

1 [Business Tax.]

2

3 **Ordinance amending the Business and Tax Regulations Code to: (1) enact a new**

4 **Article 12-A-1 (Gross Receipts Tax Ordinance) to impose a gross receipts tax on**

5 **persons engaging in specified business activities in San Francisco; (2) amend Article**

6 **12-A (Payroll Expense Tax Ordinance) to (i) reduce businesses' taxable payroll expense**

7 **by the amount of payroll expense attributable to their San Francisco business activities**

8 **taxed under Article 12-A-1 (Gross Receipts Tax Ordinance), (ii) conform Article 12-A**

9 **(Payroll Expense Tax Ordinance) with the enactment of Article 12-A-1 (Gross Receipts**

10 **Tax Ordinance) and amendments to Article 6 (Common Administrative Provisions), (iii)**

11 **repeal the Enterprise Zone Tax Credit set forth in Section 906A, (iv) repeal the \$500**

12 **surplus business tax revenue credit set forth in Section 906E, and (v) consolidate**

13 **exemptions, definitions and other administrative provisions, as amended, that apply to**

14 **Article 12-A (Payroll Expense Tax Ordinance) and other Articles of the Business and**

15 **Tax Regulation Code, and place them in Article 6 (Common Administrative Provisions);**

16 **(3) amend Article 12 (Business Registration Ordinance) to conform business**

17 **registration requirements with the enactment of Article 12-A-1 (Gross Receipts Tax**

18 **Ordinance) and amendments to Article 12-A (Payroll Expense Tax Ordinance) and**

19 **Article 6 (Common Administrative Provisions); (4) amend Article 6 (Common**

20 **Administrative Provisions) to (i) clarify common administrative provisions and conform**

21 **them with the enactment of Article 12-A-1 (Gross Receipts Tax Ordinance) and**

22 **amendments to Article 12-A (Payroll Expense Tax Ordinance) and Article 12 (Business**

23 **Registration Ordinance), (ii) consolidate exemptions, definitions and other**

24 **administrative provisions that apply to Article 12-A (Payroll Expense Tax Ordinance),**

25 **Article 12-A-1 (Gross Receipts Tax Ordinance), Article 12 (Business Registration**

1 **Ordinance) and other Articles of the Business and Tax Regulations Code, and (iii)**  
2 **eliminate the Board of Review; (5) amend Section 501 of Article 7 to clarify the**  
3 **definition of “Permanent Residents” exempt from the tax on the transient occupancy of**  
4 **hotel rooms, and (6) amend Section 606 of Article 9 to repeal the exemptions to the tax**  
5 **and surcharge upon the rent charged for the occupancy of parking spaces in parking**  
6 **stations (i) which are part of residential or hotel premises and (ii) for registered hotel**  
7 **guests where the parking station is not located on the hotel premises;.**

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

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

13  
14 Section 1. Pursuant to Article XIII C of the Constitution of the State of California, the  
15 following sections of this ordinance shall be submitted to the qualified electors of the City and  
16 County of San Francisco, at the November 5, 2002 general municipal election: Section 3,  
17 Section 4, Section 5, Section 6, Section 7 and Section 8. The foregoing sections shall  
18 become operative only if approved by the qualified electors at such election. The foregoing  
19 sections shall collectively be known and may be cited as the “San Francisco Business Tax  
20 Reform Ordinance of 2002.”

21  
22 Section 2. The following sections of this ordinance shall become operative upon  
23 approval of the San Francisco Business Tax Reform Ordinance of 2002 as provided in  
24 Section 1 of this ordinance: Section 9, Section 10 and Section 11.  
25

1 Section 3. The San Francisco Business and Tax Regulations Code is hereby amended  
2 by adding Article 12-A-1 (Gross Receipts Tax Ordinance) thereto, to read as follows:

3  
4 SEC. 1001. SHORT TITLE. This Article shall be known as the "Gross Receipts Tax  
5 Ordinance."

6  
7 SEC. 1002. OPERATION OF DEFINITIONS. Except where the context otherwise requires, the  
8 terms used in this Article shall have the meanings given to them in Sections 6.2-1 et seq. of Article 6.

9  
10 SEC. 1003. IMPOSITION OF GROSS RECEIPTS TAX; STATEMENT OF VOTER INTENT;  
11 AUTHORIZATION AND RATIFICATION OF TAX COLLECTOR REGULATIONS, ETC. (a) Except  
12 as provided under Sections 1004 and 1004.1, every person engaging in business within the City whose  
13 business activities are of a type specified in Sections 1003.1 through 1003.5, inclusive, shall pay a tax  
14 measured by the person's gross receipts from such activities, and shall calculate such tax as set forth  
15 Section 1003.6.

16 (b) The Gross Receipts Tax is imposed for general governmental purposes and in order to  
17 require commerce and the business community to carry a fair share of the costs of local government in  
18 return for the benefits, opportunities and protections afforded by the City. Proceeds from the tax shall  
19 be deposited in the City's general fund and may be expended for any purposes of the City.

20 (c) The voters intend by adopting this measure to authorize application of the Gross Receipts  
21 Tax in the broadest manner consistent with the provisions of this Article and the requirements of  
22 California Constitution Article XIIC, the United States Constitution and any other applicable  
23 provision of federal and state law. The voters hereby declare that they authorize and ratify any  
24 reasonable rules, regulations, determinations and interpretations promulgated or issued by the Tax  
25 Collector to implement and administer the Gross Receipts Tax upon all commerce and business

1 activities specified in Sections 1003.1 through 1003.5, inclusive, and occurring within, attributable to  
2 or having sufficient nexus with the City to lawfully impose the tax hereunder, regardless of the form  
3 (corporate or otherwise) of the person or other legal entity engaging in such business within the City.

4  
5 SEC. 1003.1. LESSORS OF REAL ESTATE. (a) Subject to exceptions in Subsection (d) of this  
6 Section, Section 1004, and Section 1004.1, the Gross Receipts Tax shall apply to all persons engaging  
7 in business within the City as lessors of real estate. A person is engaging in business within the City as  
8 a lessor of real estate (hereinafter "lessor") if (i) such lessor, in whole or in part, is the legal or  
9 beneficial owner of, or has a leasehold interest in, any land and/or building thereon (including  
10 miniwarehouses and self-storage units, and excluding hotels as defined in Section 501 of Article 7), or  
11 any portion thereof, that is located within the City (hereinafter "premises"), and (ii) receives, directly  
12 or indirectly, rents of any kind or character from another person (hereinafter "tenant") for the right to  
13 occupy or use such premises, regardless of whether such occupancy or use is for residential or non-  
14 residential purposes.

15 (b) The gross receipts of a lessor of real estate include:

16 (1) The total amount of all lease or rental amounts paid or rendered by, on behalf of, or  
17 for the benefit of, all of the lessor's tenants, valued in money, for the occupancy or use of all  
18 premises located within the City, and any services that are part of the lease or rental of the  
19 premises, whether received in money or otherwise, that are paid to, on behalf of, or for the  
20 benefit of, the lessor.

21 (2) All receipts, cash, credits, property of any kind or character and the fair market  
22 value of services so paid or rendered for such occupancy, use and services.

23 (3) All amounts paid directly or indirectly to or for the benefit of a lessor that are  
24 included as gross income of the lessor for federal income tax purposes shall be presumed to  
25 part of the lessor's gross receipts subject to tax under this Article. The lessor may rebut this

1 presumption by establishing to the satisfaction of the Tax Collector that such amounts reported  
2 as gross income for federal income tax purposes are not part of the lessor's gross receipts as  
3 defined by this Section.

4 (c) The gross receipts of a lessor of real estate shall be calculated without any deduction on  
5 account of labor or service costs (including, without limitation, costs for property management  
6 services, whether paid by the tenant, lessor or a third party), maintenance, interest paid, insurance,  
7 taxes, utilities billed by the lessor to the lessee, losses, or any other expense incurred, directly or  
8 indirectly, in connection with the person's business as a lessor of real estate with respect to the leased  
9 premises.

10 (d) Notwithstanding Subsection (a), a person receiving rental or lease income in connection  
11 with the operation of any of the following shall not, by reason of that fact alone, be deemed to be a  
12 lessor of real property subject to the Gross Receipts Tax: (1) a cooperative housing corporation, as  
13 defined in Section 216(b) of the Internal Revenue Code of 1986, as amended; (2) one residential  
14 structure consisting of fewer than four units; or (3) one residential condominium.

15  
16 SEC. 1003.2. TAXICAB COLOR SCHEMES. (a) Subject to exceptions in Section 1004 and  
17 Section 1004.1, the Gross Receipts Tax shall apply to all persons engaging in business within the City  
18 who hold a taxicab color scheme permit pursuant to Section 1125 of the San Francisco Police Code  
19 (hereinafter "color scheme permit holders").

20 (b) The gross receipts of a color scheme permit holder shall include all receipts, cash,  
21 credits, property of any kind or character and the fair market value of services that are paid to, on  
22 behalf of, or for the benefit of, such permit holder in connection with the business conducted under the  
23 authority of such permit, including but not limited to gate fees as defined under Section 1135.1 of the  
24 San Francisco Police Code, receipts for the right to advertise upon taxicabs belonging to or affiliated  
25 with the permit holder's taxicab color scheme, receipts from the sale of fuel, lubricants and other

1 automotive products used or intended to be used for the taxicabs belonging to or affiliated with the  
2 permit holder's taxicab color scheme, and any fee, tribute, commission or other receipt by, for or on  
3 behalf of a taxicab medallion holder for the right to affiliate with the permit holder's color scheme.

4 (c) The gross receipts of a taxicab color scheme permit holder shall be calculated without  
5 any deduction on account of labor or service costs, maintenance, interest paid, insurance, taxes, losses,  
6 or any other expense incurred, directly or indirectly, in connection with the person's business  
7 conducted under the authority of the person's color scheme permit.

8  
9 SEC. 1003.3. AUTOMOBILE RENTAL AND LEASING. (a) Subject to exceptions in Section  
10 1004 and Section 1004.1, the Gross Receipts Tax shall apply to all persons engaging within the City in  
11 the business of renting or leasing automobiles, trucks, utility trailers, recreational vehicles and other  
12 motor vehicles (hereinafter "automobile rental and leasing business").

13 (b) The gross receipts of an automobile rental and leasing business shall include all  
14 receipts, cash, credits, property of any kind or character and the fair market value of services that are  
15 paid to, on behalf of, or for the benefit of, a person derived from or attributable to such person's  
16 automobile rental and leasing business within the City, including but not limited to receipts from the  
17 rental or leasing of vehicles, the retail sale of fuel, lubricants and other automotive products used or  
18 intended to be used in the rented or leased vehicles, the sale of damage waivers or other waivers or  
19 coverage in the nature of insurance, and services related to the person's automobile rental and leasing  
20 business that are performed within the City.

21 (c) The gross receipts of an automobile rental and leasing business shall be calculated  
22 without any deduction on account of labor or service costs, maintenance, interest paid, insurance,  
23 taxes, losses, or any other expense incurred, directly or indirectly, in connection with the person's  
24 automobile rental and leasing business.

1           SEC. 1003.4. GASOLINE STATIONS. (a) Subject to exceptions in Section 1004 and Section  
2 1004.1, the Gross Receipts Tax shall apply to all persons engaging within the City in retail sales of  
3 gasoline, diesel fuel, gasohol or other fuel used or intended to be used for motor vehicles, or retailing  
4 such products in combination with convenience store items (hereinafter “gasoline stations”).

5           (b) The gross receipts of a gasoline station shall include all receipts, cash, credits, property  
6 of any kind or character and the fair market value of services that are paid to, on behalf of, or for the  
7 benefit of, a person derived from or attributable to such person’s gasoline station business within the  
8 City, including but not limited to, receipts from the retail sale of fuel, lubricants and other automotive  
9 products used or intended to be used for motor vehicles, services related to the person’s gasoline  
10 station business that are performed on the premises of such gasoline station, and retail sales of  
11 convenience store items or other concessions sold on the premises of such gasoline station.

12           (c) The gross receipts of a gasoline station shall be calculated without any deduction on  
13 account of labor or service costs, maintenance, interest paid, insurance, taxes, losses, or any other  
14 expense incurred, directly or indirectly, in connection with the person’s gasoline station business.

15  
16           SEC. 1003.5. CONTRACTORS. (a) Subject to exceptions in Section 1004 and Section 1004.1,  
17 the Gross Receipts Tax shall apply to all persons engaging in business within the City in the  
18 construction trades (hereinafter “contractors”), including without limitation: residential construction  
19 (e.g., new work, additions, alterations and repairs of single residential housing units and multifamily  
20 residential housing units); non-residential building construction (e.g., new work, additions, alterations  
21 and repairs of manufacturing and industrial buildings, and commercial and institutional buildings);  
22 highway, street, bridge and tunnel construction (e.g., new work, additions, alterations and repairs of  
23 highways, streets, roads, airport runways, bridges, viaducts and tunnels); heavy non-building  
24 construction (e.g., cable laying, dock construction, golf-course construction, joint-venture contractors  
25 for water, sewer and pipelines, mass transit project construction, park construction, and power and

1 communication transmission line construction); plumbing, heating and air-conditioning contractors;  
2 painting and wall covering contractors; electrical contractors; masonry, drywall, insulation and tile  
3 contractors; carpentry and floor contractors; roofing, siding and sheet metal contractors; concrete  
4 contractors; water well drilling contractors; and other special trade contractors (e.g., antennae  
5 installation, coating and glazing of concrete surfaces, conveyor systems installation, elevator  
6 installation, erecting metal storage tanks, fireproofing, house moving, erecting metal, structural steel,  
7 and similar products of prestressed or precast concrete to produce structural elements, on-site welding,  
8 radon remediation and sandblasting).

9 (b) The gross receipts of a contractor shall include all receipts, cash, credits, property of  
10 any kind or character and the fair market value of services that are paid to, on behalf of, or for the  
11 benefit of, a person derived from or attributable to such person's construction business.

12 (c) The gross receipts of a contractor shall be calculated without any deduction on account  
13 of labor or service costs, maintenance, interest paid, insurance, taxes, losses, or any other expense  
14 incurred, directly or indirectly, in connection with the person's construction business.

15  
16 SEC. 1003.6. GROSS RECEIPTS TAX RATES. The rates of gross receipts tax under Sections  
17 1003.1, 1003.2, 1003.3, 1003.4 and 1003.5 shall be as follows:

<u>Sec. No.</u>	<u>Type of Business</u>	<u>Rate</u>
<u>1003.1</u>	<u>Lessors of Real Estate</u>	<u>0.3%</u>
<u>1003.2</u>	<u>Taxicab Color Schemes</u>	<u>0.3%</u>
<u>1003.3</u>	<u>Automobile Rental &amp; Leasing</u>	<u>0.3%</u>
<u>1003.4</u>	<u>Gasoline Stations</u>	<u>0.3%</u>
<u>1003.5</u>	<u>Contractors</u>	<u>0.3% of gross receipts between \$0 and 2,000,000;</u>



1 0.35% of gross receipts from \$2,000,000 to  
2 \$5,000,000; and 0.4% of gross receipts over  
3 \$5,000,000.

4  
5 SEC. 1004. EXEMPTIONS. (a) Except as provided in Subsection (b) of this Section, an  
6 organization that is exempt from income taxation by Chapter 4 (commencing with Section 23701) of  
7 Part 11 of Division 2 of the Revenue and Taxation Code or Subchapter F (commencing with Section  
8 501) of Chapter 1 of Subtitle A of the Internal Revenue Code of 1986, as amended, as qualified by  
9 Sections 502, 503, 504 and 508 of the Internal Revenue Code of 1986, as amended, shall be exempt  
10 from taxation under this Article.

11 (b) An organization otherwise exempt from income taxation under Subsection (a) that is  
12 directly engaged within the City in an unrelated trade or business within the meaning of Section 513(a)  
13 of the Internal Revenue Code of 1986, as amended, and has, from its own operations, unrelated  
14 business taxable income within the meaning of Section 512(a)(1) of the Internal Revenue Code of 1986,  
15 as amended, shall pay the tax on its gross receipts from its unrelated trade or business activities that  
16 are specified in Sections 1003.1 through 1003.5, inclusive, and attributable to the City.

