

BOARD of SUPERVISORS



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July 17, 2020

File No. 200648

Lisa Gibson
Environmental Review Officer
Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Dear Ms. Gibson:

On July 16, 2020, the following proposed Charter Amendment/Initiative Ordinance for the November 3, 2020, Election was amended by the Board of Supervisors' Budget and Finance Committee:

File No. 200648

Charter Amendment (Second Draft) to amend the Charter of the City and County of San Francisco to provide that future annual adjustments in baseline funding for the following Charter-mandated funds will not take into account certain changes in City revenue resulting from voter-approved business taxes on the November 3, 2020 ballot: the Municipal Transportation Fund, the Park, Recreation and Open Space Fund, the Children and Youth Fund, the Library Preservation Fund, the Housing Trust Fund, the Public Education Enrichment Fund, the Dignity Fund, and the Street Tree Maintenance Fund; an Initiative Ordinance to amend the Business and Tax Regulations Code to: 1) reduce the annual Business Registration Fee for businesses with \$1,000,000 or less in San Francisco gross receipts; 2) increase the small business exemption ceiling for the Gross Receipts Tax to \$2,000,000 and increase the annual Business Registration Fee on businesses benefiting from this increased exemption ceiling; 3) modify the Gross Receipts Tax rates; 4) repeal the Payroll Expense Tax; 5) increase the Gross Receipts Tax on certain taxpayers for 20 years if a final judicial decision has the effect of invalidating the Homelessness Gross Receipts Tax Ordinance; 6) impose a new general tax on the gross receipts from the lease of certain commercial space for 20 years if a final judicial decision has the effect of invalidating the Early Care and Education Commercial Rents Tax Ordinance; and 7) make other changes to the City's business taxes; and to increase the City's appropriations limit by the total revenues collected under Articles 12-A-1 and 36 of the Business and Tax Regulations Code for four years from November 3, 2020; at an election to be held on November 3, 2020.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board



By: Victor Young, Assistant Clerk
Rules Committee

Attachment

c: Devyani Jain, Deputy Environmental Review Officer
Joy Navarrete, Environmental Planning
Don Lewis, Environmental Planning
Laura Lynch, Environmental Planning

CEQA does not apply to a measure submitted to the voters by the Mayor or 4 Supervisors.

7/20/2020



This measure would increase the ceiling for the small business exemption from the gross receipts tax to \$2,000,000 of gross receipts attributable to the City, adjusted annually for inflation. This measure would eliminate the credit for taxpayers that have paid a substantially-similar tax to any other taxing jurisdiction on any gross receipts attributed to the City and taxed under Article 12-A-1. Beginning with the 2021 tax year, this measure would adjust the required quarterly payments of gross receipts taxes and administrative office taxes to equal the lesser of (1) 25% of the gross receipts tax liability (or administrative office tax liability) shown on the business’s return for the tax year or (2) 25% of the gross receipts tax liability as determined by applying the applicable gross receipts tax rates and small business exemption for the current tax year to the taxable gross receipts shown on the business’s return for the preceding tax year (or, if subject to the administrative office tax for the preceding year, 25% of the administrative office tax liability as determined by applying the applicable administrative office tax rate for the current tax year to the total payroll expense attributable to the City shown on the business’s return for the preceding tax year).

This measure would incrementally increase the administrative office tax rate beginning in the 2022 tax year as shown in the table immediately below. The increased rate scheduled to take effect for the 2023 and 2024 tax years would be delayed by one year if the total gross receipts attributable to the City for the 2021 and 2022 tax years, respectively, do not equal or exceed 90% and 95%, respectively, of the total gross receipts attributable to the City for the 2019 tax year. For the 2025 and subsequent tax years, the administrative office tax rate would be 1.61% of payroll expense attributable to the City irrespective of whether either of the above gross receipts thresholds was met.

