
18 to, ~~required to be made under Part III of the Municipal Code may be delivered to~~ the Tax Collector  
19 by United States mail.

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

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

1 (2) The postmark date falls within the prescribed period, or on or before the  
2 prescribed date, including any extension, for filing the return or other document, or for  
3 making the payment; ~~and~~

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

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

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

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

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

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

19 (2) Currency or other medium of payment unless actually received and  
20 accounted for; or

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

24 (e) Private Delivery Services. References in this Section to the United States mail  
25 and a postmark of the United States Postal Service shall include any designated delivery

1 service and any date recorded or marked as described herein by any designated delivery  
2 service.

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

7 (A) Is available to the general public;

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

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

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

15 (2) The Tax Collector may provide a rule similar to the rule of Subsection (1)  
16 with respect to any service provided by a designated delivery service which is  
17 substantially equivalent to the United States registered or certified mail.

18

19 SEC. 6.9-7. PARTIAL PAYMENTS.

20 Where a taxpayer owes payments for prior years, the Tax Collector may  
21 accept partial payments. The difference between the amount paid by the taxpayer and  
22 the total amount due shall be treated as a delinquent tax and shall be subject to ~~failure~~  
23 ~~to pay~~ penalties *and interest* on the unpaid balance pursuant to Section 6.17-1.

24 Unless the taxpayer specifies otherwise, the partial payments shall be  
25 applied to the oldest year's deficiency, first to *administrative collection costs*, interest,

1 penalties and other costs and charges for that year, and the balance, if any, shall be  
2 applied to the taxes due for that year. Any remaining portion of the payment shall then  
3 be applied to the next oldest year's deficiency in the same manner and order.

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

7  
8 SEC. 6.10-1. COLLECTION OF TAX; SECURITY. The Tax Collector, whenever he or  
9 she deems it necessary to insure compliance with ~~Part III of the Municipal~~ the Business and Tax  
10 Regulations Code, may require any person subject thereto to deposit with the Tax Collector  
11 such security as the Tax Collector may determine. The amount of the security shall be fixed  
12 by the Tax Collector, but shall not be greater than twice the person's estimated average  
13 liability for the period for which said person files returns, determined in such manner as the  
14 Tax Collector deems proper, ~~but not to exceed \$50,000~~. The amount of the security may be  
15 increased or decreased by the Tax Collector subject to the limitations herein provided. The  
16 Tax Collector may sell the security at public auction if it becomes necessary so to do in order  
17 to recover any tax or any amount required to be collected and remitted to the City, interest, or  
18 penalty due. Notice of the sale ~~may~~ shall be served upon the person who deposited the  
19 security and upon the taxpayer, if different, personally or by mail; if by mail, service shall be  
20 made in the manner prescribed for service of a notice of a deficiency determination as set out  
21 in Section 6.11-2 herein, and shall be addressed to the person at said person's address as it  
22 appears in the records of the Tax Collector. Upon any sale, any surplus above the amounts  
23 due shall be returned to the person who deposited the security.



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

17  
18            SEC. 6.10-3. COLLECTION OF TAX; LEGAL ACTIONS. (a) The Tax Collector may  
19 bring an action in the courts of this State, or any other state, or of the District of Columbia, or  
20 of the United States and its territories or possessions, or any other forum where permitted by  
21 ~~local~~ law to recover in the name of the City ~~and County of San Francisco~~ any amount of taxes  
22 due and payable under ~~Part III of the Municipal~~ the Business and Tax Regulations Code and  
23 remaining unpaid, together with penalties, interest, and costs, including reasonable attorneys'  
24 fees. In prosecuting such actions, the Tax Collector shall be entitled to all of the provisional  
25 remedies provided ~~in the California Code of Civil Procedure~~ by law, including, but not limited to,

1 ~~prejudgment attachment~~. Any such action shall be commenced within ~~four~~ three years from the  
2 date any amount of taxes became due and payable, or from the date the return is required to  
3 be filed or actually filed, whichever period expires later; except in the case of any deficiency  
4 determination pursuant to Sections 6.12-1 et seq. or 6.13-1 et seq., in which case any such  
5 action shall be commenced within ~~four~~ three years after such determination became final.  
6 However, there shall be no limitation on the time in which such actions ~~shall~~ may be  
7 commenced in cases of fraud, intent to evade ~~Part III of the Municipal~~ the Business and Tax  
8 Regulations Code, or failure to ~~make~~ file a return.