17 (c) "Gross receipts" as otherwise defined in Sections 1003.1 through 1003.5, inclusive,  
18 shall not include receipts from the business activities specified in such sections if, and only so long as  
19 and to the extent that, the City is prohibited from taxing such receipts under the Constitution or laws of  
20 the United States or under the Constitution or laws of the State of California.

21 (d) To the extent that any person subject to tax under this Article has paid a tax on gross  
22 receipts (not including any sales tax or income tax), to any other taxing jurisdiction, on any gross  
23 receipts as defined in Section 1003.1 through 1003.5, inclusive, and taxed under this Article, the tax  
24 paid to such other taxing jurisdiction shall be credited against the tax due under this Article.

1           (e) Nothing in this Article shall be construed as requiring the payment of any tax for  
2 engaging in a business or the doing of an act when such payment would constitute an unlawful burden  
3 upon or an unlawful interference with interstate or foreign commerce, or which payment would be in  
4 violation of the Constitution or a statute of the United States or of the Constitution or a statute of the  
5 State of California.

6  
7           SEC. 1004.1. SMALL BUSINESS EXEMPTION. (a) Notwithstanding any other provision of  
8 this Article, "small business enterprises," as hereinafter defined, shall be exempt from payment of the  
9 Gross Receipts Tax; provided, that small business enterprises shall pay the annual registration fee  
10 pursuant to Section 855 of this Code.

11           (b) The term "small business enterprise" shall mean and include any taxpayer:

12                   (1) Whose tax liability under this Article, but for this exemption provision, would not  
13 exceed \$2,500; and

14                   (2) Who has filed a tax return by the last day of February for the preceding tax year. If  
15 the taxpayer fails to file a return by that date, the taxpayer shall be subject to a penalty as  
16 specified in subsection (c).

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

20                   (1) If the person's Gross Receipts Tax liability under this Article, but for the small  
21 business exemption under this Section, would be less than \$1,000, the penalty shall be \$100 plus  
22 10% of the amount of such liability, for each month, or fraction thereof, that the return is  
23 delinquent, up to a maximum amount equal to the person's liability for such tax but for the  
24 small business exemption;

1                   (2) If the person's Gross Receipts Tax liability under this Article, but for the small  
2                   business exemption under this Section, would be \$1,000 or more, then the penalty shall be \$250  
3                   plus 10% of the amount of such liability, for each month, or fraction thereof, that the return is  
4                   delinquent, up to a maximum amount equal to the person's liability for such tax but for the  
5                   small business exemption.

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

9  
10                   SEC. 1005. ALLOCATION; BUSINESS WITHIN AND WITHOUT CITY; BUSINESSES  
11                   SUBJECT TO THE GROSS RECEIPTS TAX AND PAYROLL EXPENSE TAX. (a) Any person deriving  
12                   gross receipts from business activities engaged in both within and without the City that are specified in  
13                   Sections 1003.1, 1003.2, 1003.3, 1003.4 or 1003.5 shall allocate such gross receipts to determine the  
14                   amount thereof derived from or attributable to such activities within the City for purposes of  
15                   calculating the person's tax liability under this Article. The person shall make such allocation, which  
16                   shall be set forth on appropriate returns, using the ordinary method of allocation for each of the  
17                   business activities specified in Sections 1003.1 through 1003.5, inclusive, as follows:

18                   (i) Lessors of Real Estate. For purposes of calculating the amount of gross receipts of  
19                   lessors of real estate (as defined in Section 1003.1), taxpayers shall include 100% of the gross  
20                   receipts that are derived from or attributable to the leasing or renting of premises (as defined in  
21                   Section 1003.1) located within the City; taxpayers shall not include gross receipts that are  
22                   derived from or attributable to the leasing or renting of real estate located outside of the City.

23                   (ii) Taxicab Color Scheme Permit Holders. For purposes of calculating the amount of  
24                   gross receipts of taxicab color scheme permit holders (as defined in Section 1003.2), taxpayers  
25

1 shall include 100% of the gross receipts that are derived from or attributable to the taxpayer's  
2 color scheme permit business.

3 (iii) Automobile Rental and Leasing. For purposes of calculating the amount of gross  
4 receipts of persons engaged in the business of automobile rental and leasing (as defined in  
5 Section 1003.3), taxpayers shall include 100% of the gross receipts that are derived from or  
6 attributable to vehicles that are rented or leased from a location within the City; taxpayers shall  
7 not include gross receipts that are derived from or attributable to vehicles that are rented or  
8 leased from a location outside the City.

9 (iv) Gasoline Stations. For purposes of calculating the amount of gross receipts of  
10 gasoline stations (as defined in Section 1003.4), taxpayers shall include 100% of the gross  
11 receipts that are derived from or attributable to the operation of all of the taxpayer's gasoline  
12 stations located within the City.

13 (v) Contractors. For purposes of calculating the amount of gross receipts of  
14 contractors (as defined in Section 1003.5), taxpayers shall include 100% of the gross receipts  
15 that are derived from or attributable to construction projects located within the City; taxpayers  
16 shall not include gross receipts that are derived from or attributable to construction projects  
17 located outside of the City.

18 (b) To the extent that a person who is subject to the Gross Receipts Tax also engages in  
19 business activities within the City that are not specified in Sections 1003.1, 1003.2, 1003.3, 1003.4 or  
20 1003.5, the person shall be subject to the Payroll Expense Tax to the extent provided in Article 12-A  
21 (and not the Gross Receipts Tax) attributable to all business activities within the City other than those  
22 specified in Section 1003.1 through 1003.5, inclusive, of this Article.

23 (c) The Tax Collector may promulgate regulations and issue rules, determinations and  
24 interpretations regarding the ordinary methods of allocation set forth in this Section so as to fairly  
25 allocate the gross receipts of all persons subject to this Article in order to impose the tax generally and

1 in individual cases only upon gross receipts from the business activities specified in Sections 1003.1  
2 through 1003.5, inclusive, that are derived from or attributable to such activities engaged in within the  
3 City. The Tax Collector may, in the application to individual cases of such regulations, rules,  
4 determinations and interpretations and regulations, depart from or make such modifications thereto as  
5 may be necessary to allocate fairly the taxpayer's gross receipts and impose the tax under this Article  
6 in a lawful manner.

7 (d) If the Tax Collector reallocates gross receipts upon examination of any return, the Tax  
8 Collector shall notify the person in writing of the basis upon which the Tax Collector made the  
9 reallocation. The Tax Collector shall provide such notice as soon as practicable following such  
10 reallocation. The time for the doing of any act required by this Article or Article 6, and the  
11 commencement of any liability hereunder, shall not begin to run until the Tax Collector provides such  
12 notice.

13  
14 SEC. 1006. PAYMENTS, RETURNS, PREPAYMENTS AND EXTENSIONS. Payments, returns,  
15 prepayments and extensions for person's subject to this Article shall be as prescribed in the common  
16 administrative provisions set forth in Article 6.

17  
18 SEC. 1007. AUTHORITY TO PROMULGATE REGULATIONS. Notwithstanding any other  
19 provision of this Article or Article 6, the Tax Collector may promulgate regulations and issue rules,  
20 determinations and interpretations consistent with the purposes of this Article and Article 6 as may be  
21 necessary and appropriate to apply such Articles in a lawful manner, including provisions for penalties  
22 due to fraud, underpayment of fees and taxes, or any evasion of such Articles or the rules and  
23 regulations promulgated thereunder. All regulations, rules, determinations and interpretations  
24 promulgated or issued by the Tax Collector that are not inconsistent with such Articles, and that were  
25 promulgated or issued prior to the effective date of this Article, shall remain in full force and effect.

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

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

SEC. 902. OPERATION OF DEFINITIONS. Except where the context otherwise requires, (i) the terms used in this ~~ordinance Article~~ shall have the meanings given to them in Sections 902.1 through ~~902.9~~ 902.3, inclusive, of this ~~ordinance Article~~, and (ii) terms not defined in this Article that are defined in Article 6 shall have the same meaning as given to them in Article 6.

SEC. 902.1. PASS-THROUGH ENTITY. The term "pass-through entity" includes a trust, partnership, corporation described in Subchapter S of the Internal Revenue Code of 1986, as amended, limited liability company, limited liability partnership, professional corporation, and any other person or entity which is not subject to the income tax imposed by Subtitle A, Chapter 1 of the Internal Revenue Code of 1986, as amended, or which is allowed a deduction in computing such tax for distributions to the owners or beneficiaries of such person or entity.

SEC. ~~902.6~~ 902.2. PAYROLL EXPENSE. (a) The term "Payroll Expense" shall mean the compensation paid to, on behalf of, or for the benefit of an individual or pass-through entity, including salaries, wages, commissions, ~~property issued in exchange for the performance of services (including but not limited to stock options), compensation to owners of pass-through entities and any other form of compensation, to an individual~~ who or that, during any tax year, performs work or renders services, in whole or in part in the City ~~and County of San Francisco~~; and if more than one individual ~~or pass-through entity~~ during any tax year performs work or renders

1 services in whole or in part in the City ~~and County of San Francisco~~, the term "Payroll Expense"  
2 ~~shall~~ means the total compensation paid including salaries, wages, bonuses, commissions,  
3 property issued in exchange for the performance of services (including but not limited to stock options),  
4 compensation to owners of pass-through entities and any other form of compensation, to all such  
5 individuals and pass-through entities.

6 (b) All compensation, including all cash distributions to owners of a pass-through entity,  
7 shall be included in the calculation of such entity's payroll expense for purposes of determining such  
8 entity's tax liability under this Article. For purposes of this Section, the compensation paid to an owner  
9 of a pass-through entity shall be presumed to be 90% of the amount of gross income of such owner for  
10 federal income tax purposes. A pass-through entity may rebut this presumption by establishing to the  
11 satisfaction of the Tax Collector that the compensation paid to an owner of such pass-through entity is  
12 less than 90% of such amount.

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

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

1 nature, as a real estate salesperson under an agreement with a real estate broker, regardless of  
2 whether the individual is licensed as a real estate broker under the laws of the State of California; a  
3 “mortgage processor” is an individual who is engaged by a real estate broker or mortgage broker to  
4 perform services, which may be continuous in nature, as a mortgage processor under an agreement  
5 with such real estate broker or mortgage broker, regardless of whether the mortgage processor is also  
6 licensed as a mortgage broker under the laws of the State of California.

7  
8 SEC. 902.3. PROFESSIONAL SPORTS TEAM. The term “professional sports team” means a  
9 person who is an owner or part owner of an athletic team if the athletes or players of such team  
10 generally receive compensation for being members of the team or for entering any contract to  
11 participate on behalf of such sports team.

12  
13 SEC. 903. IMPOSITION OF PAYROLL EXPENSE TAX. (a) A tax for general ~~revenue~~  
14 ~~governmental~~ purposes is hereby imposed upon every person ~~who, in connection with said~~  
15 ~~person's business, engages, hires, employs or contracts with one or more individuals as employee, to~~  
16 ~~perform work or render services in whole or in part~~ engaging in business within the City ~~and County~~  
17 ~~of San Francisco~~ as defined in Section 6.2-13 of Article 6; provided, that such tax shall be levied  
18 only upon that portion of the person's payroll expense ~~which that~~ is attributable to the City ~~and~~  
19 ~~County of San Francisco~~ as set forth in Section 904.

20 (b) ~~This ordinance shall not be construed as requiring any license whatsoever, nor shall~~  
21 ~~payment of this tax be a condition precedent to engaging in any business within the City and County of~~  
22 ~~San Francisco. This tax~~ The Payroll Expense Tax is imposed for general ~~revenue~~ governmental  
23 purposes and in order to require commerce and the business community to carry a fair share  
24 of the costs of local government in return for the benefits, opportunities and protections  
25



1 afforded by the City ~~and County of San Francisco~~. Proceeds from the tax shall be deposited in the  
2 City's general fund and may be expended for any purposes of the City.

3 (c) The voters intend by adopting this measure to authorize application of the Payroll  
4 Expense Tax in the broadest manner consistent with the provisions of this Article and the requirements  
5 of California Constitution Article XIII C, the United States Constitution and any other applicable  
6 provision of federal and state law. To that end, the voters declare that they authorize and ratify any  
7 reasonable rules, regulations, determinations and interpretations promulgated or issued by the Tax  
8 Collector to implement and administer the tax upon all commerce and business activities occurring  
9 within, attributable to or having sufficient nexus with the City to lawfully impose the tax, regardless of  
10 the form (corporate or otherwise) of the person or other legal entity engaging in business in the City.

11 (d) To the extent a person who is subject to the Payroll Expense Tax also engages in  
12 activities subject to the Gross Receipts Tax, the person's payroll expense attributable to such gross  
13 receipts activities shall be deducted from the person's payroll expense as otherwise defined in Section  
14 902.2 of this Article, and the person shall be subject to the Gross Receipts Tax on the person's gross  
15 receipts attributable to such activities.

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 tax shall be the product of such person's taxable~~  
20 ~~payroll expense multiplied by 0.015 of such person, and the amount of such tax for Associations shall~~  
21 ~~be 1-1/2 percent of the payroll expense of such Association, plus 1-1/2 percent of the total distributions~~  
22 ~~made by such Association by way of salary to those having an ownership interest in such Association.~~  
23 ~~Amounts paid or credited to those having an ownership interest in such Association prior and in~~  
24 ~~addition to the distribution of ownership profit or loss shall be presumed to be distributions "by way of~~  
25

1 ~~salary" and for personal services rendered, unless the taxpayer proves otherwise by clear and~~  
2 ~~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,~~ partly within and partly without the City ~~and County of San Francisco,~~ the  
7 portion of such payroll expense attributable to the City ~~and County of San Francisco~~ (and subject  
8 to tax hereunder) shall be determined as follows:

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

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

19 (c) Notwithstanding any other provision of this section, the portion of payroll expense of a  
20 person engaging in business as a professional sports team that is attributable to the City shall be the  
21 product of the total payroll expense of the person multiplied by a fraction, the numerator of which is the  
22 total number of regular season games played within the City during the tax year and the denominator  
23 of which is the total number of regular season games played within and without the City during the tax  
24 year.

1           (e d) If it is impracticable, unreasonable or improper to apportion such payroll expenses  
2 as aforesaid either because of the peculiar particular nature of the services of such individual,  
3 or on account of the unusual basis of compensation, or for any other reason, then the amount  
4 of such payroll earnings reasonably attributable to work performed or services rendered, in  
5 the City ~~and County~~, shall be determined on the basis of all relevant facts and circumstances of the  
6 particular case, in accordance with ~~rules~~ any rulings or regulations ~~adopted~~ issued or promulgated  
7 by the Tax Collector for the purpose.

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

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

1 SEC. 905-A. SMALL BUSINESS TAX EXEMPTION. (a) Notwithstanding any other  
2 provisions of this ~~Payroll Expense Tax Ordinance Article, except Sections 907 and 909 herein,~~ "small  
3 business enterprises" as hereinafter defined, shall be exempt from ~~taxation under this ordinance~~  
4 ~~payment of the Payroll Expense Tax~~; provided, however, that small business enterprises shall  
5 pay the annual registration fee pursuant to Section ~~885~~ 855 of ~~this Code Article 12.~~

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

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

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

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

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

1 (2) If the person's Payroll Expense Tax liability ~~for taxes due on payroll expenses~~  
2 ~~and/or salary distribution~~ under this Article, but for the small business exemption under  
3 this Section, would be \$1,000 or more, then the penalty shall be \$250 plus 10% of the  
4 amount of such liability, for each month, or fraction thereof, that the return is  
5 delinquent, up to a maximum amount equal to the person's liability for such tax but for  
6 the small business exemption.

