

1 [0.25% Sales Tax Increase for Emergency Health Services.]

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3 **Ordinance amending the San Francisco Business and Tax Regulations Code to add**  
4 **Article 16-A to impose a transactions and use tax at the rate of one-quarter of one**  
5 **percent (0.25%) in accordance with Parts 1.6 and 1.7 of Division 2 of the California**  
6 **Revenue and Taxation Code, for the purpose of providing additional support for**  
7 **emergency medical, hospital inpatient, outpatient, public health, mental health and**  
8 **substance abuse services to residents of the City and County of San Francisco;**  
9 **directing submission of the tax for voter approval at election and setting forth the**  
10 **ballot question therefor.**

11 Note: Additions are single-underline italics Times New Roman;  
12 deletions are ~~strikethrough italics Times New Roman~~.  
13 Board amendment additions are double underlined.  
Board amendment deletions are ~~strikethrough normal~~.

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

15 Section 1. The San Francisco Business and Tax Regulations Code is hereby amended  
16 by adding Article 16-A (Transactions and Use Tax Ordinance), to read as follows:

17 Article 16-A Transactions and Use Tax

18 SEC. 1620. TITLE. This ordinance shall be known as the "San Francisco Emergency Medical  
19 Services Tax Ordinance." The City and County of San Francisco hereinafter shall be called "City and  
20 County." This ordinance shall be applicable in the City and County.

21 SEC. 1621. RESTRICTED USES OF THE TAX.

22 A. Proceeds from this tax shall be deposited into the Treasury of the City and County in a  
23 special fund entitled "Emergency Health Care Services Fund" (hereinafter, the "Fund").

24 B. Monies deposited into the Fund, together with any interest that accrues thereon, shall be  
25 used exclusively for emergency medical, hospital inpatient, outpatient, public health, mental health and

1 substance abuse services to residents of the City and County of San Francisco, as described below in  
2 this section 1621.

3 C. In each year during the term of the Ordinance, sixty percent (60%) of the revenue  
4 generated from this tax shall be transferred to the San Francisco General Hospital Medical Center to  
5 be used in the discretion of the governing board of the Medical Center for current and future  
6 obligations of the San Francisco Hospital Medical Center (hereinafter, the ("SFGH")), provided that:

7 1. Proceeds from this portion of revenue from this tax may not be used to replace funding  
8 currently provided by the City and County to the SFGH pursuant to the existing indigent care contract  
9 between the City and County and the SFGH.

10 D. In each year during the term of this Ordinance, twenty-five (25%) of the revenue from  
11 this tax shall be allocated by the Board of Supervisors based on the demonstrated need and the City  
12 and County's commitment to a geographically dispersed network of providers, for any of the following  
13 purposes:

14 1. For critical medical services provided by community based health care providers.

15 2. To partially offset uncompensated care costs for emergency care and related hospital  
16 admissions.

17 E. In each year during the term of this Ordinance fifteen percent (15%) of the revenue  
18 generated from this tax shall be allocated to the Department of Public Health Community Health Care  
19 Clinics located outside of the SFGH, to provide the following services:

20 1. General medicine, perinatal care, HIV/AIDS, children's health, and other primary care  
21 services within the public health clinics.

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23 SEC. 1622. CITIZEN OVERSIGHT COMMITTEE.  
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1 A. Upon enactment of this Ordinance the Board of Supervisors shall establish and appoint  
2 a Citizen Oversight Committee.

3 B. The Citizen Oversight Committee shall annually review the expenditure of the  
4 Emergency Health Care Services Fund for the prior year and shall report to the Board of Supervisors  
5 on the conformity of such expenditures to the purposes set forth in Section 1621.

6 SEC 1623. OPERATIVE DATE.

7 “Operative Date” means the first day of the first calendar quarter commencing more than 110  
8 days after the adoption of this ordinance, the date of such adoption being as set forth below.

9 SEC. 1624. PURPOSE OF THE ORDINANCE.

10 A. This Ordinance is adopted to achieve the following, among other purposes and directs  
11 that the provisions hereof be interpreted in order to accomplish those purposes:

12 1. To impose a retail transactions and use tax in accordance with the provisions of Part  
13 1.6 (commencing with Section 7251) of Division 2 and of Section 7285.5 of Part 1.7 of Division 2 of the  
14 California Revenue and Taxation Code that authorize the City and County to adopt this Ordinance,  
15 which shall be operative if a two-thirds (2/3) majority of the electors voting on the measure vote to  
16 approve the imposition of the tax at an election called for that purpose.

17 2. To enact a retail transactions and use tax ordinance that incorporates provisions  
18 identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions  
19 are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the  
20 California Revenue and Taxation Code.