9 (b) When the amount of any tax, penalty or interest which has become due and  
10 payable remains unpaid for 15 days, the Tax Collector may record a tax lien with the  
11 Assessor-Recorder, thereby creating a tax lien on all of the assessee's property and rights to  
12 property, including realty, personalty, or intangibles. The Tax Collector may record or file such  
13 tax lien in any other office of any other jurisdiction as permitted by law. The tax lien shall identify  
14 the Tax Collector as the lienor, the property subject to the lien, and the amount of the lien.  
15 Simultaneously with the recording, a copy of the tax lien shall be mailed to or personally  
16 served upon the taxpayer or other person determined to be liable for the tax at said person's  
17 last known address based upon the information, contained in the Tax Collector records. The  
18 tax lien after recordation has the force, effect and priority of a judgment lien and continues for 10 years  
19 from the date of recording, unless sooner released or otherwise discharged. This remedy and any  
20 other remedies for collection of any taxes ~~imposed by Part III of the Municipal Code~~, together  
21 with all administrative collection costs, interest, penalties and other costs and charges, including  
22 reasonable attorneys' fees, are cumulative and may be pursued alternatively and  
23 consecutively as the Tax Collector determines.

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

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

16            In making a determination, the Tax Collector may offset overpayments for a period or  
17 periods together with interest on the overpayments, against underpayments for another period  
18 or periods, against penalties, and against the interest on the underpayments. The interest on  
19 underpayments and overpayments shall be computed in the manner set forth in Section 6.17-  
20 1 for underpayments and in Section 6.15-2 for overpayments.

21  
22            SEC. 6.11-2. DEFICIENCY DETERMINATIONS; REVOCATION AND SUSPENSION  
23 DETERMINATIONS; NOTICE AND SERVICE. Upon making a determination pursuant to  
24 Section 6.11-1, or upon making a determination pursuant to Section 6.6-1(~~e~~) that a certificate  
25 shall not be issued or to suspend or revoke a registration, the Tax Collector shall give to the

1 taxpayer or other person determined to be liable for the tax written notice of the Tax  
2 Collector's determination. Except in the case of fraud, intent to evade *Part III of the Municipal*  
3 *the Business and Tax Regulations* Code or ~~authorized~~ rules and regulations *issued or promulgated*  
4 *by the Tax Collector*, or failure to file a return, in which case there is no statute of limitations,  
5 every notice of a deficiency determination shall be served within ~~four~~ *three* years after the  
6 fifteenth day of the calendar month following the month or the quarterly period for which the  
7 amount is proposed to be determined for third-party taxes, or within ~~four~~ *three* years after the  
8 last day of February following the period for which a return is required to be filed, whichever  
9 period expires later. *The Taxpayer may agree in writing to extend the period for service of a notice*  
10 *of a deficiency determination otherwise provided in this paragraph.*

11 *Except as provided in Section 6.11-4, the* ~~The~~ notice of any determination under this  
12 Section may be served upon the taxpayer or other person determined to be liable for the tax  
13 personally or by mail; if by mail, service shall be by ~~certified~~ mail to the last known address as  
14 indicated in the Tax Collector's records. In case of service by mail of any notice required *by*  
15 *this Article* to be served ~~by this Article~~ *upon the taxpayer or other person*, the service is complete  
16 at the time of deposit in the United States Post Office.

17  
18 SEC. 6.11-3. DETERMINATION IF NO RETURN MADE; ESTIMATE OF LIABILITY,  
19 PENALTIES AND INTEREST. If any taxpayer or person responsible for *paying a tax or*  
20 remitting a third-party tax fails to make a timely return or estimated tax prepayment, the Tax  
21 Collector may make a determination based upon an estimate of the amount of the total tax  
22 liability of the taxpayer. The estimate shall be made for the period or periods in respect to  
23 which the person failed to timely make a return, failed to timely make a prepayment or failed  
24 to timely remit a tax, and may be based upon any information which is in the Tax Collector's  
25 possession or may come into his or her possession. Upon the basis of this estimate, the Tax

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

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

13  
14 SEC. 6.11-4. DETERMINATION IF NO RETURN MADE; NOTICE AND SERVICE.