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

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

18 (b) An organization otherwise exempt from taxation under Subsection (a) of this  
19 Section that is directly engaged within the City in an unrelated trade or business within the meaning of  
20 Section 513(a) of the Internal Revenue Code of 1986, as amended, and has, from its own operations,  
21 unrelated business taxable income within the meaning of Section 512(a)(1) of the Internal Revenue  
22 Code of 1986, as amended, if it receives unrelated business receipts, shall pay ~~a~~ the Payroll Expense  
23 Tax equal to the amount ~~arrived at~~ calculated by multiplying the tax which would have been  
24 due under this ~~Section~~ Article if the organization were not an exempt organization by the  
25 percentage which its unrelated business receipts bear to its total receipts. If it is impracticable,

1 unreasonable or improper to allocate such organization's payroll expense as aforesaid either because  
2 of the particular nature of the organization's unrelated trade or business or the particular nature of the  
3 services provided to the organization in connection therewith by its employees, or on account of the  
4 unusual basis of compensation, or for any other reason, then the amount of such payroll expense  
5 reasonably attributable to work performed or services rendered in the City shall be determined on the  
6 basis of all relevant facts and circumstances of the particular case, in accordance with any rulings or  
7 regulations issued or promulgated by the Tax Collector for the purpose.

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

10 (c) Blind persons licensed under the provisions of Chapter 6A of Title 12 of the  
11 United States Code ("Vending Stands for Blind in Federal Buildings") and ~~blind persons licensed~~  
12 ~~under the provisions of~~ Article 5 of Chapter 6 of Part 2 of Division 10 of the Welfare and  
13 Institutions Code of the State of California ("Business Enterprises for the Blind") need not  
14 include in the computation of payroll expense the first \$15,000 of payroll expense in any one  
15 year which is attributable to their licensed operations within the City ~~and County of San Francisco~~.  
16 ~~A blind person, within the meaning of this Section, shall mean a person having not more than 10~~  
17 ~~percent visual acuity in the better eye, with correction. Such blindness shall be certified by a licensed~~  
18 ~~physician and surgeon who specializes in diseases of the eye, or by the Bureau of Vocational~~  
19 ~~Rehabilitation of the Department of Education of the State of California, and the exemption provided~~  
20 ~~by this Section shall not apply until a certificate as to such blindness shall be furnished to the Tax~~  
21 ~~Collector.~~

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

1           (f) ~~The following persons are exempt from this tax, as provided in Section 1005.4, of Article~~  
2 ~~12-B:~~

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

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

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

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

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

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

16                   (4) Person's engaging in intercity transportation as a household goods carrier under  
17 Public Utilities Code Section 5327;

18                   (5) Charter-party carriers operating limousines that do not maintain a business office  
19 within the City under Public Utilities Code Section 5371.4.

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

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

1           (g) Nothing in this Article shall be construed as requiring the payment of any tax for  
2 engaging in a business or the doing of an act when such payment would constitute an unlawful burden  
3 upon or an unlawful interference with interstate or foreign commerce, or which payment would be in  
4 violation of the Constitution or a statute of the United States or of the Constitution or a statute of the  
5 State of California.

6  
7           ~~SEC. 906A. ENTERPRISE ZONE TAX CREDIT. (a) A credit against this tax shall be allowed~~  
8 ~~for each person who maintains a fixed place of business within the San Francisco Enterprise Zone and~~  
9 ~~who, on or after January 1, 1992, creates one or more new jobs and hires employees who qualify under~~  
10 ~~Subsection (b) of this Section; provided, however, that in no event shall the tax credit reduce a person's~~  
11 ~~tax liability to less than zero. Moreover, the tax credits shall only serve as an offset against the~~  
12 ~~additional tax that would be paid as a result of additional hiring by a business within the zone. Each~~  
13 ~~person claiming this credit shall file with the Tax Collector, on a form prescribed by the Tax Collector,~~  
14 ~~an affidavit attesting to facts establishing his or her entitlement to the tax credit; said affidavit shall be~~  
15 ~~supported by State tax credit forms (EDD, DSS, and PIC).~~

16           ~~(b) — An employee is a "qualified employee" for purposes of computing this tax credit if he or~~  
17 ~~she is newly hired by the taxpayer on or after January 1, 1992 and either (1) is receiving subsidized~~  
18 ~~employment training or services under the terms of the Federal Job Training Partnership Act (JTPA);~~  
19 ~~or (2) is registered in the Greater Avenues for Independence (GAIN) Program; or (3) is certified by the~~  
20 ~~Employment Development Department as eligible for the federal Work Opportunity Credit Program; or~~  
21 ~~(4) is receiving General Assistance.~~

22           ~~(c) — The tax credit, for each qualified employee, shall be a varying percentage of the~~  
23 ~~additional tax that would be incurred as a result of additional wages paid for work performed within~~  
24 ~~the Enterprise Zone, and the dollar amount of such tax credit shall depend both upon the duration of~~  
25 ~~employment as of the date payroll taxes are due, and the eligible wages paid, as follows:~~



1           (1) — ~~The eligible wages to which the percentage is applied shall be limited to wages~~  
2 ~~paid for work performed by the qualified employee while physically present within San~~  
3 ~~Francisco.~~

4           (2) — ~~The percentage to be applied to eligible wages shall depend upon the employee's~~  
5 ~~duration of employment as follows:~~

<del>Credit Allowed on</del>	<del>Payroll Tax Liability</del>
<del>Duration of Employment</del>	
<del>First 24 months</del>	<del>100%</del>
<del>Second 24 months</del>	<del>50%</del>
<del>Third 24 months</del>	<del>25%</del>
<del>Fourth 24 months</del>	<del>15%</del>
<del>Fifth 24 months</del>	<del>10%</del>

14           ~~SEC. 906E. CREDIT OF SURPLUS BUSINESS TAX REVENUE. (a) General Rule. Any~~  
15 ~~business, as defined in Section 902.2 of Part III of the Municipal Code, that does not qualify as a "small~~  
16 ~~business enterprise" under the provisions of Section 905 A (Small Business Exemption), shall be~~  
17 ~~allowed a credit against the Payroll Expense Tax for any taxable year ending within a fiscal year of the~~  
18 ~~City and County of San Francisco immediately following a fiscal year in which the City and County of~~  
19 ~~San Francisco has surplus Business Tax revenue; provided, however, that in no event shall the tax~~  
20 ~~credit allowable pursuant to this Section reduce a taxpayer's liability for such tax to an amount less~~  
21 ~~than zero. For each fiscal year, the Controller shall determine whether the City and County of San~~  
22 ~~Francisco has surplus Business Tax revenue. The Controller's determination whether the City and~~  
23 ~~County of San Francisco has surplus Business Tax revenue shall be made on or before the first~~  
24 ~~business day of September following the close of such fiscal year; provided, however, that for purposes~~  
25

1 *of the 1997/1998 fiscal year, the Controller may make his or her determination on or before December*  
2 *31, 1998. The Controller shall notify the Tax Collector of his or her determination.*

3 *(b) — Amount of Credit. For purposes of this Section, the amount of the tax credit for any*  
4 *taxable year shall be \$500.00; provided, however, that in no event shall the tax credit allowable*  
5 *pursuant to this Section reduce a taxpayer's liability for such tax to an amount less than zero.*

6 *(c) — Definitions. The following definitions shall apply to the terms used in this Section.*

7 *(1) — For any fiscal year of the City and County of San Francisco, the City and County*  
8 *of San Francisco shall be deemed to have "surplus Business Tax revenue" if and only if the*  
9 *actual Business Tax revenue for such fiscal year exceeds the anticipated Business Tax revenue*  
10 *for such fiscal year.*

11 *(2) — For any fiscal year of the City and County of San Francisco, the "actual*  
12 *Business Tax revenue" means the aggregate amount of tax revenue collected pursuant Article*  
13 *12-A (Payroll Expense Tax Ordinance) and Article 12-B (Business Tax Ordinance) of Part III*  
14 *of the San Francisco Municipal Code, less the amount of such revenue for such year allocable*  
15 *solely to tax rate increases in such year.*

16 *(3) — For any fiscal year of the City and County of San Francisco, the "anticipated*  
17 *Business Tax revenue" is an amount equal to the product of (i) the actual Business Tax revenue*  
18 *for the fiscal year immediately preceding such fiscal year, multiplied by (ii) 107.5 percent.*

19 *(d) — Effective Date. The tax credit provided by this Section shall be allowable in taxable*  
20 *years ending after 1997.*

21  
22 Section 5. The San Francisco Business and Tax Regulations Code is hereby amended  
23 by amending Section 855 of Article 12 (Business Registration Ordinance) thereof, to read as  
24 follows:  
25

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

4 Computed Payroll Expense Tax 5 <i>and Gross Receipts Tax</i> for the 6 Immediately Preceding Tax Year	Annual Registration Fee
7 Less than \$ 1	\$ 25
8 \$ 1 to \$ 10,000	\$ 150
9 \$ 10,000 to \$ 50,000	\$ 250
10 More than \$ 50,000	\$ 500

11 (b) In the event that an applicant for a registration certificate has not filed a tax  
 12 return for the immediately preceding tax year as required by ~~the Payroll Expense Tax Ordinance~~  
 13 Section 6.9-2 of Article 6, the Tax Collector shall determine the amount of the registration fee  
 14 required based on the applicant's estimated tax liability under Article 12-A (Payroll Expense Tax  
 15 Ordinance) and Article 12-A-1 (Gross Receipts Tax Ordinance) ~~payroll expense~~ for the period  
 16 covered by the registration certificate.

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

21 (d) Any organization having a formally recognized exemption from income taxation  
 22 pursuant to Section 501(c), 501(d) or 401(a) of ~~Title 26 of the United States Code~~ the Internal  
 23 Revenue Code of 1986, as amended ~~from time to time~~, as qualified by Sections 502, 503, 504 and  
 24 508 of ~~Title 26 of the United States Code~~ the Internal Revenue Code of 1986, as amended ~~from time~~  
 25

1 ~~to time, or the successor statutes of any of them~~, shall not be required to pay a registration fee  
2 under this Article unless the organization is also engaged within the City in an unrelated trade  
3 or business within the meaning of Section 906 of Article 12-A and Section 1004 of Article 12-A-1  
4 ~~of the Business and Tax Regulations Code.~~

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

8 (f) The registration fee imposed by this Article is imposed for general governmental  
9 purposes and in order to require commerce and the business community to carry a fair share of the  
10 costs of local government in return for the benefits, opportunities and protections afforded by the City.  
11 Proceeds from the fee shall be deposited within the City's general fund and may be expended for any  
12 purposes of the City.

13  
14 Section 6. The San Francisco Business and Tax Regulations Code is hereby amended  
15 by amending Sections 6.1-1, 6.2-14, 6.2-16, 6.7-1, 6.9-5 and 6.10-1, and by adding Sections  
16 6.2-2, 6.2-4, 6.2-5, 6.2-9, 6.2-13, 6.2-17 and 6.2-19, of Article 6 (Common Administrative  
17 Provisions) thereof, to read as follows:

18  
19 SEC. 6.1-1. COMMON ADMINISTRATIVE PROVISIONS. (a) Except where the  
20 specific language of the ~~Part III of the Municipal Code~~ Business and Tax Regulations Code or  
21 context otherwise requires, these common administrative provisions shall apply to Articles 6,  
22 7, 9, 10, 10A, 11, 12, 12-A, 12-A-1 and 12-B of ~~Part III of the Municipal Code~~ such Code.

23 (b) Unless expressly provided otherwise, all ~~All~~ statutory references in this Article and  
24 the Articles set forth in Subsection (a) shall refer to such statutes as amended from time to time  
25 and shall include successor provisions. For purposes of collecting the Emergency Response Fee

1 under Article 10A, any ~~Any~~ reference to a "tax" in this Article shall include the Emergency  
2 Response Fee ~~of Article 10A~~ where appropriate.

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

6  
7 SEC. 6.2-2. AGENT. The term "agent" means an agent as that term is defined in Title 9,  
8 Chapter 1, Article 1 of the Civil Code of the State of California (Sections 2295 et seq.), and includes,  
9 without limitation, an actual agent, ostensible agent, general agent, or special agent.

10  
11  
12 SEC. 6.2-4. ASSOCIATION. The term "association" includes a partnership, limited  
13 partnership, limited liability company, limited liability partnership and any other form of  
14 unincorporated business or enterprise (except a sole proprietorship).

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

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

8  
9           SEC. 6.2-13. NEXUS; ENGAGING IN BUSINESS WITHIN THE CITY. (a) The taxes imposed  
10 by Article 12-A (Payroll Expense Tax Ordinance) and Article 12-A-1 (Gross Receipts Tax Ordinance),  
11 and the registration fee imposed by Article 12 (Business Registration Ordinance), shall apply to any  
12 person engaging in business within the City unless exempted therefrom under such Articles. A person  
13 is "engaging in business within the City" if that person meets one or more of the following conditions:

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

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

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

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

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

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

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

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

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

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

15  
16           SEC. ~~6.2-10~~ 6.2-14. OPERATOR. The term "operator" ~~shall~~ mean any person  
17 operating conducting or controlling a business subject to the tax on transient occupancy of hotel  
18 rooms or the tax on occupancy of parking spaces in parking stations in the City ~~and County of~~  
19 ~~San Francisco~~, including, but not limited to, the owner or proprietor of such premises, lessee,  
20 sublessee, mortgagee in possession, licensee or any other person otherwise ~~operating~~  
21 conducting or controlling such business. "Operator" shall also include any person ~~operating~~  
22 conducting or controlling a business subject to the stadium operator occupancy tax in the City  
23 ~~and County of San Francisco~~, as well as any service supplier required to collect the utility users  
24 tax under Article 10 or the emergency response fee under Article 10A ~~of Part III of the~~  
25 ~~Municipal Code~~.

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

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

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



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

5  
6           SEC. 6.2-19. SUCCESSOR. The term "successor" means any person who, through direct or  
7 mesne conveyance, purchases or succeeds to the business or portion thereof, or the whole or any part  
8 of the stock of goods, wares, merchandise, fixtures or other assets, or any interest therein of a taxpayer  
9 quitting, selling out, exchanging or otherwise disposing of his or her business. Any person obligated to  
10 fulfill the terms of a contract shall be deemed a successor to any contractor defaulting in the  
11 performance of any contract as to which such person is a surety or guarantor.

12  
13           SEC. 6.7-1. COLLECTION OF THIRD-PARTY TAXES. (a) Every operator receiving  
14 payment of charges from a customer shall collect the amount of the third party tax imposed by  
15 Part III of the Municipal Code from the customer. All amounts of third party tax so collected shall  
16 be held to be a special fund in trust for the City. For purposes of this Section, "operator" shall have  
17 the meaning set forth in Section 6.2-10, except that a person who otherwise qualifies as an  
18 operator as herein defined under Section 6.2-14 shall not, by reason of the fact that he or she the  
19 person is was exempt from payment of the tax, be exempted from the other obligations of an  
20 operator, including without limitation the obligation to collect and remit to the City all third party  
21 taxes collected from non-exempt customers hereunder.

22           Further, where the Where an operator under this Section is exempt from the tax but at its  
23 tenant is not exempt, the non-exempt tenant shall be deemed to be an operator and shall be  
24 liable for the tax. Where a customer is not the end user of a good or service subject to such  
25

1 tax, the customer ~~in turn~~ shall be deemed an operator ~~or service provider for purposes of Part III~~  
2 ~~of the Municipal Code.~~

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

8 (c) Where a customer receives more than one billing, one or more being for  
9 different periods than another, the duty to collect shall arise separately for each billing period.  
10 In all cases of transactions upon credit or deferred payment, the payment of tax to the Tax  
11 Collector may be deferred in accordance therewith, and the operator shall be liable therefor at  
12 the time and to the extent that such credits are paid or deferred payments are made in  
13 accordance with the rate of tax owing on the amount thereof.

14 (d) Any third party tax ~~required to be paid by a~~ imposed upon customer~~s~~ ~~under the~~  
15 ~~provisions of Part III of the Municipal Code~~ shall be deemed a debt owed by the customer to the  
16 City ~~and County~~. Any such tax required to be collected from ~~a~~ customer~~s~~ which has not been  
17 remitted to the Tax Collector shall be deemed a debt owed to the City by the person required  
18 to collect and remit such tax to the City.

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

24 (f) The Tax Collector may require operators under this Section to maintain separate  
25 trust accounts for taxes collected from customers. The Tax Collector ~~shall~~ may adopt rules

1 and regulations prescribing, among other things, when such accounts shall be required and  
2 how such accounts shall be maintained.