Current Administrative Office Tax Rate*	Proposed Administrative Office Tax Rate*			
	Tax Year 2021	Tax Year 2022	Tax Year 2023	Tax Years 2024 & After
1.4%	1.4%	1.47%	1.54%	1.61%

* The rates shown are in addition to the 1.5% rate currently imposed under the Homelessness Gross Receipts Tax.

If a final judicial decision has the effect of invalidating the Homelessness Gross Receipts Tax, this measure would increase the gross receipts tax on certain businesses for 20 years, beginning with the tax year following the date on which the court’s decision becomes final. For businesses that pay the administrative office tax, 1.5% of payroll expense attributable to the City would be added to the applicable administrative office tax rate. For other businesses, there would be added to the gross receipts tax rate tiers an additional rate tier for taxable gross receipts over \$50,000,000 at the rate indicated in the following table for each business activity, plus the applicable rate for taxable gross receipts between \$25,000,000.01 and \$50,000,000:

Business Activity	Tax Rate*
Retail Trade; Certain Services; Wholesale Trade	0.175%
Manufacturing; Food Services; Transportation and Warehousing; Clean Technology; Biotechnology; Information	0.500%
Accommodations; Arts, Entertainment and Recreation; Utilities	0.425%
Private Education and Health Services; Administrative and Support Services; Miscellaneous Business Activities	0.690%
Construction	0.475%
Insurance; Financial Services; Professional, Scientific and Technical Services	0.600%
Real Estate; Rental and Leasing Services	0.325%

* This rate would be added to the applicable rate for taxable gross receipts between \$25,000,000.01 and \$50,000,000.

If a final judicial decision has the effect of invalidating the Early Care and Education Commercial Rents Tax, this measure would add Article 36 to impose a new general tax for 20 years on the gross receipts from the lease of certain commercial space in the City, substantially similar to the existing Early Care and Education Commercial Rents Tax, except that all revenues from the new tax would go to the General Fund.

This measure would increase the City’s appropriations limit under Article XIII B of the California Constitution by the total revenues collected under Articles 12-A-1 and 36 of the Business and Tax Regulations Code, for four years from November 3, 2020.

This measure also would remove provisions that are no longer in effect, update the existing code language to current formatting standards, and make other changes to the City’s business taxes.

Background Information

In June 2018, San Francisco voters by simple majority vote approved Proposition C, which imposes the Early Care and Education Commercial Rents Tax. In November 2018, San Francisco voters, also by simple majority vote, approved Proposition C, which imposes the Homelessness Gross Receipts Tax. Separate lawsuits regarding the validity of the Early Care and Education Commercial Rents Tax and the Homelessness Gross Receipts Tax are pending at the Court of Appeal. Pending resolution of those suits, the Controller has impounded the revenues from both the Early Care and Education Commercial Rents Tax and the Homelessness Gross Receipts Tax.

This legislative digest reflects amendments made in committee on June 25, 2020, specifying that the baseline calculations in the Charter would only exclude revenues the City receives from the Backstop Taxes.

This legislative digest also reflects amendments made in committee on July 16, 2020, which combined a proposed charter measure originally in BOS File No. 200507 with the tax measure in BOS File No. 200648, made non-substantive edits to the sections of the Charter proposed to be amended, and made the following amendments to the tax provisions originally introduced in BOS File No. 200648, among others:

- Revises the proposed gross receipts tax rates for certain business activities and the administrative office tax rates, and phases in some of the new gross receipts tax rates and administrative office tax rates between 2021 and 2024 or 2025, in some cases depending on whether certain gross receipts thresholds are met;
- Increases the small business exemption threshold to \$2,000,000, adjusted annually for inflation;
- Increases the registration fee for businesses with \$1,500,000.01 to \$2,000,000 in gross receipts who would benefit from the increased small business exemption threshold;
- Revises the required quarterly estimated payments of gross receipts taxes and administrative office taxes; and
- Increases the number of tax years for which the Backstop Taxes would be effective from 10 years to 20 years.

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