15 ~~Upon making his or her determination, the~~ The Tax Collector shall serve the person or persons  
16 determined to be liable ~~therefor~~ for the tax as determined under Section 6.11-3 with written notice  
17 of the determination and penalty. ~~The Tax Collector shall serve~~ the notice to be served upon  
18 such person(s) personally or by mail ~~in the manner prescribed for service of notice of a deficiency~~  
19 ~~determination as set out in Section 6.11-2 herein.~~

20  
21 SEC. 6.12-1. JEOPARDY DETERMINATIONS; DUTY OF TAX COLLECTOR. If the

22 Tax Collector believes that the collection of any tax or any amount of any third party tax  
23 required to be collected and paid to the City ~~and County~~ or of any determination will be  
24 jeopardized, in whole or in part, by delay, the Tax Collector shall serve notice upon the  
25 taxpayer or other person determined to be liable ~~for the tax notice~~ therefor of his or her

1 determination of jeopardy and of the tax or amount of *third party* tax required to be ~~collected~~  
2 *paid to the City*, and demanding immediate payment ~~of the tax thereof, together with any~~ interest  
3 and penalty determined to be due. The Tax Collector may consider all facts and  
4 circumstances relevant to determining whether the collection of any tax will be jeopardized by  
5 delay, including but not limited to indications that the taxpayer intends or is taking action to  
6 discontinue business activities in the City ~~and County~~, dissipate or otherwise remove assets  
7 from the City ~~and County~~, or sell, exchange, assign or otherwise dispose of personal or  
8 business income or property. The Tax Collector also may consider whether the taxpayer is  
9 insolvent or likely to become insolvent after the taxes at issue are assessed or collected;  
10 whether the taxpayer is or has been uncooperative or unresponsive in connection with any  
11 investigation, examination, audit, deficiency determination, assessment or collection action or  
12 procedure undertaken by the Tax Collector ~~in connection with the taxes at issue~~; what taxable  
13 years are at issue; how many taxable years are at issue; and whether the taxes at issue are  
14 third-party taxes.

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

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

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

7           If, in the review process, ~~it is determined that~~ the Tax Collector's ~~determination of~~  
8 determines that the determination of jeopardy was ~~unreasonable under the circumstances~~ improper or  
9 unwarranted, any collection action taken shall be withdrawn, pending the ultimate  
10 administrative determination of the amount of the deficiency due from the taxpayer or other  
11 person claimed to be liable for the tax claimed to be due in the jeopardy determination notice.  
12 Neither the validity of the ~~jeopardy determination's~~ determination of tax, nor the burden of proof,  
13 shall be affected by ~~a~~ the Tax Collector's determination that the determination of jeopardy was  
14 ~~unreasonable~~ improper or unwarranted.

15           The taxpayer or other person determined to be liable for the tax has the right to an oral  
16 hearing and determination by the Tax Collector upon the matters raised in the petition within  
17 45 days from the date of the filing of the petition for redetermination, as scheduled by the Tax  
18 Collector, unless the taxpayer waives said time period. The 45-day period shall be tolled during  
19 the period between the date of service of a written notification authorized by Section 6.13-1(b) of the  
20 additional information or records necessary for the Tax Collector to evaluate and decide the petition,  
21 and the date of receipt of all such information and records by the Tax Collector.

22  
23           SEC. 6.13-1. REDETERMINATIONS; PETITION; TIME FOR FILING; INCOMPLETE  
24 PETITIONS. (a) Any person against whom a determination ~~other than a jeopardy determination~~  
25 is made under ~~Part III of the Municipal Code~~ the Business and Tax Regulations Code may petition

1 the Tax Collector for a redetermination within 30 days after service of the notice thereof, except  
2 for a petition for redetermination of a jeopardy determination, which the person may file within 15 days  
3 after service of the notice as provided in Section 6.12-5. If a petition for redetermination is not filed  
4 within the ~~foregoing~~ applicable periods, the determination becomes final at the expiration of the  
5 period. The final determination may be enforced or collected by any method authorized by  
6 law, including but not limited to lien, levy, and judicial enforcement, including provisional  
7 remedies and injunctive relief.

8 (b) Every petition for redetermination shall be verified by the person against whom the Tax  
9 Collector made the determination, stating under penalty of perjury the specific grounds upon which the  
10 petition is founded, with specificity sufficient to enable the Tax Collector to understand and evaluate  
11 the petition, and verifying the information and authenticating the records upon which the petitioner  
12 relies in support of the petition. If the Tax Collector determines that the petition fails to state specific  
13 grounds for redetermination, lacks sufficient specificity to understand and evaluate the petition, or is  
14 not accompanied by information and records in support of the petition the Tax Collector reasonably  
15 deems necessary to evaluate and decide the petition, the Tax Collector in his or her discretion may  
16 either deny the petition as incomplete or may require the petitioner in writing to supplement the  
17 petition with additional information or records the Tax Collector deems reasonably necessary to decide  
18 the petition. The petitioner shall submit such information and records in support of the petition to the  
19 Tax Collector within 30 days of service of the Tax Collector's written request, which shall be served in  
20 the manner prescribed in Section 6.11-2. If mailed, service of the notice is complete at the time of  
21 deposit in the United States Post Office. Failure of the petitioner to provide all of the information and  
22 records set forth in the written request within the 30-day period shall be sufficient ground for the Tax  
23 Collector to deny the petition, and the petitioner shall be subject to the penalties and sanctions  
24 provided in Section 6.17-3.  
25