3 (g) When third-party taxes are not paid when due, or when there is any deficiency  
4 determination ~~or jeopardy determination of a deficiency in tax~~ against an operator for third-party  
5 taxes, the Tax Collector may collect said liabilities, including interest and penalties accrued  
6 through the date of payment, from any person~~s~~ the Tax Collector determines ~~had charge of the~~  
7 ~~affairs of the operator and wilfully failed to remit said tax when due~~ was responsible for performing the  
8 acts of collecting, accounting for, and remitting third party taxes to the City and failed to do so. For  
9 purposes of this Section, a person shall be considered to responsible for performing the acts of  
10 collecting, accounting for, and remitting third party taxes to the City if and to the extent such person  
11 has the power to control the financial decision-making process by which the operator allocates funds to  
12 creditors in preference to the operator's obligation to remit third party taxes to the City. When the  
13 person responsible for the acts of collecting, accounting for, and remitting third party taxes to the City  
14 cannot otherwise be determined, there shall be a rebuttable presumption that the President and Chief  
15 Financial Officer of a corporation or any managing partner or member of an association is the person  
16 responsible for performing such acts. The liability of such persons shall be joint and several with  
17 each other and with the operator, and shall be established in the manner provided for under  
18 this Article for other determinations.

19  
20 SEC. 6.9-5. DETERMINATIONS, RETURNS AND PAYMENTS; CREDITS AND  
21 EXEMPTIONS. The credits and exemptions set forth in Articles 7, 9, 10, 10A, 11, 12, 12-A and  
22 12-A-1 12-B of Part III of the Municipal Code are provided on the assumption that the City has  
23 the power to offer ~~the~~ such credits and exemptions ~~as provided under current law~~. If ~~the~~ a credit or  
24 exemption is invalidated by a court of competent jurisdiction, the taxpayer must pay any  
25 additional ~~tax~~ amount that ~~he or she~~ the taxpayer would have owed ~~if the credit had not been~~

1 ~~elaimed but for such invalid credit or exemption. Repayment of such additional amounts~~ Amounts  
2 owed as a result of the invalidation of a credit or exemption that are paid ~~made~~ within three years  
3 after the decision of the court becomes final shall not be subject to interest or penalties ~~on that~~  
4 ~~basis.~~

5  
6 SEC. 6.10-1. COLLECTION OF TAX; SECURITY. The Tax Collector, whenever he or  
7 she deems it necessary to insure compliance with ~~Part III of the Municipal~~ the Business and Tax  
8 Regulations Code, may require any person subject thereto to deposit with the Tax Collector  
9 such security as the Tax Collector may determine. The amount of the security shall be fixed  
10 by the Tax Collector, but shall not be greater than twice the person's estimated average  
11 liability for the period for which said person files returns, determined in such manner as the  
12 Tax Collector deems proper, ~~but not to exceed \$50,000.~~ The amount of the security may be  
13 increased or decreased by the Tax Collector subject to the limitations herein provided. The  
14 Tax Collector may sell the security at public auction if it becomes necessary so to do in order  
15 to recover any tax or any amount required to be collected and remitted to the City, interest, or  
16 penalty due. Notice of the sale ~~may~~ shall be served upon the person who deposited the  
17 security and upon the taxpayer, if different, personally or by mail; if by mail, service shall be  
18 made in the manner prescribed for service of a notice of a deficiency determination as set out  
19 in Section 6.11-2 herein, and shall be addressed to the person at said person's address as it  
20 appears in the records of the Tax Collector. Upon any sale, any surplus above the amounts  
21 due shall be returned to the person who deposited the security.

22  
23 Section 7. The San Francisco Business and Tax Regulations Code is hereby amended  
24 by amending Section 501 of Article 7 (Tax on Transient Occupancy of Hotel Rooms) thereof,  
25 to read as follows:

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. 501. ADDITIONAL DEFINITIONS. When used in this Article the following terms shall mean or include:

(a) "Operator." Any person operating a hotel in the City and County of San Francisco, including, but not limited to, the owner or proprietor of such premises, lessee, sublessee, mortgagee in possession, licensee or any other person otherwise operating such hotel.

(b) "Occupant." A person who, for a consideration, uses, possesses, or has the right to use or possess any room in a hotel under any lease, concession, permit, right of access, license to use or other agreement, or otherwise.

(c) "Occupancy." The use or possession, or the right to the use or possession of any room or apartment in a hotel or the right to the use or possession of the furnishings or to the services and accommodations accompanying the use and possession of the room.

(d) "Hotel." Any structure, or any portion of a structure, including any lodginghouse, roominghouse, dormitory, Turkish bath, bachelor hotel, studio hotel, motel, auto court, inn, public club, or private club, containing guest rooms and which is occupied, or is intended or designated for occupation, by guests, whether rent is paid in money, goods, labor, or otherwise. It does not include any jail, hospital, asylum, sanitarium, orphanage, prison, detention, or other building in which human beings are housed and detained under legal restraint.

(e) "Guest Room." A room occupied, or intended, arranged, or designed for occupation, by one or more occupants. Every 100 square feet of superficial floor area in a dormitory is a guest room.

(f) "Rent." The consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits, and property or services

1 of any kind or nature, and also the amount for which credit is allowed by the operator to the  
2 occupant, without any deduction therefrom whatsoever.

3 (g) "Permanent Resident." Any natural person who, as an occupant, as of a given  
4 date, ~~who~~ has or shall have occupied, or has or shall have the right of occupancy, of any guest  
5 room in a hotel for at least 30 consecutive days next preceding such date.

6  
7 Section 8. The San Francisco Business and Tax Regulations Code is hereby amended  
8 by amending Section 606 of Article 9 (Tax on Occupancy of Parking Space in Parking  
9 Stations) thereof, to read as follows:

10

11 SEC. 606. ADDITIONAL EXEMPTIONS. No tax shall be imposed hereunder:

12 (1) On the rent for any occupancy or parking space in parking stations  
13 wherein the rent for such occupancy is paid by the deposit of a coin or coins in a  
14 parking meter owned or operated by the City ~~and County~~ and located adjacent to said  
15 parking space;

16 ~~(2) — On the rent for any occupancy of parking space in parking stations which are a~~  
17 ~~part of residential or hotel premises, provided the occupant of said parking space is a resident~~  
18 ~~or a registered guest of said premises;~~

19 ~~(3) — On the rent for any occupancy of parking space by registered hotel guests in~~  
20 ~~parking stations not located on the hotel premises if no charge is made to the registered guest~~  
21 ~~or if such charge is added to the room bill of the registered guest and paid by him to the hotel,~~  
22 ~~provided that proper records are maintained by both the hotel and the operator which~~  
23 ~~accurately reflect such exemption parking activity;~~

24 (4 2) On the rent for any occupancy of parking space in parking stations where:

25

1 (a) The motor vehicle occupying said parking space is owned by an  
2 individual person who is on active duty in some branch of the United States  
3 military service; and

4 (b) The motor vehicle is stored for not less than 75 days; provided that  
5 the operator submits, at the time the return required by this ordinance is due, a  
6 declaration under penalty of perjury, a form to be furnished by the Tax Collector,  
7 verifying the facts necessary for this exemption.

8 Section 9. The San Francisco Business and Tax Regulations Code is hereby amended  
9 by repealing Sections 902.1, 902.2, 902.4, 902.5 and 905, and by amending Section 907, of  
10 Article 12-A (Payroll Expense Tax Ordinance) thereof, to read as follows:  
11

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

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

21 ~~A person shall be deemed to be engaged in business, who, in return for rental income, rents,~~  
22 ~~leases or hires real or personal property to others; provided, however, that a person who receives~~  
23 ~~rental income in connection with the operation of a cooperative housing corporation, as defined in~~  
24 ~~Section 17265 of the Revenue and Taxation Code, or in connection with the operation of a residential~~  
25

1 ~~condominium shall not, by reason of that fact alone, be deemed to be engaged in business. A person~~  
2 ~~shall not be deemed to be engaged in business solely by reason of dividend or interest income from~~  
3 ~~passive investments.~~

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

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

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



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

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

8           ~~(b) — Return: Time for Filing. Each person subject to the tax imposed by this ordinance, and~~  
9           ~~any persons who would be subject to tax imposed by this ordinance, but for the provisions of Section~~  
10           ~~905-A (Small Business Exemption) shall, on or before the last day of February of each year and~~  
11           ~~concurrently with the payment of any tax herein imposed, make and file with the Tax Collector, on a~~  
12           ~~form obtainable from the Tax Collector, a return for the preceding calendar year setting forth such~~  
13           ~~information as the Tax Collector shall require, including (unless the Tax Collector waives the need to~~  
14           ~~furnish same) the taxpayer's payroll expense for each individual performing work or rendering~~  
15           ~~services, in whole or in part, in the City and County of San Francisco, together with that portion of the~~  
16           ~~taxpayer's payroll expense for each such individual attributable to the City and County of San~~  
17           ~~Francisco, plus the aggregate amount of the taxpayer's payroll expense for all such individuals~~  
18           ~~attributable to the City and County of San Francisco, plus such other pertinent information as the Tax~~  
19           ~~Collector may require.~~

20           ~~(c) — Prepayments. Notwithstanding the date otherwise provided for herein for the payment of~~  
21           ~~the tax due hereunder, every person who, for any calendar year commencing with 1973, becomes liable~~  
22           ~~for payment of a total Payroll Expense Tax in excess of \$1,000, shall be required to make tax payment~~  
23           ~~for the following calendar year in two installments; provided however that, for any calendar year~~  
24           ~~commencing with 1982 and ending with 1993, no person shall be required to make tax payment for the~~  
25

1 following calendar year in two installments unless said person becomes liable for payment of a total  
2 Payroll Expense Tax in an amount which exceeds \$2,500.

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

21 (d) — Large Firm Prepayments. Notwithstanding the dates otherwise provided for herein for  
22 the payment of the tax due hereunder, commencing January 1, 1994, each person subject to the tax  
23 imposed by this Article with a total tax liability of \$50,000 or more in the preceding year shall be  
24 required to make tax payment for the taxes due on the last day of February of the following year in four  
25 quarterly installments. The first, second and third quarterly installments ("quarterly prepayments"),

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

19 ~~(e) — Extension of Time for Filing a Return and Paying Tax. Notwithstanding the dates~~  
20 ~~provided for herein for the payment of tax due hereunder, the Tax Collector hereby is authorized for a~~  
21 ~~good cause, to grant extensions not in excess of 60 days, for the payment of such tax or prepayment and~~  
22 ~~for the making of such return, in which case no penalty shall be added to the amount due and payable~~  
23 ~~if, and only if, said tax is paid within the extension period granted by the Tax Collector; provided,~~  
24 ~~however, that all taxes and tax prepayments required to be paid which become delinquent, shall bear~~  
25 ~~interest beginning with the first day of delinquency to the date of return and payment at the rate of one~~

1 ~~percent per month, or fraction thereof, notwithstanding the granting of an extension by the Tax~~  
2 ~~Collector.~~

3 Section 10. The San Francisco Business and Tax Regulations Code is hereby  
4 amended by amending Sections 852, 852.4, 852.7, 852.8, 852.9, 853, 856 and 860, and by  
5 repealing Sections 852.1, 852.2, 852.3, 852.5, 852.6, 852.10, 852.11 and 854, of Article 12  
6 (Business Registration Ordinance) thereof, to read as follows:  
7

8 SEC. 852. OPERATION OF DEFINITIONS. Except where the context otherwise  
9 requires, (i) the terms used in this Article shall have the meanings given to them in Sections  
10 852.1 through ~~852.9~~ 852.4, inclusive, of this Article, and (ii) terms ~~Terms~~ not defined in this  
11 Article that are defined in Article 6 of the Business and Tax Regulations Code shall have the  
12 same meaning as given to them in that Article.  
13

14 ~~SEC. 852.1. "BUSINESS." The term "business" means any activity, enterprise, profession,~~  
15 ~~trade or undertaking of any nature conducted or engaged in, or ordinarily conducted or engaged in,~~  
16 ~~with the object of gain, benefit or advantage, whether direct or indirect, to the taxpayer or to another~~  
17 ~~or others. The term "business" includes nonprofit businesses, trade associations and subsidiary or~~  
18 ~~independent entities which conduct operations for the benefit of others and at no profit to themselves.~~  
19 ~~The term "business" also includes an organization having a formally recognized exemption from~~  
20 ~~income taxation pursuant to Section 501(c), 501(d) or 401(a) of Title 26 of the United States Code, as~~  
21 ~~amended from time to time, as qualified by Sections 502, 503, 504 and 508 of Title 26 of the United~~  
22 ~~States Code, as amended from time to time, or the successor statutes of any of them.~~  
23

24 ~~SEC. 852.2. "CITY." The term "City" means the City and County of San Francisco.~~  
25

1  
2           ~~SEC. 852.3. "DOMESTIC PARTNERSHIPS." For all purposes of this ordinance, a domestic~~  
3 ~~partnership established pursuant to Chapter 62 of the San Francisco Administrative Code, as amended~~  
4 ~~from time to time, shall be treated the same as a married couple.~~

5  
6           SEC. ~~852.4~~ 852.1. NEWLY ESTABLISHED BUSINESS. (a) The term "newly  
7 established business" means a business that was not conducted within the City during the  
8 immediately preceding tax year. The following shall not be considered newly established  
9 businesses:

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

12           (2) A business conducted from a new location, whether within or without the  
13 City, if the business conducted at the location used during the preceding tax year was  
14 discontinued prior to or concurrently with commencement of business at the new  
15 location.

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

18           (b) The Tax Collector may, on written application by the taxpayer, and after  
19 considering all the facts and circumstances, determine that a business described in  
20 Subsection (a) of this Section is in fact newly established and not a continuation of a business  
21 conducted within the City during the immediately preceding tax year.

22  
23           ~~SEC. 852.5. "PAYROLL EXPENSE TAX ORDINANCE"; "PAYROLL EXPENSE TAX."~~  
24 ~~"Payroll Expense Tax Ordinance" means Article 12-A of the Business and Tax Regulations Code of the~~  
25 ~~San Francisco Municipal Code; "Payroll Expense Tax" means the tax imposed thereunder.~~

1  
2           ~~SEC. 852.6. "PERSON." (a) The term "person" means any individual, firm, company,~~  
3 ~~partnership, limited liability partnership, joint venture, association, proprietorship, social club,~~  
4 ~~fraternal organization, joint stock company, domestic or foreign corporation, limited liability company,~~  
5 ~~estate, trust, business trust, receiver, trustee, trustee in bankruptcy, administrator, executor, assignee,~~  
6 ~~syndicate, or any other group or combination acting as a unit, whether mutual, cooperative, fraternal,~~  
7 ~~nonprofit or otherwise, excepting: the United States of America, the State of California, and any~~  
8 ~~political subdivision of either of them upon which the City is without authority to impose the business~~  
9 ~~registration requirements provided in this Article.~~

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

18  
19           ~~SEC. 852.7~~ 852.2. REGISTRATION CERTIFICATE. The term "registration certificate"  
20 means a registration certificate issued by the Tax Collector in accordance with the provisions  
21 of this Article.

22  
23           ~~SEC. 852.8~~ 852.3. REGISTRATION TRANSITION PERIOD. The term "Registration  
24 Transition Period" means the six-month period commencing January 1, 2003, and ending  
25 June 30, 2003.

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

5  
6 ~~SEC. 852.10. "SUCCESSOR." The term "successor" means any person who, through direct or~~  
7 ~~mesne conveyance, purchases or succeeds to the business or portion thereof, or the whole or any part~~  
8 ~~of the stock of goods, wares, merchandise, or fixtures, or any interest therein of a taxpayer quitting,~~  
9 ~~selling out, exchanging or otherwise disposing of his or her business. Any person obligated to fulfill~~  
10 ~~the terms of a contract shall be deemed a successor to any contractor defaulting in the performance of~~  
11 ~~any contract as to which such person is a surety or guarantor.~~

12  
13 ~~SEC. 852.11. "TAX YEAR." The term "tax year" means the year commencing on January 1st of~~  
14 ~~each calendar year ending on December 31st of the same calendar year.~~

15  
16 SEC. 853. REGISTRATION CERTIFICATE - REQUIRED. (a) Except as provided in  
17 Subsection (d), no ~~No~~ person may engage in business within the City unless the person has  
18 obtained a current registration certificate pursuant to this Article. Every person engaging in  
19 business within the City shall conspicuously display a current registration certificate on the  
20 business premises, regardless of whether such person is subject to tax pursuant to ~~Article 12-~~  
21 ~~A of the provisions of the~~ Business and Tax Regulations Code.

