

CITY AND COUNTY OF SAN FRANCISCO
BOARD OF SUPERVISORS
BUDGET AND LEGISLATIVE ANALYST

1390 Market Street, Suite 1150, San Francisco, CA 94102 (415) 552-9292
FAX (415) 252-0461

November 20, 2018


TO: Government Audit and Oversight Committee
FROM: Budget and Legislative Analyst 
SUBJECT: November 26, 2018 Special Government Audit and Oversight Committee Meeting

TABLE OF CONTENTS

| Item | File | Page |
|-------------|--|-------------|
| 1 | 18-1082 Business and Tax Regulations Code - Early Care and Education Commercial Rents Tax Credit and Exclusions | 1 |

| | |
|---|---|
| <p>Item 1 File 18-1082</p> | <p>Department: Treasurer/Tax Collector</p> |
| <p>EXECUTIVE SUMMARY</p> | |
| <p style="text-align: center;">Legislative Objectives</p> <ul style="list-style-type: none"> • The proposed ordinance amends the Business and Tax Regulations Code to provide a credit against the Early Care and Education Commercial Rents Tax for businesses leasing space to qualified facilities. <p style="text-align: center;">Key Points</p> <ul style="list-style-type: none"> • The Early Care and Education Commercial Rents Tax Ordinance was passed by the voters in June 2018 and goes into effect on January 1, 2019. The tax equals (a) 1 percent of lease revenues from the lease or sublease of warehouse space, and (b) 3.5 percent of lease revenues from the lease or sublease of other commercial spaces in the City. Commercial landlords with less than \$1 million in gross receipts, and rents paid from non-profit tenants, government tenants, arts, industrial uses, and non-formula retail uses are exempt from the tax. <p style="text-align: center;">Fiscal Impact</p> <ul style="list-style-type: none"> • According to the Controller’s Statement on Proposition C in the June 5, 2018 Voter Information Pamphlet, the Early Care and Education Commercial Rents Tax could generate additional net annual revenue to the City of approximately \$146 million. • According to the California Department of Social Services, the City has 312 licensed early care and education facilities, serving 17,216 children. If the Early Care and Education Commercial Rents Tax were to apply to all 312 licensed early care and education facilities, the estimated maximum annual tax credit under the proposed ordinance would be \$3,980,000. Because many licensed childcare facilities are in space owned by small businesses (with less than \$1 million per year in gross revenues), nonprofit organizations, or government entities, the actual annual tax credit would be less than \$3,980,000. <p style="text-align: center;">Recommendation</p> <ul style="list-style-type: none"> • Approval of the proposed ordinance is a policy matter for the Board of Supervisors. | |

MANDATE STATEMENT

Charter Section 2.105 requires that legislative acts in San Francisco be by ordinance, subject to approval by a majority of the Board of Supervisors.

BACKGROUND

The Early Care and Education Commercial Rents Tax Ordinance was passed by the voters in June 2018 and goes into effect on January 1, 2019. The tax applies to businesses leasing commercial space that are subject to the City's gross receipts tax. Businesses with \$1 million or less in total gross revenues within San Francisco are generally exempt from the City's gross receipts tax. Certain other businesses are also exempt, including some nonprofit organizations, banks, and insurance companies.

The Early Care and Education Commercial Rents Tax is in addition to gross receipts or payroll taxes paid by businesses in the City. The tax equals (a) 1 percent of lease revenues from the lease or sublease of warehouse space, and (b) 3.5 percent of lease revenues from the lease or sublease of other commercial spaces in the City. Commercial space does not include industrial use, arts activities, or retail uses (other than formula retail). The tax also does not apply to revenues received from certain nonprofit organizations or from government entities.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance amends the Business and Tax Regulations Code to provide a credit against the Early Care and Education Commercial Rents Tax for businesses leasing space to qualified facilities.

FISCAL IMPACT

According to the Controller's Statement on Proposition C in the June 5, 2018 Voter Information Pamphlet, the Early Care and Education Commercial Rents Tax could generate additional net annual revenue to the City of approximately \$146 million.

According to the California Department of Social Services, the City has 312 licensed early care and education facilities, serving 17,216 children. If the Early Care and Education Commercial Rents Tax were to apply to all 312 licensed early care and education facilities, the estimated maximum annual tax credit under the proposed ordinance would be \$3,980,000.

| Number of Childcare Slots in the Facility | Annual Tax Credit | Number of Licensed Facilities | Total Estimated Annual Tax Credit |
|--|--------------------------|--------------------------------------|--|
| 1 to 49 | \$7,200 | 190 | \$1,368,000 |
| 50 to 99 | \$16,000 | 89 | \$1,424,000 |
| 100 or more | \$36,000 | 33 | \$1,188,000 |
| Total | | 312 | \$3,980,000 |

Source: Budget and Legislative Analyst's Analysis based on California Department of Social Services Data

However, as noted above, the Early Care and Education Commercial Rents Tax does not apply to businesses with less than \$1 million per year in gross revenues in San Francisco, certain nonprofit organizations, or government entities. Because many licensed childcare facilities are in space owned by small businesses (with less than \$1 million per year in gross revenues), nonprofit organizations, or government entities, the actual annual tax credit would be less than \$3,980,000.

RECOMMENDATION

Approval of the proposed ordinance is a policy matter for the Board of Supervisors.