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

8  
9 SEC. 6.13-3. REDETERMINATIONS; ALTERATION OF DETERMINATION. The Tax  
10 Collector may decrease or increase the amount of the determination, including the amount of the  
11 tax, penalties or interest, before it becomes final. ~~, but the~~ The amount may be increased only if a  
12 claim for the increase is asserted by the Tax Collector, and the Tax Collector provides written  
13 notice thereof to the person against whom the Tax Collector issued the determination at least five  
14 days before the hearing. Nothing in this Section shall preclude a new audit or determination  
15 by the Tax Collector of a new or supplemental deficiency. The burden of proof in any  
16 proceeding for redetermination or appeal thereof shall be ~~in favor of the Tax Collector~~ on the  
17 taxpayer, who shall have the burden of proving that the Tax Collector's determination is incorrect.

18  
19 SEC. 6.13-4. REDETERMINATIONS; FINALITY OF ORDER. The order or decision of  
20 the Tax Collector upon a petition for redetermination becomes final 15 days after service upon  
21 the petitioner of notice thereof, ~~unless appeal of such order or decision is filed with the Board of~~  
22 ~~Review within that time.~~ Service of the order or decision of the Tax Collector shall be served in  
23 the manner prescribed in Section 6.11-2.

24 All determinations made by the Tax Collector under Sections 6.13-1 and 6.13-2 of this  
25 Article are due and payable at the time they become final, except jeopardy determinations

1 made pursuant to Section 6.12-1 et seq., which become due and payable upon service of the  
2 jeopardy determination.

3  
4 SEC. 6.13-5. EXHAUSTION OF ADMINISTRATIVE REMEDIES. Prior to seeking judicial  
5 relief, persons against whom a jeopardy determination or deficiency determination is made must  
6 exhaust their administrative remedies by: (i) petitioning to the Tax Collector for redetermination, and  
7 (ii) paying the full amount owed as set forth in the final determination and presenting a claim for  
8 refund to the Controller under Sections 6.15-1 et seq.

9  
10 SEC. 6.13-6. EFFECT OF TAX COLLECTOR'S NOTICE OF EXAMINATION OF RECORDS.  
11 The Tax Collector's issuance of a notice of deficiency or failure to issue such a notice for any period  
12 may not be treated as precedent for any particular method or manner of reporting or treating any item  
13 included or excluded on any return for purposes of any other or future item appearing or reported on a  
14 return.

15  
16 SEC. 6.14-1. BOARD OF REVIEW; JURISDICTION TO DECIDE PENDING TAXPAYER  
17 PETITIONS; TAX COLLECTOR RULES AND REGULATIONS. (a) From and after the effective date  
18 of the repeal of Sections 6.14-2 and 6.14-3 of this Article, the Board of Review shall lack jurisdiction to  
19 accept any new petition for redetermination or petition for refund, or any modification or amendment  
20 to such petitions pending before the Board of Review upon such effective date.

21 (b) The Board of Review shall promptly review and rule upon all petitions for redetermination  
22 and petitions for refund pending before it upon the effective date of the repeal of Sections 6.14-2 and  
23 6.14-3 of this Article. Such reviews and rulings shall be made in accordance with the provisions of  
24 Sections 6.14-1 through 6.14-3 of this Article, inclusive, as such sections read on the date immediately  
25 preceding the effective date of the repeal of Sections 6.14-2 and 6.14-3 of this Article.

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

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

13            ~~A Board of Review, consisting of the Director of Administrative Services, the Controller and the~~  
14 ~~Assessor, is hereby created. Any member of the Board may deputize in writing filed with the Board any~~  
15 ~~members of his or her office to serve in the member's place on such Board for such period or in such~~  
16 ~~hearing as the member may desire. Neither the members of the Board nor the members of their offices~~  
17 ~~deputized to serve in their place at any time shall receive any compensation for their services on the~~  
18 ~~Board.~~