22 (b) Any organization having a formally recognized exemption from income taxation  
23 pursuant to Section 501(c), 501(d) or 401(a) of ~~Title 26 of the United States Code~~ the Internal  
24 Revenue Code of 1986, as amended ~~from time to time~~, as qualified by Sections 502, 503, 504 and  
25 508 of ~~Title 26 of the United States Code~~ the Internal Revenue Code of 1986, as amended ~~from time~~



1 ~~to time, or the successor statutes of any of them,~~ and engaging in business within the City shall  
2 obtain a registration certificate.

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

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

10  
11 ~~SEC. 854. NEXUS: "ENGAGING IN BUSINESS WITHIN THE CITY." (a) The registration~~  
12 ~~requirements imposed by this Article shall apply to any person engaging in business within the City. A~~  
13 ~~person is "engaging in business within the City," within the meaning of this Article, if that person meets~~  
14 ~~one or more of the following conditions:~~

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

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

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

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

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

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

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

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

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

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

10                  (b) — ~~Notwithstanding Subsection (a) of this Section, a person receiving rental income in~~  
11                  ~~connection with the operation of any of the following shall not, by reason of that fact alone, be deemed~~  
12                  ~~to be engaging in business within the City: (1) a cooperative housing corporation, as defined in Section~~  
13                  ~~216(b) of Title 26 of the United States Code, as amended from time to time, or any successor statute;~~  
14                  ~~(2) a residential structure consisting of fewer than four units; or (3) a residential condominium.~~

15                  (c) — ~~A person shall not be considered to be engaging in business within the City solely by~~  
16                  ~~reason of the receipt of passive investment income. "Passive investment income" for this purpose~~  
17                  ~~includes dividends, interest, royalties, annuities and gains from the sale or exchange of stock or~~  
18                  ~~securities solely for a person's own account, not derived in the ordinary course of a business.~~

19  
20                  SEC. 856. REGISTRATION CERTIFICATE - APPLICATION AND ISSUANCE. (a)

21                  Each person engaging in business within the City shall apply to the Tax Collector, on a form  
22                  prescribed by the Tax Collector, for a registration certificate. The application shall be  
23                  accompanied by the person's registration fee as determined under this Article. To ease  
24                  administrative burdens on taxpayers (by consolidating the deadlines to file annual tax returns  
25                  and apply for renewal of registration certificates), the term of registration certificates shall be

1 changed from the calendar year basis to a fiscal year basis. The purpose of Subsections (b)  
2 through (e) of this Section is to facilitate such change and shall be interpreted in accordance  
3 with this purpose.

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

11 (c) To accomplish the change from the calendar year registration period to a fiscal  
12 year registration period, there shall be a Registration Transition Period commencing January  
13 1, 2003, and ending June 30, 2003. A registration certificate issued for the Registration  
14 Transition Period shall be valid through June 30, 2003. Except as provided in Subsection (f)  
15 of this Section, any person engaging in business within the City during the calendar year  
16 preceding the Registration Transition Period shall, before October 31, 2002, apply to the Tax  
17 Collector for a registration certificate covering the Registration Transition Period. The  
18 application for renewal of the registration certificate covering the Registration Transition  
19 Period shall become delinquent if the registration fee is not paid on or before October 31,  
20 2002. Except as provided in Subsection (f) of this Section, the fee for a registration certificate  
21 covering the Registration Transition Period shall be 50 percent of the amount of the annual  
22 registration fee otherwise applicable under Section 855 of this Article.

23 (d) Any person engaging in business within the City during the Registration  
24 Transition Period shall, between January 1 and February 28, 2003, apply to the Tax Collector  
25 for a registration certificate for the succeeding registration year (commencing July 1, 2003,

1 and ending June 30, 2004). The application for renewal of such certificate shall become  
2 delinquent if not paid on or before February 28, 2003.

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

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

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

18 (2) For the tax year ending on December 31, 2002, the fee for obtaining a  
19 registration certificate for a newly established business shall be determined pursuant to  
20 Section ~~905~~ 855 of this Article using the estimated Payroll Expense Tax liability for such  
21 tax year. The registration fee for any person who commences business operations  
22 within the City during such tax year shall be prorated as follows: For persons  
23 commencing business between January 1st and March 31st, the registration fee shall  
24 be 100 percent of the annual fee; for persons commencing business between April 1st  
25 and June 30th, the registration fee shall be 75 percent of the annual fee; for persons

1 commencing business between July 1st and September 30th, the registration fee shall  
2 be 50 percent of the annual fee; and for persons commencing business between  
3 October 1st and December 31st, the registration fee shall be 25 percent of the annual  
4 fee. Where a registration certificate is issued for a period other than for a calendar  
5 year, the Tax Collector shall have discretion to prorate the registration fee in  
6 accordance with this model.

7 (3) For the Registration Transition Period, the fee for obtaining a registration  
8 certificate for a newly established business shall be determined pursuant to Section ~~905~~  
9 855 of this Article using the applicant's estimated tax liability under Article 12-A (Payroll  
10 Expense Tax Ordinance) and Article 12-A-1 (Gross Receipts Tax Ordinance) for the 2003  
11 tax year. For any person who commences business operations within the City on or  
12 after January 1, 2003, and before April 1, 2003, the registration fee shall be as set forth  
13 in Subsection (c) of this Section. For any person who commences business operations  
14 within the City on or after April 1, 2003, and before July 1, 2003, the registration, fee  
15 shall be 25 percent of the amount of the annual registration fee otherwise applicable  
16 under Section ~~905(a)~~ 855(a) of this Article.

17 (4) For registration years commencing on or after July 1, 2003, the fee for  
18 obtaining a registration certificate for a newly established business shall be determined  
19 pursuant to Section ~~905~~ 855 of this Article using the applicant's estimated tax liability  
20 under Article 12-A (Payroll Expense Tax Ordinance) and Article 12-A-1 (Gross Receipts Tax  
21 Ordinance) liability for the tax year in which the person commences such business  
22 within the City. The registration fee for persons who commence business operations  
23 after the Registration Transition Period shall be prorated as follows: For persons  
24 commencing business between January 1st and March 31st, the registration fee shall  
25 be 50 percent of the annual fee; for persons commencing business between April 1st

1 and June 30th, the registration fee shall be 25 percent of the annual fee; for persons  
2 commencing business between July 1st and September 30th, the registration fee shall  
3 be 100 percent of the annual fee; and for persons commencing business between  
4 October 1st and December 31st, the registration fee shall be 75 percent the annual fee.  
5 Where a registration certificate is issued for a period other than for a registration year,  
6 the Tax Collector shall have discretion to prorate the registration fee in accordance with  
7 this model.

8 (5) Notwithstanding any other provision of this Article, no person obtaining a  
9 registration certificate for a newly established business that qualifies for the \$25  
10 minimum registration fee set forth in Section ~~905~~ 855 of this Article shall be entitled to  
11 prorate the registration fee under this Section, but instead shall pay the \$25 minimum  
12 registration fee.

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

16 (h) Promptly after receiving a properly completed application and registration fee  
17 from any person, the Tax Collector shall determine whether the applicant has paid all  
18 outstanding: (1) Payroll Expense Taxes and/or Gross Receipts Taxes, as the case may be; (2)  
19 costs and/or charges assessed pursuant to Section 174.2 of Article 5.1 of the Public Works  
20 Code, as amended from time to time, for failure to abate a nuisance regarding the cleanliness  
21 of an abutting public sidewalk or right-of-way, and (3) other taxes and license fees due to the  
22 City. In addition, the Tax Collector may investigate whether the applicant has paid other  
23 amounts owing to the City as a result of fines, penalties, interest, assessments, or any other  
24 financial obligations imposed by law, regulation or contract. If the Tax Collector determines  
25

1 that all liabilities have been paid, the Tax Collector shall issue a registration certificate to the  
2 applicant for each place of business maintained by the applicant.

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

8 (j) Each registration certificate shall be nonassignable and nontransferable, except  
9 in cases in which the business is transferred, whether by sale or otherwise, to another person  
10 or legal entity and the ultimate beneficial ownership of the business, both before and after the  
11 transfer, is substantially the same. For purposes of this Section, shareholders, partners, or  
12 other persons holding a direct or indirect interest in a legal entity shall be deemed to be the  
13 ultimate beneficial owners of such legal entity. Except as provided above, the holder of the  
14 registration certificate shall surrender the certificate to the Tax Collector immediately upon the  
15 sale or transfer of the business for which the Tax Collector issued the registration certificate.  
16 The holder of the registration certificate shall also surrender the certificate to the Tax Collector  
17 when such holder ceases to conduct business at the location designated in the certificate.

18 (k) If the Tax Collector determines that any liabilities enumerated in Subsection (h)  
19 of this Section remain unpaid as of the date an application is received, the Tax Collector shall  
20 give written notification of that fact to the applicant. The written notification shall set forth the  
21 amount owed, the liabilities enumerated in Subsection (h) of this Section for which the  
22 amount(s) are owed, the dates the liabilities were incurred and any other information the Tax  
23 Collector deems necessary to apprise the applicant of what specific liabilities are owed to the  
24 City. The Tax Collector shall not issue a registration certificate unless and until the applicant  
25 has paid all amounts owing to the City, including but not limited to, taxes, license fees, and

1 costs or charges assessed for failure to abate a nuisance condition on a public right-of-way  
2 under Section 174.2 of Article 5.1 of the Public Works Code, as amended from time to time,  
3 for which the applicant is liable; provided, that if a good faith dispute exists regarding the  
4 amount of the outstanding liability or liabilities owed by the applicant to the City and the  
5 dispute is pending before a City agency or court of competent jurisdiction, then the Tax  
6 Collector shall not refuse to issue a registration certificate solely for non-payment of the  
7 amount in dispute.

8 (l) Each registration certificate, and each duplicate thereof, shall set forth the name  
9 under which the person transacts or intends to transact business, the location of the  
10 registrant's place of business and such other information as the Tax Collector may require,  
11 and be prominently displayed therein. In the case of a sole proprietorship, the registration  
12 certificate shall be signed by the sole proprietor; in the case of a partnership, the registration  
13 certificate shall be signed by a general partner; in the case of a limited liability company, the  
14 registration certificate shall be signed by the managing member; and in the case of a  
15 corporation, the registration certificate shall be signed by the person authorized by the  
16 corporation to sign on its behalf.

17 (m) Each person liable for payment of a registration fee pursuant to this Article shall  
18 only pay one registration fee; however, the Tax Collector shall issue a separate registration  
19 certificate for each location within the City where the person engages in business.  
20

21 SEC. 860. REGISTRATION CERTIFICATE - SUSPENSION AND REVOCATION. If a  
22 person fails to comply with any provision of this Article or any rule or regulation adopted  
23 pursuant thereto, the Tax Collector, after giving such person 10 business days' notice in  
24 writing specifying the time and place of the hearing and requiring such person to show cause  
25 why his or her registration certificate or registration certificates should not be revoked, may



1 revoke or suspend any one or more of the registration certificates held by such person. The  
2 notice shall be served in the same manner prescribed for the service of a notice of a  
3 deficiency determination under Article 6 ~~of the Business and Tax Regulations Code~~. The Tax  
4 Collector shall not issue a new registration certificate after the revocation of a registration  
5 certificate unless the registrant complies with the provisions of ~~this Article and Articles 6 and 12-~~  
6 ~~A~~ of the Business and Tax Regulations Code and the rules and regulations adopted  
7 thereunder.

8 Section 11. The San Francisco Business and Tax Regulations Code is hereby  
9 amended by amending Sections 6.2-6, 6.2-7, 6.2-8, 6.2-12, 6.2-18, 6.2-20, 6.2-22, 6.3-1, 6.4-  
10 1, 6.5-1, 6.5-2, 6.6-1, 6.7-2, 6.8-1, 6.9-1, 6.9-2, 6.9-3, 6.9-4, 6.9-6, 6.10-2, 6.10-3, 6.11-1,  
11 6.11-2, 6.11-3, 6.11-4, 6.12-1, 6.12-5, 6.13-1, 6.13-2, 6.13-3, 6.13-4, 6.14-1, 6.15-1, 6.15-3,  
12 6.16-1, 6.17-1, 6.17-2, 6.17-3, 6.17-4, 6.17-5, 6.18-1, 6.18-3, 6.18-5, 6.18-7, 6.18-8, 6.19-1,  
13 6.19-3, 6.19-4, 6.19-5, 6.19-6, 6.19-9, 6.19-11, 6.20-1, 6.21-1, 6.22-1 and 6.23-1, by adding  
14 Sections 6.2-3, 6.2-10, 6.2-11, 6.2-15 and 6.2-21, and by repealing 6.14-2 and 6.14-3, of  
15 Article 6 (Common Administrative Provisions) thereof, to read as follows:  
16

17 SEC. 6.2-3. ARTICLE. The term "Article" followed by a number means such Article of the  
18 Business and Tax Regulations Code of the City and County of San Francisco Municipal Code.  
19

20 SEC. ~~6.2-7~~ 6.2-6. CITY; CITY AND COUNTY. The terms "City" and "City and County"  
21 ~~shall~~ mean the City and County of San Francisco.  
22

23 SEC. ~~6.2-6~~ 6.2-7. CONTROLLER. The term "Controller" ~~shall~~ mean s the Controller of  
24 the City and County of San Francisco, or his or her designee.  
25

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. ~~6.2-9~~ 6.2-8. DAY. The term "day" ~~shall~~ mean s 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 Regulations Code shall be a holiday, as defined in Chapter 7 (commencing with Section 6700) of Division 7 of Title 1 of the California Government Code, or a Saturday or Sunday, the act may be performed upon the next business day with the same effect as if it had been performed upon the day appointed. For purposes of this Section, the Friday in November immediately after Thanksgiving Day shall be considered a holiday.

SEC. 6.2-10. GROSS RECEIPTS TAX ORDINANCE; GROSS RECEIPTS TAX. "Gross Receipts Tax Ordinance" means Article 12-A-1; "Gross Receipts Tax" means the tax imposed thereunder.

SEC. 6.2-11. INDIVIDUAL. The term "individual" means a natural person, a human being, as distinguished from an artificial person such as a corporation or political subdivision.

SEC. ~~6.2-8~~ 6.2-12. MONTH. The term "month" ~~shall~~ mean s a calendar month.

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

SEC. ~~6.2-4~~ 6.2-18. RETURN. The term "return" ~~shall~~ mean s any written statement required to be filed pursuant to Articles 6, 7, 9, 10, 10A, 11, 12, 12-A, or 12-A-1 or 12-B of Part III of the Municipal Code.

1  
2 SEC. ~~6.2-5~~ 6.2-20. TAX COLLECTOR. The term "Tax Collector" *shall* means the Tax  
3 Collector of the City and County of San Francisco, or his or her designee.

4  
5 SEC. 6.2-21. TAX YEAR. The term "tax year" means the year commencing on January 1st of  
6 each calendar year ending on December 31st of the same calendar year.

7  
8 SEC. ~~6.2-11~~ 6.2-22. THIRD-PARTY TAXES. The term "third-party taxes" *shall* means  
9 the transient hotel occupancy tax (Article 7), the parking space occupancy tax (Article 9), *the*  
10 *stadium operator admission tax (Article 11)*, the utility users tax (Article 10) and the emergency  
11 response fee (Article 10A).

12  
13 SEC. 6.3-1. DUTIES OF THE TAX COLLECTOR. The Tax Collector shall collect and  
14 receive the taxes imposed by ~~Part III of the Municipal~~ the Business and Tax Regulations Code.  
15 The Tax Collector shall keep an accurate and separate account of all tax payments received  
16 by the Tax Collector, showing the name and address of the taxpayer and the date of the  
17 payments. The Tax Collector shall transmit all monies collected pursuant to ~~Part III of the~~  
18 ~~Municipal~~ the Business and Tax Regulations Code to the Treasurer for deposit to the general  
19 fund, unless otherwise provided by law.