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

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

1           ~~SEC. 6.14-2. BOARD OF REVIEW; APPEALS; EXHAUSTION. The Board shall have the~~  
2 ~~power, and it shall be its duty, to review and to make its ruling upon any petition for redetermination or~~  
3 ~~petition for refund, provided that the taxpayer shall have timely filed said petition with the Board. In its~~  
4 ~~review of the Tax Collector's decision or order, the Board may take such evidence and make such~~  
5 ~~investigation as it may deem necessary. As to any question of fact upon which the Tax Collector's order~~  
6 ~~decision was based, including any questions involving apportionment or penalties, the Board of Review~~  
7 ~~may modify or revoke the order or decision of the Tax Collector, or it may affirm such order or~~  
8 ~~decision and dismiss the petition.~~

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

14           ~~The Board shall prescribe such forms, rules and regulations relating to appeals as it may deem~~  
15 ~~necessary. The Board shall serve notice of its ruling personally or by mail in the manner prescribed by~~  
16 ~~Section 6.11-2, and shall file a copy of each such ruling with the Tax Collector with certification~~  
17 ~~thereon of the date of service thereof. Such ruling shall become final 15 days thereafter and shall~~  
18 ~~thereupon become due and payable, subject to interest and penalties, and enforceable by the Tax~~  
19 ~~Collector in like manner as an order or decision of the Tax Collector. Nothing in this Section shall~~  
20 ~~prevent jeopardy determinations from becoming due and payable immediately pursuant to the~~  
21 ~~provisions of Section 6.12-2.~~

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

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

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

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

11  
12           SEC. 6.15-1. REFUNDS. (a) Except as otherwise provided in subdivision (c) below,  
13 and notwithstanding any other provision of law, the Controller, in consultation with the Tax Collector  
14 and City Attorney, shall refund or cause to be refunded ~~whenever~~ the amount of any tax, interest or  
15 penalty that has been overpaid or paid more than once, or has been erroneously or illegally  
16 collected or received by the City ~~and County under Part III of the Municipal Code, so much of the~~  
17 ~~tax as has been overpaid or paid more than once or has been erroneously collected or received by the~~  
18 ~~City and County of San Francisco may be refunded,~~ provided a verified claim in writing therefor,  
19 stating under penalty of perjury the specific amount thereof, the tax periods at issue and grounds  
20 upon which the claim ~~was~~ is founded, with specificity sufficient to ~~enable the Tax Collector to~~  
21 understand and evaluate the claim, is filed with the ~~Tax Collector~~ Controller within ~~six months~~  
22 one year from the time the return was due or the tax was paid, whichever of such periods  
23 expires later; ~~provided, however, that in no event shall the period to file such claim expire prior to~~  
24 ~~shortest period allowable for filing a tax refund claim under Title 1, Division 3.6, Part 3, Section 911.2~~  
25 ~~of the California Government Code or any successor provision as amended from time to time. For~~

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

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

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

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

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

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

11  
12 SEC. 6.15-3. REFUNDS; NOTICE OF DENIAL AND REVIEW. If the claim for refund is  
13 denied, the ~~Tax Collector~~ Controller shall serve or cause to be served notice of such denial upon  
14 the taxpayer personally or by mail. The notice of denial of such claim shall be in a form  
15 substantially similar to the form for notice of rejection of claims set forth in Government Code Section  
16 913 becomes final 30 days after service of notice thereof, unless a petition for refund is filed with the  
17 Board of Review prior to expiration of such 30-day period. Petitions for refund, after having been filed  
18 with the Board of Review, shall be treated in the same manner as petitions for redetermination. Service  
19 of a denial of a claim for refund shall be made in the manner prescribed in Section 6.11-2.

20  
21 SEC. 6.15-4. EXHAUSTION OF ADMINISTRATIVE REMEDIES; PRESENTATION OF  
22 CLAIM FOR REFUND AS PREREQUISITE TO SUIT; PAYMENT OF DISPUTED AMOUNT AND  
23 PETITION FOR REFUND; LIMITATIONS. (a) Persons claiming they are aggrieved under the  
24 Business and Tax Regulations Code must first pay the amount of the disputed tax, penalty or interest,  
25 and present a claim for refund to the Controller, prior to seeking judicial relief.