20  
21 SEC. 6.4-1. RECORDS; INVESTIGATION; SUBPOENAS. (a) Every taxpayer shall  
22 keep and preserve such records for a period of seven years as may be necessary to  
23 determine the amount of tax for which ~~he or she~~ the person may be liable, including all local,  
24 state and federal tax returns of any kind. The Tax Collector shall have the right to inspect,  
25 examine, and copy such records at any time during normal business hours. Refusal to allow

1 full inspection, examination or copying of such records shall subject the taxpayer to the  
2 penalties authorized ~~under~~ by law, including but not limited to Section 6.17-3. Where the  
3 taxpayer does not have the necessary records to determine liability under the ~~Municipal~~  
4 Business and Tax Regulations Code or fails to produce such records in a timely fashion, the Tax  
5 Collector may determine the taxpayer's liability based upon any information in the Tax  
6 Collector's possession or that may come into the Tax Collector's possession.

7 (b) The Tax Collector may order any persons, whether as taxpayers, ~~supposed~~  
8 alleged taxpayers, ~~or~~ witnesses, or custodian of records, to produce for inspection, examination  
9 and copying at the Tax Collector's office all books, papers and records which the Tax  
10 Collector believes may have relevance to enforcing compliance with the provisions of ~~Part III~~  
11 ~~of the Municipal~~ the Business and Tax Regulations Code, ~~and~~ The Tax Collector may ~~also~~ order  
12 the attendance before the Tax Collector of all persons, whether as taxpayers, ~~supposed~~ alleged  
13 taxpayers, ~~or~~ witnesses, or custodian of records, whom the Tax Collector believes may have  
14 any knowledge ~~thereof~~ of such books, papers and records. The Tax Collector may issue, and  
15 serve, subpoenas to carry out these provisions. As an alternative to production at the Tax  
16 Collector's office, the Tax Collector may agree to inspect, examine and copy the requested  
17 books, papers and records at the taxpayer's place of business or some other mutually  
18 acceptable location, and may require the taxpayer to reimburse the City for the Tax Collector's  
19 ordinary and reasonable expenses incurred in the inspection, examination and copying of  
20 such books, papers and records, including food, lodging, transportation and other related  
21 items, as appropriate.

22  
23 SEC. 6.5-1. REQUEST FOR FINANCIAL INFORMATION. (a) In addition to a  
24 subpoena issued pursuant to Section 6.4-1, the Tax Collector may, at his or her discretion,  
25 send any person, whether as taxpayer, ~~supposed~~ alleged taxpayer, ~~or~~ witnesses, or custodian of

1 records, a written request for financial information relevant to verifying, determining or  
2 redetermining any person's tax liability or tax-exempt status. "Financial information" shall  
3 include, but not be limited to, bank records, journals, ledgers and local, state and federal tax  
4 returns, and shall include ~~relevant~~ information regarding subsidiary, ~~or~~ related, affiliated,  
5 controlled or controlling persons in possession of information relevant to the Tax Collector's inquiry  
6 accounts. The request shall be mailed to the person's last known address as indicated in the  
7 Tax Collector's records.

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

14  
15 SEC. 6.5-2. PENALTIES FOR FAILURE TO FILE RESPONSE TO REQUEST FOR  
16 FINANCIAL INFORMATION. Any persons, including taxpayers, ~~supposed~~ alleged taxpayers, ~~or~~  
17 witnesses, or custodian of records, who fail to respond to ~~a~~ the Tax Collector's written request for  
18 financial information shall be subject to ~~the~~ any penalties provided by law, including but not  
19 limited to the penalties provided in Section 6.17-3.

20  
21 SEC. 6.6-1. ~~REGISTRATION FOR~~ CERTIFICATE OF AUTHORITY FOR THIRD-PARTY  
22 TAXES. (a) These additional provisions shall apply to operators under the transient hotel  
23 occupancy tax (Article 7), the parking space occupancy tax (Article 9), ~~and~~ the stadium  
24 operator admission tax (Article 11), ~~and to service providers under~~ the utility users tax (Article  
25 10) and the emergency response fee (Article 10A).

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

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

13 (d) Except as provided in Subsections ~~(e) and (f)~~, (g) and (h) below, the Tax  
14 Collector, within ~~10~~ 30 days after ~~such registration~~ the application is complete, shall issue without  
15 charge a separate certificate of authority to ~~each registrant~~ the operator to collect ~~the~~ third party  
16 taxes from ~~the~~ customers for each ~~place of business of such registrant~~ location at which the operator  
17 is required to collect such taxes. Each certificate shall state the location of the place of business  
18 to which it ~~is applicable~~ applies and shall be prominently displayed at ~~said place of business~~  
19 therein such location in plain view so as to be seen and come to the notice readily of all customers.  
20 ~~Such e~~ Certificates of authority shall may not be ~~nonassignable and nontransferable~~ assigned or  
21 transferred. ~~and~~ The operator shall ~~be surrendered~~ immediately surrender to the Tax Collector the  
22 certificate for that location upon the operator's cessation of business ~~by the operator or service~~  
23 provider at ~~the~~ that location ~~named~~ or upon the sale or transfer of the business.

24 (e) The holder of a certificate of authority to collect ~~the~~ parking ~~space occupancy~~ taxes  
25 under Article 9 shall remain presumptively liable for the collection of parking taxes at the

1 location named on the certificate, and for the reporting and remittance of such taxes to the  
2 Tax Collector, unless and until the holder of the certificate both (i) notifies the Tax Collector in  
3 writing that the holder has ceased to conduct a parking business at such location, and (ii)  
4 surrenders the certificate for that location to the Tax Collector.

5 (e.f) The Tax Collector may refuse to issue the certificate where, ~~Where~~ within the ~~10~~ 30-  
6 day period referred to in Subsection (d) above, the Tax Collector determines that the operator  
7 ~~or service provider~~, or any signatory to the ~~registration statement~~ application, or any person  
8 holding a 10 percent or greater legal or beneficial interest in said operator ("~~10% owner~~") ~~or~~  
9 ~~service provider~~, is not in compliance with any provision of Articles ~~6, 7, 9, 10, 10A, ~~or~~ 12, 12-~~  
10 ~~A or 12-A-1 of Part III of the Municipal Code, the Tax Collector may refuse to issue the certificate.~~  
11 ~~Solely for purposes of determining under this Section whether any such operator, signatory or 10%~~  
12 ~~owner is not in compliance with such Articles, the Tax Collector may disregard any corporation or~~  
13 ~~association owned or controlled, directly or indirectly, by any such operator, signatory or 10% owner~~  
14 ~~and consider such corporation or association's operations and liabilities to be conducted or owed,~~  
15 ~~respectively, by any one or more of such corporation or association's officers, directors, partners,~~  
16 ~~members or owners. For purposes of this Section, (i) the term "owned" means ownership of 50 percent~~  
17 ~~or more of the outstanding ownership interests in such corporation or association, and (ii) the term~~  
18 ~~"controlled" includes any kind of control, whether direct or indirect, whether legally enforceable, and~~  
19 ~~however exercisable or exercised over such corporation or association. A presumption of control~~  
20 ~~arises if the operator, signatory or 10% owner is (or was) an officer, director, partner or member of~~  
21 ~~such corporation or association.~~

22 (g) Further, if any person subject to this Section violates any provision of Articles 6,  
23 7, 9, 10, 10A, ~~or~~ 12, 12-A or 12-A-1, ~~or Part III of the Municipal Code~~ or a rule or regulation  
24 promulgated by the Tax Collector, including but not limited to failing to maintain accurate  
25 registration information, failure to ~~fine~~ sign any return or pay any tax when due, failure to timely

1 respond to any request for information, order for records or subpoena, or for any person  
2 subject to Article 9 ~~of the Tax Code~~ for failure to comply with the requirements of Article 49 of  
3 the Police Code, the Tax Collector may, after serving the ~~affected~~ person with written notice of  
4 his or her determination in the manner provided in Section 6.11-2 and an opportunity to be  
5 heard pursuant to the notice and review provisions of Sections 6.13-1 et seq. ~~and 6.14-1 et~~  
6 ~~seq.~~, revoke or suspend that person's ~~registration under this Section~~ certificate of authority. The  
7 Tax Collector may refuse to issue that person a new certificate of authority or to withdraw the  
8 suspension of an existing certificate until the person, signatory to the application for the  
9 certificate revoked or suspended, signatory to the application for a new certificate or withdrawal of the  
10 suspension, and all 10% owners have ~~seeking to re-register has~~ complied with the provisions of  
11 Articles 6, 7, 9, 10, 10A, 12, 12-A or 12-A-1 Part III of the Municipal Code and corrected the original  
12 violation to the satisfaction of the Tax Collector.

13 (f h) Before any certificate of authority shall be issued to any applicant to engage in  
14 the business of renting parking space in a parking station in this City ~~and County~~, such  
15 applicant shall file with the Tax Collector a bond, which shall run to the City at all times the  
16 applicant engages in such business ~~and County of San Francisco~~. For any parking station with  
17 annual gross receipts less than \$100,000, such bond shall be in the amount of \$5,000. For  
18 any parking station with annual gross receipts of \$100,000 or more, such bond shall be in the  
19 amount of \$25,000. Such bond shall be executed by the applicant as principal, and by a  
20 corporation or association which is licensed by the Insurance Commissioner of this State to  
21 transact the business of fidelity and surety insurance, as surety. The applicant shall keep the  
22 bond in full force and effect for the duration of the certificate of authority and all renewals thereof  
23 issued to such applicant.

24 The bond shall contain conditions that require the applicant to comply fully with all the  
25 provisions of ~~Part III of the San Francisco Municipal~~ Business and Tax Regulations Code



1 concerning the collection of third-party taxes from occupants of parking stations and the  
2 remittance of such taxes to the Tax Collector. The bond shall be payable to this City ~~and~~  
3 ~~County~~ in the amount of all unpaid parking taxes on amounts of taxable rents collected by the  
4 applicant, together with all interest, penalties, and costs applicable thereto; provided,  
5 however, that the aggregate liability of the surety for any and all claims which may arise under  
6 such bond shall in no event exceed the face amount of such bond regardless the amount due  
7 and owing to the City ~~and County~~. The City ~~and County~~ may bring an action upon the bond for  
8 the recovery of any unpaid parking taxes, interest, penalties and costs at any time prior to the  
9 expiration of the period of limitations applicable to the collection of such unpaid taxes by the  
10 Tax Collector.

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

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

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. The operator shall ~~transmit~~ file the return, together with  
8 remittance of the amount of tax due, to the Tax Collector, at the Tax Collector's office, on or  
9 before the date provided in this Section. Returns and remittances are due immediately upon  
10 cessation of business for any reason.

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

14  
15 SEC. 6.8-1. CITY, PUBLIC ENTITY AND CONSTITUTIONAL EXEMPTIONS. Nothing  
16 in ~~this~~ Articles 6, 7, 9, 10, 10A, 11, 12, 12-A, 12-A-1 shall be construed as imposing a tax upon:

17 (1) The City ~~and County~~;

18 (2) The State of California, or any county, municipal corporation, district or  
19 other political subdivision of the State, except where any constitutional or statutory  
20 immunity from taxation is waived or is not applicable;

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

1 (4) Any person when imposition of such tax upon that person would be in  
2 violation of the Constitution or statutes of the United States or the Constitution or  
3 statutes of the State of California.

4  
5 SEC. 6.9-1. DETERMINATIONS, RETURNS AND PAYMENTS; DUE DATE OF  
6 TAXES. Except for jeopardy determinations under Section 6.12-2, and subject to prepayments  
7 required under Section 6.9-2, all ~~All~~ amounts of taxes and fees imposed by ~~Part III of the~~  
8 ~~Municipal Code~~ Articles 6, 7, 9, 10, 10A, 11, 12-A and 12-A-1 are due and payable, and shall be  
9 delinquent if not paid to the Tax Collector on or before, the following dates as follows:

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

13 (b) For the ~~business payroll expense~~ tax (Article 12-A) and the ~~payroll expense gross~~  
14 ~~receipts~~ tax (Article ~~12-A-1 12-B~~), ~~on the first day of January of each year; the tax shall become~~  
15 ~~delinquent if not paid~~ on or before the last day of February of each year;

16 (c) For the utility users tax (Article 10) and the emergency response fee (Article  
17 10A), on or before the last day of the following month; and

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

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

22  
23 SEC. 6.9-2. DETERMINATIONS, RETURNS AND PAYMENTS; RETURNS. (a)  
24 Except as provided in paragraph (b) below, on or before the due date, or in the event of a  
25 cessation of business ~~as provided for in Section 6.7-2(e), or before the delinquency date where a~~

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

12 (b) With respect to each taxable year, the Tax Collector may ~~elect to~~ exempt from the  
13 annual tax return filing requirement those ~~certain~~ taxpayers whose ~~tax~~ liabilities under the Payroll  
14 Expense Tax Ordinance and Gross Receipts Tax Ordinance, computed without regard to the small  
15 business exemptions set forth in Section 905-A of Article 12-A and Section ~~1005.3~~ 1004.1 of  
16 Article ~~12-B~~ 12-A-1, are less than the Minimum Filing Amount ~~from the annual tax return filing~~  
17 ~~requirement otherwise applicable under Article 12-A and Article 12-B~~ for such taxable year. For  
18 purposes of this Section ~~6.9-2~~, the Minimum Filing Amount shall be an amount of tax liability,  
19 computed without regard to ~~the~~ such small business exemptions ~~set forth in Section 905-A of~~  
20 ~~Article 12-A and Section 1005.3 of Article 12-B~~, between zero and five hundred one thousand  
21 dollars (\$500.00 \$1,000). ~~For each taxable year, the~~ The Tax Collector shall specify the Minimum  
22 Filing Amount ~~for such~~ prior to the beginning of each tax year on or before the thirtieth day prior to  
23 ~~the first day of such year; provided, however, that the Tax Collector may specify the Minimum Filing~~  
24 ~~Amount at any time during the first taxable year within which this amendment becomes effective.~~  
25 ~~With respect to each taxable year thereafter, if~~ If the Tax Collector fails to specify a Minimum

1 Filing Amount ~~for such~~ prior to the start of a new taxable year, the Minimum Filing Amount for  
2 such taxable year shall be the Minimum Filing Amount for the preceding taxable year.

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

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

23 (2) Payroll Expense and Gross Receipts Taxes. The Payroll Expense Tax (Article 12-A)  
24 and Gross Receipts Tax (Article 12-A-1) shall be paid in biannual or quarterly installments as  
25 follows:

1                   (A) Small Firm Prepayments. Every person liable for payment of a total Payroll  
2                   Expense Tax or Gross Receipts Tax (or the combined total if subject to both taxes) in  
3                   excess of \$2,500 but less than \$50,000 for any tax year shall pay such tax(es) for the  
4                   following tax year in two installments. The first installment shall be due and payable,  
5                   and shall be delinquent if not paid on or before, August 1<sup>st</sup>. The first installment shall be  
6                   a credit against the person's total Payroll Expense Tax and/or Gross Receipts Tax  
7                   liability, as the case may be, for the tax year in which the first installment is due. The  
8                   first installment shall be in an amount equal to one-half (1/2) of the person's estimated  
9                   Payroll Expense Tax and/or Gross Receipts Tax liability, as the case may be, for such  
10                  tax year. The estimated liability shall be computed by using 52% of the person's taxable  
11                  payroll expense (as defined in Section 902.2 of Article 12-A) and/or gross receipts (as  
12                  defined in Sections 1003.1, 1003.2, 1003.3, 1003.4 and 1003.5 of Article 12-A-1), as the  
13                  case may be, for the preceding tax year, and the rate of tax applicable to the tax year in  
14                  which the first installment is due. The second installment shall be reported and paid on  
15                  or before the last day of February of the following year. The second installment shall be  
16                  in an amount equal to the person's total Payroll Expense Tax and/or Gross Receipts  
17                  liability, as the case may be, for the subject tax year, less the amount of the first  
18                  installment and other tax prepayments for such tax year, if any, actually paid.