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

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

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

22  
23 SEC. 6.17-1. PENALTIES AND INTEREST FOR FAILURE TO PAY. Any person who  
24 fails to pay any tax to the City ~~and County of San Francisco~~, or any amount of tax required to be  
25 collected and paid to the City ~~and County~~, from the date such tax becomes delinquent under



1 Section 6.9-1 shall pay a penalty of five percent of the tax or amount of the tax, in addition to  
2 the tax or amount of tax, if the failure is for not more than one month, with an additional 5  
3 percent for each month or fraction of a month during which such failure continues, up to 20%  
4 in the aggregate, plus interest at the rate of one percent per month, or fraction of a month,  
5 from the date such tax or the amount of such tax becomes delinquent under Section 6.9-1  
6 until the date of payment. Any taxes remaining unpaid for a period of 90 days after  
7 notification that the tax is delinquent shall be subject to an additional penalty of 20 percent of  
8 the tax or amount of the tax. If the failure to pay any tax is due to fraud or an intent to evade  
9 ~~Part III of the Municipal~~ the Business and Tax Regulations Code or the Tax Collector's rules and  
10 regulations, an additional penalty in the amount of 50 percent of the amount due, exclusive of  
11 any other penalties and interest, shall be added thereto. A taxpayer or other person against  
12 whom a fraudulent failure to pay penalty is asserted is entitled to a notice of such  
13 determination to be issued in accordance with the provisions of Section 6.11-1 et seq. and to  
14 the appeal rights set forth in Sections 6.13-1 et seq. ~~and 6.14-1 et seq.~~

15  
16 SEC. 6.17-2. PENALTIES FOR UNDERREPORTING OF TAX. If the Tax Collector  
17 determines that all or part of any tax required to be reported on any return was underreported  
18 and that such underreporting was attributable to negligence or intentional disregard of rules  
19 and regulations, the Tax Collector may impose a penalty upon the taxpayer in the amount of 5  
20 percent of the amount of the underreported tax, in addition to the tax or amount of tax, if the  
21 negligence or intentional disregard of rules and regulations is for not more than one month,  
22 with an additional 5 percent for each month or fraction of a month during which such  
23 negligence or intentional disregard of rules and regulations continues, up to 20 percent in the  
24 aggregate. When it is determined by the Tax Collector that all or part of any tax required to be  
25 reported on any return was underreported and such underreporting was attributable to fraud

1 or an intent to evade the Business and Tax Regulations Code, the Tax Collector may impose a  
2 penalty upon the taxpayer in the amount of 50 percent of the amount of the underreported tax.  
3 The taxpayer or other person determined to be liable for penalties pursuant to this Section are  
4 entitled to a notice of such determination to be issued in accordance with the provisions of  
5 Section 6.11-1 et seq. and to the appeal rights set forth in Sections 6.13-1 et seq. ~~and 6.14-1 et~~  
6 ~~seq.~~

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

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

23 (c) Any person who fails to allow a full inspection of records pursuant to a request  
24 ~~promulgated~~ made by the Tax Collector ~~pursuant to the provisions of Part III of the Municipal Code~~  
25 within the time prescribed by the Tax Collector shall pay, in addition to any other liability that

1 may be imposed under the provisions of this Article, a penalty in the amount of \$500 for each  
2 such failure.

3 (d) Unless the failure to allow inspection was due to reasonable cause and not wilful neglect,  
4 any person who fails to allow a full inspection of records pursuant to a written request made by the Tax  
5 Collector may not contest the Tax Collector's decision regarding the amount of such person's liability  
6 for any taxes, administrative collection costs, interest, penalties or other costs and charges imposed  
7 under the Business and Tax Regulations Code, or oppose the collection of such amount, in any  
8 subsequent administrative or judicial proceeding, on the basis of any record the Tax Collector  
9 previously requested in writing that such person failed to make available to the Tax Collector on or  
10 before the earliest to occur of the following:

- 11 (1) The conclusion of the hearing on a petition for redetermination held pursuant to  
12 Sections 6.12-5 or 6.13-2, or on a petition for refund held pursuant to Section 6.15-  
13 I;  
14 (2) The date the jeopardy determination became final under Section 6.12-5 if such  
15 person did not request hearing thereon;  
16 (3) The date the deficiency determination became final under Section 6.13-4 if such  
17 person did not request a hearing thereon; or  
18 (4) The date the Tax Collector's denial of a claim for refund became final under Section  
19 6.15-3 if the person did not request a hearing thereon.

20  
21 SEC. 6.17-4. WAIVER OF PENALTIES. Any penalty or interest assessed under  
22 Sections 6.17-1, 6.17- 2 or 6.17-3 may be waived by the Tax Collector, in whole or in part,  
23 upon a finding of any of the following:

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

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

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

7 (d) Waiver of the penalty or interest is ordered by a court of competent jurisdiction.  
8

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

13  
14 SEC. 6.18-1. SUMMARY JUDGMENT; NOTICE; CERTIFICATE. If any tax imposed  
15 pursuant to ~~Part III of the Municipal~~ the Business and Tax Regulations Code is not paid by the last  
16 day of the month ~~succeeding~~ after the delinquency date, or after any jeopardy or deficiency  
17 determination of the Tax Collector becomes final pursuant to Sections 6.12-1 et seq. or 6.13-1  
18 et seq., the Tax Collector may file, no sooner than ~~10~~ 20 days after the mailing of the notice  
19 required in Subdivision (b), in the office of the ~~County~~ Clerk of the Court, without fee, a  
20 certificate specifying as follows:

21 (a) The fact that a notice of intent to file the certificate has been sent, by certified  
22 mail, to the operator, taxpayer or other person determined to be liable for the tax, as defined  
23 in Section 6.2-~~10~~ 13 of ~~Part III of the Municipal Code~~ Article 6, at ~~his or her~~ the person's last  
24 known address, not less than ~~10~~ 20 days prior to the date of the certificate;  
25

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

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

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

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

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

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

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

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

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

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

23 (f) The fact that a request is therein made for issuance and entry of judgment  
24 against the operator, taxpayer or other person determined to be liable for the tax.  
25

1           SEC. 6.18-3. SUMMARY JUDGMENT; RECORDING OF JUDGMENT; LIEN. An  
2 abstract or copy of the judgment shall be recorded, without fee, in the office of the Assessor-  
3 Recorder, and may be recorded in any other office in which such filing is permitted by law. From the  
4 time of the recording, the amount of the tax, penalty and interest set forth constitutes a lien  
5 upon all property of the judgment debtor in the City ~~and County~~, and upon all property of the  
6 judgment debtor in any other jurisdiction where such abstract or copy of the judgment is recorded,  
7 owned by the judgment debtor on the date of recording or acquired by the judgment debtor  
8 thereafter, and before the lien expires, acquired by the ~~operator~~ judgment debtor. The lien has  
9 the force, effect and priority of a judgment lien and continues for 10 years from the date of the  
10 recording unless sooner released or otherwise discharged.

11  
12           SEC. 6.18-5. SUMMARY JUDGMENT; ADDITIONAL PENALTY. In addition to any  
13 penalty or fee imposed pursuant to ~~Part III of the Municipal~~ the Business and Tax Regulations  
14 Code, a penalty equal to the costs incurred to enforce the judgment entered pursuant to  
15 Sections 6.18-1 et seq., including reasonable attorney's fees and costs, shall be imposed.

16  
17           SEC. 6.18-7. SUMMARY JUDGMENT; EXECUTION UPON THE JUDGMENT.  
18 Execution shall issue upon the judgment upon request of the Tax Collector in the same  
19 manner as execution may issue upon other judgments, and sales shall be held under such  
20 execution as prescribed ~~in the California Code of Civil Procedure~~ by law.

21  
22           SEC. 6.18-8. SUMMARY JUDGMENT; SATISFACTION OF JUDGMENT; REMOVAL  
23 OF LIEN. (a) The judgment is satisfied and the lien removed when, but not before, the  
24 certificate of release or discharge from the judgment lien is filed with the Clerk of Court and  
25 recorded in the office of the Assessor-Recorder. In addition to the judgment amount, and any

1 additional penalty, interest, cost or other amount authorized by ~~Part III of the Municipal~~ the  
2 Business and Tax Regulations Code, the Tax Collector shall collect the recording fee in the  
3 amount required by Section 27361.3 of the California Government Code and shall transmit  
4 ~~that~~ the amount of the recording fee to the Assessor-Recorder together with the documents for  
5 release or discharge.

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

10  
11 SEC. 6.19-1. CIVIL ACTIONS. In addition to the actions provided for in Section 6.10-  
12 3, the attorney for the Tax Collector may bring a civil action to enjoin any violation of ~~Part III of~~  
13 ~~the Municipal~~ the Business and Tax Regulations Code. The Tax Collector shall be entitled to his or  
14 her attorney's fees and costs in any action brought pursuant to this Section where the Tax Collector is  
15 the prevailing party.

16  
17 SEC. 6.19-3. ADMINISTRATIVE PENALTIES AND CITATIONS. (a) Administrative  
18 Penalties; Citations. An administrative penalty may be assessed for a violation of the  
19 provisions of this Code as specified below. The penalty may be assessed by means of an  
20 administrative citation issued by any person designated as an "enforcement officer" in  
21 subsection (c).