19                  (B) Large Firm Prepayments. Every person liable for payment of a total Payroll  
20                  Expense Tax or Gross Receipts Tax (or the combined total if subject to both taxes) in  
21                  excess of \$50,000 for any tax year shall pay such tax(es) for the following tax year in  
22                  four quarterly installments. The first, second and third quarterly installments shall be  
23                  due and payable, and shall be delinquent if not paid on or before, May 1<sup>st</sup>, August 1<sup>st</sup>  
24                  and November 1<sup>st</sup>, respectively. The first, second and third quarterly installments shall  
25                  be a credit against the person's total Payroll Expense Tax and/or Gross Receipts Tax

1 liability, as the case may be, for the tax year in which such first, second and third  
2 quarterly installments are due. Such quarterly installments each shall be in an amount  
3 equal to one-quarter (1/4) of the person's estimated Payroll Expense Tax and/or Gross  
4 Receipts Tax liability, as the case may be, for such tax year. The estimated liability for  
5 such tax year shall be computed by using 104% of the person's taxable payroll expense  
6 (as defined in Section 902.2 of Article 12-A) and/or gross receipts (as defined in  
7 Sections 1003.1, 1003.2, 1003.3, 1003.4 and 1003.5 of Article 12-A-1), as the case may  
8 be, for the preceding tax year, and the rate of tax applicable to the tax year in which the  
9 first, second and third quarterly installments are due. The fourth installment shall be  
10 reported and paid on or before the last day of February of the following year. The  
11 fourth quarterly installment shall be in an amount equal to the person's total Payroll  
12 Expense Tax and/or Gross Receipts Tax liability for the subject tax year, less the amount  
13 of the first, second and third quarterly installments and other tax prepayments, if any,  
14 actually paid.

15 (b) Tax Prepayment Penalties. Every person who fails to pay any tax prepayment required  
16 under this Section before the relevant delinquency date shall pay a penalty in the amount of 10 percent  
17 of the amount of the delinquent tax prepayment, and shall also pay interest on the amount of the  
18 delinquent tax prepayment from the date of delinquency at the rate of one percent per month, or  
19 fraction thereof, for each month the prepayment is delinquent, until paid.

20 (b c) Hotel and Parking Taxes. Upon commencing business, an operator subject to  
21 the Hotel Tax (Article 7) or the Parking Tax (Article 9) shall have the option of making  
22 prepayments in the amount of the actual tax owed or making an estimate of the prepayment  
23 for the month based on the estimated tax accrued during the month in question. Once the  
24 operator has selected an option, the operator must continue to follow that procedure unless  
25

1 prior written permission to use the alternative procedure has been obtained from the Tax  
2 Collector.

3 In no instance shall an estimated prepayment of hotel or parking taxes be less than 30  
4 percent of ~~the~~ such tax collected in the immediately preceding quarterly period. If a  
5 prepayment based on actual tax owed ~~turns out to be~~ is less than 90 percent of the actual  
6 liability for the month, the taxpayer shall be subject to penalty for the deficiency pursuant to  
7 Section 6.17-1.

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

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

25



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

3 (c) Notwithstanding Subsection (a) of this Section, the Tax Collector may extend  
4 any time for ~~making~~ filing any return or payment of tax or excuse penalties for any late filing or  
5 late payment if billing or other administrative duties of the Tax Collector cannot be performed  
6 in a timely manner.

7  
8 SEC. 6.9-6. FILING AND PAYING BY MAIL. (a) ~~Delivery~~ Filing by Mail. Except as  
9 otherwise provided in this Section, taxpayers may file any return or other document ~~required to~~  
10 ~~be filed under Part III of the Municipal Code~~, or any payment to, including a prepayment to,  
11 ~~required to be made under Part III of the Municipal Code may be delivered to~~ with the Tax Collector  
12 by United States mail.

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

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

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

20 (3) The return or other document, or the payment, was, within that time,  
21 deposited in the mail in the United States in an envelope or other appropriate wrapper,  
22 postage prepaid and properly addressed to, and is received by, the Tax Collector.

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

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

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

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

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

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

14 (e) Private Delivery Services. References in this Section to the United States mail  
15 and a postmark of the United States Postal Service shall include any designated delivery  
16 service and any date recorded or marked as described herein by any designated delivery  
17 service.

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

22 (A) Is available to the general public;

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

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

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

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

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

1            SEC. 6.10-3. COLLECTION OF TAX; LEGAL ACTIONS. (a) The Tax Collector may  
2 bring an action in the courts of this State, or any other state, or of the District of Columbia, or  
3 of the United States and its territories or possessions, or any other forum where permitted by  
4 ~~local~~ law to recover in the name of the City ~~and County of San Francisco~~ any amount of taxes  
5 due and payable under ~~Part III of the Municipal~~ the Business and Tax Regulations Code and  
6 remaining unpaid, together with penalties, interest, and costs, including reasonable attorneys'  
7 fees. In prosecuting such actions, the Tax Collector shall be entitled to all of the provisional  
8 remedies provided ~~in the California Code of Civil Procedure~~ by law, ~~including, but not limited to,~~  
9 ~~prejudgment attachment~~. Any such action shall be commenced within ~~four~~ three years from the  
10 date any amount of taxes became due and payable, or from the date the return is required to  
11 be filed or actually filed, whichever period expires later; except in the case of any deficiency  
12 determination pursuant to Sections 6.12-1 et seq. or 6.13-1 et seq., in which case any such  
13 action shall be commenced within ~~four~~ three years after such determination became final.  
14 However, there shall be no limitation on the time in which such actions ~~shall~~ may be  
15 commenced in cases of fraud, intent to evade ~~Part III of the Municipal~~ the Business and Tax  
16 Regulations Code, or failure to ~~make~~ file a return.

17            (b) When the amount of any tax, penalty or interest which has become due and  
18 payable remains unpaid for 15 days, the Tax Collector may record a tax lien with the  
19 Assessor-Recorder, thereby creating a tax lien on all of the assessee's property and rights to  
20 property, including realty, personalty, or intangibles. The Tax Collector may record or file such  
21 tax lien in any other office of any other jurisdiction as permitted by law. The tax lien shall identify  
22 the Tax Collector as the lienor, the property subject to the lien, and the amount of the lien.  
23 Simultaneously with the recording, a copy of the tax lien shall be mailed to or personally  
24 served upon the taxpayer or other person determined to be liable for the tax at said person's  
25 last known address based upon the information, ~~contained~~ in the Tax Collector records. The

1 tax lien after recordation has the force, effect and priority of a judgment lien and continues for 10 years  
2 from the date of recording, unless sooner released or otherwise discharged. This remedy and any  
3 other remedies for collection of any taxes ~~imposed by Part III of the Municipal Code~~, together  
4 with all interest, penalties and costs, including reasonable attorneys' fees, are cumulative and  
5 may be pursued alternatively and consecutively as the Tax Collector determines.

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

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

22 In making a determination, the Tax Collector may offset overpayments for a period or  
23 periods together with interest on the overpayments, against underpayments for another period  
24 or periods, against penalties, and against the interest on the underpayments. The interest on  
25

1 underpayments and overpayments shall be computed in the manner set forth in Section 6.17-  
2 1 for underpayments and in Section 6.15-2 for overpayments.

3  
4 SEC. 6.11-2. DEFICIENCY DETERMINATIONS; REVOCATION AND SUSPENSION  
5 DETERMINATIONS; NOTICE AND SERVICE. Upon making a determination pursuant to  
6 Section 6.11-1, or upon making a determination pursuant to Section 6.6-1(~~e~~) that a certificate  
7 shall not be issued or to suspend or revoke a registration, the Tax Collector shall give to the  
8 taxpayer or other person determined to be liable for the tax written notice of the Tax  
9 Collector's determination. Except in the case of fraud, intent to evade ~~Part III of the Municipal~~  
10 the Business and Tax Regulations Code or authorized rules and regulations, or failure to file a  
11 return, in which case there is no statute of limitations, every notice of a deficiency  
12 determination shall be served within ~~four~~ three years after the fifteenth day of the calendar  
13 month following the month or the quarterly period for which the amount is proposed to be  
14 determined for third-party taxes, or within ~~four~~ three years after the last day of February  
15 following the period for which a return is required to be filed, whichever period expires later.

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

22  
23 SEC. 6.11-3. DETERMINATION IF NO RETURN MADE; ESTIMATE OF LIABILITY,  
24 PENALTIES AND INTEREST. If any taxpayer or person responsible for paying a tax or  
25 remitting a third-party tax fails to make a timely return or estimated tax prepayment, the Tax

1 Collector may make a determination based upon an estimate of the amount of the total tax  
2 liability of the taxpayer. The estimate shall be made for the period or periods in respect to  
3 which the person failed to timely make a return, failed to timely make a prepayment or failed  
4 to timely remit a tax, and may be based upon any information which is in the Tax Collector's  
5 possession or may come into his or her possession. Upon the basis of this estimate, the Tax  
6 Collector shall compute and determine the amount required to be paid to the City ~~and County~~,  
7 adding to the sum thus computed a penalty equal to 20 percent thereof. One or more  
8 determinations may be made for one or more than one period.

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

17  
18 SEC. 6.11-4. DETERMINATION IF NO RETURN MADE; NOTICE AND SERVICE.  
19 ~~Upon making his or her determination, the~~ The Tax Collector shall serve the person or persons  
20 determined to be liable ~~therefor~~ for the tax as determined under Section 6.11-3 with written notice  
21 of the determination and penalty. ~~The Tax Collector shall serve~~ the notice to be served upon  
22 such person(s) personally or by mail ~~in the manner prescribed for service of notice of a deficiency~~  
23 ~~determination as set out in Section 6.11-2 herein.~~

24  
25

1            SEC. 6.12-1. JEOPARDY DETERMINATIONS; DUTY OF TAX COLLECTOR. If the  
2 Tax Collector believes that the collection of any tax or any amount of any third party tax  
3 required to be collected and paid to the City ~~and County~~ or of any determination will be  
4 jeopardized, in whole or in part, by delay, the Tax Collector shall serve notice upon the  
5 taxpayer or other person determined to be liable ~~for the tax notice therefor~~ of his or her  
6 determination of jeopardy and of the tax or amount of third party tax required to be ~~collected~~  
7 paid to the City, and demanding immediate payment ~~of the tax thereof, together with any~~ interest  
8 and penalty determined to be due. The Tax Collector may consider all facts and  
9 circumstances relevant to determining whether the collection of any tax will be jeopardized by  
10 delay, including but not limited to indications that the taxpayer intends or is taking action to  
11 discontinue business activities in the City ~~and County~~, dissipate or otherwise remove assets  
12 from the City ~~and County~~, or sell, exchange, assign or otherwise dispose of personal or  
13 business income or property. The Tax Collector also may consider whether the taxpayer is  
14 insolvent or likely to become insolvent after the taxes at issue are assessed or collected;  
15 whether the taxpayer is or has been uncooperative or unresponsive in connection with any  
16 investigation, examination, audit, deficiency determination, assessment or collection action or  
17 procedure undertaken by the Tax Collector ~~in connection with the taxes at issue~~; what taxable  
18 years are at issue; how many taxable years are at issue; and whether the taxes at issue are  
19 third-party taxes.

20  
21            SEC. 6.12-5. JEOPARDY DETERMINATIONS; PETITION FOR  
22 REDETERMINATION. Any person against whom a jeopardy determination is made may  
23 petition for the redetermination thereof pursuant to Section 6.13-1 of this Article. The taxpayer  
24 shall, however, file the petition for redetermination with the Tax Collector within 15 days after  
25 the service ~~upon him or her~~ of notice of determination. If a petition for redetermination of a



1 jeopardy determination is not filed within the foregoing 15-day period, the determination  
2 becomes final at the expiration of that period.

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

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

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

20 The taxpayer or other person determined to be liable for the tax has the right to an oral  
21 hearing and determination by the Tax Collector upon the matters raised in the petition within  
22 45 days from the date of the filing of the petition for redetermination, as scheduled by the Tax  
23 Collector, unless the taxpayer waives said time period.

24  
25

1           SEC. 6.13-1. REDETERMINATIONS; PETITION; TIME FOR FILING. Any person  
2 against whom a determination other than a jeopardy determination is made under *Part III of*  
3 ~~the Municipal Code~~ Section 6.11-1 or Section 6.11-3 may petition the Tax Collector for a  
4 redetermination within 30 days after service of the notice thereof. If a petition for  
5 redetermination is not filed within the ~~foregoing~~ 30-day periods, the determination becomes final  
6 at the expiration of the period. The final determination may be enforced or collected by any  
7 method authorized by law, including but not limited to lien, levy, and judicial enforcement,  
8 including provisional remedies and injunctive relief.

9  
10           SEC. 6.13-2. REDETERMINATIONS; HEARING AND NOTICE; EXHAUSTION. (a) If  
11 a petition for redetermination is filed within the 30-day period, the Tax Collector shall  
12 reconsider the determination. ~~and, if the person has so~~ If requested in ~~his or her~~ the petition, the  
13 Tax Collector shall grant the person or ~~his or her~~ the person's authorized representative an oral  
14 hearing, and shall give ~~him or her~~ such person or representative not less than 10 days' notice of  
15 the time and place of the hearing. The Tax Collector may continue the hearing from time to  
16 time as may be necessary.

17           (b) Persons claiming they are aggrieved under the Business and Tax Regulations Code must  
18 exhaust their administrative remedies by petitioning to the Tax Collector for redetermination under  
19 Section 6.12-5 or 6.13-1 et seq. or applicable law, as appropriate, prior to seeking judicial relief.

20  
21           SEC. 6.13-3. REDETERMINATIONS; ALTERATION OF DETERMINATION. The Tax  
22 Collector may decrease or increase the amount of the determination, including the amount of the  
23 tax, penalties or interest, before it becomes final. ~~, but the~~ The amount may be increased only if a  
24 claim for the increase is asserted by the Tax Collector at least five days before the hearing.  
25 Nothing in this Section shall preclude a new audit or determination by the Tax Collector of a

1 new or supplemental deficiency. The burden of proof in any proceeding for redetermination or  
2 appeal thereof shall be ~~in favor of the Tax Collector~~ on the taxpayer, who shall have the burden of  
3 proving that the Tax Collector's determination was incorrect.  
4

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

10 All determinations made by the Tax Collector under Sections 6.13-1 and 6.13-2 of this  
11 Article are due and payable at the time they become final, except jeopardy determinations  
12 made pursuant to Section 6.12-1 et seq., which become due and payable upon service of the  
13 jeopardy determination.  
14

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

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

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 of the final petition  
8 for redetermination or petition for refund pending before the Board of Review on the effective date of  
9 the 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 final petition. Upon issuance of such certification, the Board of Review shall  
12 cease to 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 ~~the Tax Collector shall refund or cause to be refunded whenever~~ the amount of any tax, interest or  
14 penalty that has been overpaid or paid more than once, or has been erroneously or illegally  
15 collected or received by the City ~~and County under Part III of the Municipal Code, so much of the~~  
16 ~~tax as has been overpaid or paid more than once or has been erroneously collected or received by the~~  
17 ~~City and County of San Francisco may be refunded,~~ provided a verified claim in writing therefor,  
18 stating under penalty of perjury the specific grounds upon which the claim was founded, with  
19 specificity sufficient to enable the Tax Collector to understand and evaluate the claim, is filed  
20 with the Tax Collector within ~~six months~~ one year from the time the return was due or the tax  
21 was paid, whichever of such periods expires later; ~~provided, however, that in no event shall the~~  
22 ~~period to file such claim expire prior to shortest period allowable for filing a tax refund claim under~~  
23 ~~Title 1, Division 3.6, Part 3, Section 911.2 of the California Government Code or any successor~~  
24 ~~provision as amended from time to time.~~ For purposes of this Section 6.15-1, a claim shall be  
25 deemed to accrue on the later of the date the return was due or the tax was paid.