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

24

25

VIOLATION

PENALTY AMOUNT

1	•	Failure to <u>obtain or</u> post a Certificate of Authority to Collect	
2		Third Party Taxes	\$100.00
3	•	Failure to <u>obtain or</u> post <u>an</u> Annual Business <del>Tax</del> Registration Certificate	100.00
4	•	<del>Failure to show proof of current Fire Permit</del>	<del>100.00</del>
5	•	Failure to show proof of current Business License	100.00
6	•	Failure of an operator in the business of renting parking space in	
7		a parking station to post a bond	100.00
8	•	<del>Failure to appear for noticed hearing</del>	<del>100.00</del>
9	•	Failure to produce information requested by the Tax Collector within	
10		30 days of mailing of such request	100.00
11	•	Failure to produce financial records requested by the Tax Collector	500.00
12	•	Failure to retain financial records	500.00
13	•	Failure to allow the Tax Collector to inspect financial records	500.00

14

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

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

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

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

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

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

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

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

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

24 authorized to issue administrative citations pursuant to this ~~ordinance~~ Article:

25



1	CLASSIFICATION NUMBER	CLASS TITLE
2	4334	Investigator
3	4335	Senior Investigator
4	4337	Principal Investigator
5	4340	<del>Chief Investigator</del> <u>Assistant Director</u>

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

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

25

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 ~~and County~~. The City ~~and County~~ may file a civil action, create  
4 and impose liens as set forth below, or pursue any other legal remedy to collect such money.

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

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

24 (b) Issuance of Citation. If the person or persons responsible for the violation fail to  
25 comply with any portion of a notice of violation within the time provided, the enforcement

1 officer may issue an administrative citation to the violator. The administrative citation shall be  
2 issued on a form prescribed by the 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 follows:

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

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

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

14 (1i) The administrative citation shall be mailed to the person responsible for  
15 the violation by first class mail, postage prepaid, with a declaration of service under  
16 penalty of perjury; and

17 (2ii) 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 (3iii) 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. The Tax Collector may promulgate and enforce rules  
24 and regulations, and issue determinations and interpretations relating to the administrative  
25 penalty and citation system, and the conducting of administrative hearings and rendering of

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

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

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

24 Upon providing written notice of nonpayment or noncompliance with any provision of  
25 ~~Part III of the Municipal~~ the Business and Tax Regulations Code to any licensee, and continued

1 nonpayment or noncompliance by the licensee, the Tax Collector may suspend or revoke any  
2 license or privilege for conducting business under any ordinance of the City ~~and County,~~  
3 ~~excluding place of entertainment and cabaret licenses under the Police Code.~~ Such notice of  
4 suspension or revocation shall be issued in the same manner as a determination under  
5 Section 6.11-1 et seq., and the person issued said notice shall have the appeal rights  
6 applicable to determinations made pursuant to Sections 6.11-1 et seq., and 6.13-1 et seq., ~~and~~  
7 ~~6.14-1 et seq.,~~ and shall become final as provided in those Sections.

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

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

24 (c) The Tax Collector shall issue such a receipt or certificate, or a notice of the  
25 amount that must be paid as a condition of issuing the certificate, to the buyer within 30 days

1 after receiving a written request. However, failure of the Tax Collector to timely mail the notice  
2 will not release the buyer from his or her obligations under this Section, except to the extent of  
3 penalties and interest in the event that the Tax Collector enforces the buyer's obligation in a  
4 civil action authorized pursuant to *Part III of the Municipal the Business and Tax Regulations*  
5 Code.

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

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

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

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

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

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

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

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

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

24 (g) Notwithstanding any other provision of *Part III of the Municipal* *the Business and*  
25 *Tax Regulations* Code or of any City ordinance, the Tax Collector is authorized to enter into

1 agreements with the California Franchise Tax Board, the State Board of Equalization, and/or  
2 the Internal Revenue Service providing for the exchange of information for official purposes of  
3 said agencies, and to implement any such agreement through the exchange of information.

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

10 Nothing in this Section shall impose any liability upon the Tax Collector or any  
11 employee or agent thereof for any disclosures of confidential information made in good faith in  
12 the performance of his or her duties.

13  
14 SEC. 6.23-1. SEVERABILITY. If any sentence, clause or section or any part of ~~Part III~~  
15 ~~of the Municipal~~ Business and Tax Regulations Code is for any reason held to be unconstitutional,  
16 illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of  
17 the remaining provisions, sentences, clauses, sections or parts of ~~this ordinance~~ the Business  
18 and Tax Regulations Code. It is hereby declared to be the intent of the enacting body that ~~Part~~  
19 ~~III of the Municipal~~ Business and Tax Regulations Code would have been adopted had such  
20 unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included  
21 therein.

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

24 By: \_\_\_\_\_  
25 Dorji Roberts  
Deputy City Attorney