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

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

18 (d) ~~— Transitional Rule. The period of limitation for filing claims as amended by this~~  
19 ~~Ordinance shall not be applied to extinguish existing causes of action. However, pursuant to Brown v.~~  
20 ~~Bleiberg (1982) 32 Cal. 3d 426, a cause of action that is not time barred as of the effective date of this~~  
21 ~~amendment shall expire on the date six months after the effective date of this amendment or on the date~~  
22 ~~such cause of action would have expired in the absence of this amendment, whichever of such dates~~  
23 ~~occurs first. The Clerk of the Board of Supervisors is directed to remove this subdivision (d) from this~~  
24 ~~Section 6.15-1 upon the expiration of a 42-month period commencing on the effective date of this~~  
25 ~~amendment.~~

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. 6.15-3. REFUNDS; DENIAL AND REVIEW. If the claim for refund is denied, the Tax Collector shall serve notice of such denial upon the taxpayer personally or by mail. The denial of such claim becomes final 30 days after service of notice thereof, ~~unless a petition for refund is filed with the Board of Review prior to expiration of such 30 day period. Petitions for refund, after having been filed with the Board of Review, shall be treated in the same manner as petitions for redetermination. Service of a denial of a claim for refund shall be made in the manner prescribed in Section 6.11-2.~~

SEC. 6.16-1. RULES AND REGULATIONS. ~~Subject to the authority of the Board of Review under Section 6.14-3, the~~ The Tax Collector shall have power to ~~may promulgate~~ adopt rules and regulations and issue rules, determinations and interpretations ~~not inconsistent with the provisions of Part III of the Municipal the Business and Tax Regulations Code as may be necessary or appropriate~~ for the purpose of carrying out and enforcing the payment, collection and remittance of the taxes herein imposed and to apply such Code and any rules and regulations promulgated thereunder in a lawful manner. ~~;~~ ~~and a~~ A copy of such rules and regulations shall be on file and available for public examination in the Tax Collector's office. Failure or refusal to comply with any rules and regulations promulgated ~~under this Section~~ by the Tax Collector shall be deemed a violation of ~~Part III of the Municipal the Business and Tax Regulations Code~~. The Tax Collector may prescribe the extent to which any ruling or regulation shall be applied without retroactive effect.

SEC. 6.17-1. PENALTIES AND INTEREST FOR FAILURE TO PAY. Any person who fails to pay any tax to the City ~~and County of San Francisco~~, or any amount of tax required to be 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, the Tax Collector may impose a penalty  
2 upon the taxpayer in the amount of 50 percent of the amount of the underreported tax. The  
3 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. (a) Any person who fails to register, fails to update a registration within  
12 seven days of a material change or whose registration contains a material misstatement, or  
13 fails to comply with a rule or regulation promulgated by the Tax Collector pursuant to the  
14 provisions of ~~Part III of the Municipal~~ the Business and Tax Regulations Code within the  
15 prescribed time limits shall pay, in addition to any other liability that may be imposed under the  
16 provisions of this Article, a penalty in an amount equal to the penalized taxpayer's annual fee  
17 for obtaining a registration certificate as set forth in ~~Section 1007(b) of Part III of the San~~  
18 ~~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~~ Article 6 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 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  
4 SEC. 6.17-4. WAIVER OF PENALTIES. Any penalty or interest assessed under  
5 Sections 6.17-1, 6.17- 2 or 6.17-3 may be waived by the Tax Collector, in whole or in part,  
6 upon a finding of any of the following:

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

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

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

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

16  
17 SEC. 6.17-5. COSTS. In addition to the penalties imposed by Sections 6.17-1, 6.17-2  
18 and 6.17-3, the Tax Collector may recover the actual costs of collection incurred by the City  
19 ~~and County~~ up to the time any amount owed is finally paid, including reasonable attorney's fees  
20 and costs.

21  
22 SEC. 6.18-1. SUMMARY JUDGMENT; NOTICE; CERTIFICATE. If any tax imposed  
23 pursuant to ~~Part III of the Municipal~~ the Business and Tax Regulations Code is not paid by the last  
24 day of the month succeeding the delinquency date, or after any jeopardy or deficiency  
25 determination of the Tax Collector becomes final pursuant to Sections 6.12-1 et seq. or 6.13-1

1 et seq., the Tax Collector may file, no sooner than ~~10~~ 20 days after the mailing of the notice  
2 required in Subdivision (b), in the office of the ~~County~~ Clerk of the Court, without fee, a  
3 certificate specifying as follows:

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

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

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

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

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

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

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

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

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

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

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

4 (f) The fact that a request is therein made for issuance and entry of judgment  
5 against the operator, taxpayer or other person determined to be liable for the tax.  
6

7 SEC. 6.18-3. SUMMARY JUDGMENT; RECORDING OF JUDGMENT; LIEN. An  
8 abstract or copy of the judgment shall be recorded, without fee, in the office of the Assessor-  
9 Recorder, and may be recorded in any other office which such filing is permitted by law. From the  
10 time of the recording, the amount of the tax, penalty and interest set forth constitutes a lien  
11 upon all property of the judgment debtor in the City ~~and County~~, and upon all property of the  
12 judgment debtor in any other jurisdiction where such abstract or copy of the judgment is recorded,  
13 owned by the judgment debtor on the date of recording or acquired by the judgment debtor  
14 thereafter, and before the lien expires, acquired by the ~~operator~~ judgment debtor. The lien has  
15 the force, effect and priority of a judgment lien and continues for 10 years from the date of the  
16 recording unless sooner released or otherwise discharged.  
17

18 SEC. 6.18-5. SUMMARY JUDGMENT; ADDITIONAL PENALTY. In addition to any  
19 penalty or fee imposed pursuant to *Part III of the Municipal the Business and Tax Regulations*  
20 Code, a penalty equal to the costs incurred to enforce the judgment entered pursuant to  
21 Sections 6.18-1 et seq., including reasonable attorney's fees and costs, shall be imposed.  
22

23 SEC. 6.18-7. SUMMARY JUDGMENT; EXECUTION UPON THE JUDGMENT.  
24 Execution shall issue upon the judgment upon request of the Tax Collector in the same  
25

1 manner as execution may issue upon other judgments, and sales shall be held under such  
2 execution as prescribed ~~in the California Code of Civil Procedure~~ by law.

3  
4 SEC. 6.18-8. SUMMARY JUDGMENT; SATISFACTION OF JUDGMENT; REMOVAL  
5 OF LIEN. (a) The judgment is satisfied and the lien removed when, but not before, the  
6 certificate of release or discharge from the judgment lien is filed with the Clerk of Court and  
7 recorded in the office of the Assessor-Recorder. In addition to the judgment amount, and any  
8 additional penalty, interest, cost or other amount authorized by ~~Part III of the Municipal~~ the  
9 Business and Tax Regulations Code, the Tax Collector shall collect the recording fee in the  
10 amount required by Section 27361.3 of the California Government Code and shall transmit  
11 ~~that the~~ the amount of the recording fee to the Assessor-Recorder together with the documents for  
12 release or discharge.

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

17  
18 SEC. 6.19-1. CIVIL ACTIONS. In addition to the actions provided for in Section 6.10-  
19 3, the attorney for the Tax Collector may bring a civil action to enjoin any violation of ~~Part III of~~  
20 ~~the Municipal~~ the Business and Tax Regulations Code. The Tax Collector shall be entitled to his or  
21 her attorney's fees and costs in any action brought pursuant to this Section where the Tax Collector is  
22 the prevailing party.

23  
24 SEC. 6.19-3. ADMINISTRATIVE PENALTIES AND CITATIONS. (a) Administrative  
25 Penalties; Citations. An administrative penalty may be assessed for a violation of the

1 provisions of this Code as specified below. The penalty may be assessed by means of an  
2 administrative citation issued by any person designated as an "enforcement officer" in  
3 subsection (c).

4 (b) Penalty Amounts. In addition to all other civil penalties provided for by law, the  
5 following violations shall be subject to administrative penalties in the amounts set forth below:  
6

7 VIOLATION	PENALTY AMOUNT
8 • Failure to <u>obtain or</u> post a Certificate of Authority to Collect	
9 Third Party Taxes	\$100.00
10 • Failure to <u>obtain or</u> post <u>an</u> Annual Business <del>Tax</del> Registration Certificate	100.00
11 • <del>Failure to show proof of current Fire Permit</del>	<del>100.00</del>
12 • Failure to show proof of current Business License	100.00
13 • Failure of an operator in the business of renting parking space in	
14 a parking station to post a bond	100.00
15 • <del>Failure to appear for noticed hearing</del>	<del>100.00</del>
16 • Failure to produce information requested by the Tax Collector within	
17 30 days of mailing of such request	100.00
18 • Failure to produce financial records requested by the Tax Collector	500.00
19 • Failure to retain financial records	500.00
20 • Failure to allow the Tax Collector to inspect financial records	500.00

21  
22 The penalty amounts shall be increased cumulatively by fifty percent (50%) for each  
23 subsequent violation of the same provision by the same person within a three (3) year period.  
24 The maximum penalty amount that may be imposed by administrative citation in a calendar  
25 year for each type of violation listed above shall be \$5,000. In addition to the penalty amounts

1 listed above, the Tax Collector may assess enforcement costs to cover the reasonable costs  
2 incurred in enforcing the administrative penalty, including reasonable attorneys' fees.  
3 Enforcement costs shall not count toward the \$5,000 annual maximum.

4 (c) Persons Who May Issue Citations. The following classes of employees  
5 within the Treasurer/Tax Collector's office are designated "enforcement officers" and are  
6 authorized to issue administrative citations pursuant to this ordinance:  
7

8	CLASSIFICATION NUMBER	CLASS TITLE
9	4334	Investigator
10	4335	Senior Investigator
11	4337	Principal Investigator
12	4340	<del>Chief Investigator</del> <u>Assistant Director</u>

13  
14 SEC. 6.19-4. VIOLATIONS. (a) Separate and Continuing Violations; Penalties Paid  
15 Do Not Cure Violations. Each and every day that a violation exists constitutes a separate and  
16 distinct offense. Each section violated constitutes a separate violation for any day at issue. If  
17 the person or persons responsible for a violation fail to correct the violation, subsequent  
18 administrative citations may be issued for the same violation(s). The enforcement officer may  
19 issue such subsequent administrative citations for uncorrected violation(s) pursuant to this Section  
20 without issuing a new notice as otherwise required by Section 6.19-5. Payment of the penalty shall  
21 not excuse the failure to correct the violation nor shall it bar any further enforcement action by  
22 the City ~~and County~~. If penalties and costs are the subject of administrative appeal or judicial  
23 review, then the accrual of such penalties and costs shall be stayed until the determination of  
24 such appeal or review is final.  
25



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

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

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

16  
17 SEC. 6.19-5. ADMINISTRATIVE CITATION; NOTICE OF VIOLATION. (a) Notice and  
18 Opportunity to Cure. The enforcement officer shall notify any person in violation of the Code  
19 provisions identified in Section 6.19-3(b) of such violation prior to the issuance of an  
20 administrative citation. The enforcement officer may post the notice of violation by affixing the notice  
21 to a surface in a conspicuous place on the property regardless of the manner of service of the notice  
22 under Section 6.19-6. The notice of violation shall specify the action required to correct or  
23 otherwise remedy the violation(s). The person or persons responsible for the violation shall  
24 be allowed not less than ten (10) days from the date of the notice of violation to correct or  
25 otherwise remedy the violation; provided, however, that the enforcement officer may, in his or

1 her discretion, assign a longer period, not to exceed twenty-one (21) days, within which to  
2 correct or otherwise remedy each violation. The enforcement officer may consider the cost of  
3 correction and the time needed to obtain information, documents, data and records for  
4 correction in assigning a specific period of time within which to correct or otherwise remedy  
5 each violation.

6 (b) Issuance of Citation. If the person or persons responsible for the violation fail to  
7 comply with any portion of a notice of violation within the time provided, the enforcement  
8 officer may issue an administrative citation to the violator. The administrative citation shall be  
9 issued on a form prescribed by the Tax Collector.

10

11 SEC. 6.19-6. ADMINISTRATIVE CITATION AND NOTICE OF VIOLATION; SERVICE.

12 Service of a notice of violation and an administrative citation may be accomplished as follows:

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

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

19 (c) The enforcement officer shall serve the citation by first class mail as follows:

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

23 (2) A declaration of service shall be made by the person mailing the  
24 administrative citation showing the date and manner of service by mail and reciting the  
25 name and address of the citation addressee; and

1           (3)     Service of the administrative citation by mail in the manner described  
2           above shall be effective on the date of mailing.

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

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

1           SEC. 6.20-1. RELATION TO OTHER LICENSE ORDINANCES. Persons required to  
2 pay a tax on any activity under ~~Part III of the Municipal~~ the Business and Tax Regulations Code  
3 shall not be relieved from the payment of any license tax for the privilege of conducting such  
4 activity required under any other ordinance of the City ~~and County~~, and shall remain subject to  
5 the regulatory provisions of other ordinances.

6           Upon providing written notice of nonpayment or noncompliance with any provision of  
7 ~~Part III of the Municipal~~ the Business and Tax Regulations Code to any licensee, and continued  
8 nonpayment or noncompliance by the licensee, the Tax Collector may suspend or revoke any  
9 license or privilege for conducting business under any ordinance of the City ~~and County~~,  
10 excluding place of entertainment and cabaret licenses under the Police Code. Such notice of  
11 suspension or revocation shall be issued in the same manner as a determination under  
12 Section 6.11-1 et seq., and the person issued said notice shall have the appeal rights  
13 applicable to determinations made pursuant to Sections 6.11-1 et seq., and 6.13-1 et seq., ~~and~~  
14 ~~6.14-1 et seq.~~, and shall become final as provided in those Sections.

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

1 (b) No person shall purchase or acquire an interest in a business subject to any tax  
2 imposed under Articles 7, 9, 12-A or ~~12-B 12-A-1~~ *of Part III of the Municipal Code* without first  
3 obtaining either a receipt from the Tax Collector showing that all of the seller's taxes on the  
4 business have been paid, or a certificate stating that no amount is due. For purposes of this  
5 Section, "purchase" shall include any other voluntary transfer for consideration of a business,  
6 except for purchase of stock of a publicly-traded company.

7 (c) The Tax Collector shall issue such a receipt or certificate, or a notice of the  
8 amount that must be paid as a condition of issuing the certificate, to the buyer within 30 days  
9 after receiving a written request. However, failure of the Tax Collector to timely mail the notice  
10 will not release the buyer from his or her obligations under this Section, except to the extent of  
11 penalties and interest in the event that the Tax Collector enforces the buyer's obligation in a  
12 civil action authorized pursuant to ~~Part III of the Municipal~~ *the Business and Tax Regulations*  
13 Code.

14 (d) If the buyer purchases or acquires an interest in a business owing any taxes,  
15 interest or penalties imposed under Articles 7, 9, 12-A or ~~12-B 12-A-1~~ *of Part III of the Municipal*  
16 ~~Code~~, the buyer shall withhold from the purchase price and pay to the Tax Collector a sufficient  
17 amount to satisfy said taxes, interest and penalties.

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

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

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

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

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

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

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

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

8 (g) Notwithstanding any other provision of ~~Part III of the Municipal~~ the Business and  
9 Tax Regulations Code or of any City ordinance, the Tax Collector is authorized to enter into  
10 agreements with the California Franchise Tax Board, the State Board of Equalization, and/or  
11 the Internal Revenue Service providing for the exchange of information for official purposes of  
12 said agencies, and to implement any such agreement through the exchange of information.

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

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

22  
23 SEC. 6.23-1. SEVERABILITY. If any sentence, clause or section or any part of ~~Part III~~  
24 ~~of the Municipal~~ Business and Tax Regulations Code is for any reason held to be unconstitutional,  
25 illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of

1 the remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby  
2 declared to be the intent of the enacting body that ~~Part III~~ of the *Municipal Business and Tax*  
3 *Regulations* Code would have been adopted had such unconstitutional, illegal or invalid  
4 sentence, clause, section or part thereof not been included therein.

5

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

8

9 By: \_\_\_\_\_  
10 Dorji Roberts  
11 Deputy City Attorney

12

13

14

15

16

17

18

19

20

21

22

23

24

25