21 3. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a  
22 measure therefor that can be administered and collected by the State Board of Equalization in a  
23 manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the  
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1 existing statutory and administrative procedures followed by the State Board of Equalization in  
2 administering and collecting the California State Sales and Use Taxes.

3 4. To adopt a retail transactions and use tax ordinance that can be administered in a  
4 manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of  
5 Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use  
6 taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation  
7 under the provisions of this Ordinance.

8 B. This Ordinance hereby directs that the provisions hereof be interpreted in order to  
9 accomplish the purposes that are set forth in this Section 1624.

10 SEC. 1625. CONTRACT WITH STATE.

11 Prior to the Operative Date, the City and County shall contract with the California State Board  
12 of Equalization to perform all functions incident to the administration and operation of this Ordinance;  
13 provided that, if the City and County shall not have contracted with the State Board of Equalization  
14 prior to the Operative Date, it shall nevertheless so contract and in such a case the Operative Date  
15 shall be the first day of the first calendar quarter following the execution of such a contract.

16 SEC. 1626. TRANSACTIONS TAX RATE.

17 For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all  
18 retailers in the City and County at the rate of 0.25% of the gross receipts of any retailer from the sale  
19 of all tangible personal property sold at retail in the City and County on and after the Operative Date  
20 of this Ordinance.

21 SEC. 1627. PLACE OF SALE.

22 For purposes of this Ordinance, all retail sales are consummated at the place of business of the  
23 retailer, unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-  
24 state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts

1 from such sales shall include delivery charges, when such charges are subject to the state sales and use  
2 tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of  
3 business in the State of California or has more than one place of business, the place or places at which  
4 the retail sales are consummated shall be determined under rules and regulations to be prescribed and  
5 adopted by the State Board of Equalization.

6 SEC. 1628. USE TAX RATE.

7 An excise tax is hereby imposed on the storage, use or other consumption in the City and  
8 County of tangible personal property purchased from any retailer on and after the Operative Date of  
9 this Ordinance for storage, use or other consumption in the City and County at the rate of one-quarter  
10 of one percent (0.25%) of the sales price of the property. The sales price shall include delivery charges  
11 when such charges are subject to state sales or use tax regardless of the place to which delivery is  
12 made.

13 SEC. 1629. INCORPORATION OF PROVISIONS OF STATE LAW.

14 Except as otherwise provided in this Ordinance and except insofar as any provisions of this  
15 Ordinance may be inconsistent with Part 1.6 of Division 2 of the California Revenue and Taxation  
16 Code, all of the provisions of Part 1 (commencing at Section 6001) of Division 2 of the California  
17 Revenue and Taxation Code are hereby adopted and made a part of this Ordinance as though fully set  
18 forth herein.

19 SEC. 1630. LIMITATIONS ON ADOPTION OF STATE LAW AND COLLECTION OF USE  
20 TAXES.

21 In applying the provisions of Part 1 of Division 2 of the California Revenue and Taxation Code  
22 to this Ordinance:

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1 A. Wherever the State of California is named or referred to as the taxing agency, the name  
2 of the City and County shall be substituted therefor. However, said substitution shall not be made  
3 when:

4 1. The word "State" is used as a part of the title of the State Controller, State Treasurer,  
5 State Board of Control, State Board of Equalization, State Treasury or the Constitution of the State of  
6 California.

7 2. The result of that substitution would require action to be taken by or against the City  
8 and County or any agency, officer or employee thereof, rather than by or against the State Board of  
9 Equalization, in performing functions incident to the administration or operation of this Ordinance.

10 3. In those sections, including but not necessarily limited to sections referring to the  
11 exterior boundaries of the State of California, where the result of the substitution would be to:

12 (a) Provide an exemption from this tax with respect to certain sales, storage, use or other  
13 consumption of tangible personal property that would not otherwise be exempt from this tax, while such  
14 sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part  
15 1 of Division 2 of the Revenue and Taxation Code, or ;

16 (b) Impose this tax with respect to certain sales, storage, use or other consumption of  
17 tangible personal property, which would not be subject to tax by the State of California under the  
18 provisions of such Code.

19 4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or  
20 6828 of the California Revenue and Taxation Code.

21 B. The words "City and County of San Francisco" shall be substituted for the word  
22 "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition  
23 of that phrase in Section 6203 of the California Revenue and Taxation Code.

24 SEC. 1631. PERMIT NOT REQUIRED.  
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1 If a seller's permit has been issued to a retailer under Section 6067 of the California Revenue  
2 and Taxation Code, an additional transactor's permit shall not be required by this Ordinance.

3 SEC. 1632. EXEMPTIONS AND EXCLUSIONS.

4 A. There shall be excluded from the measure of the transactions tax and the use tax the  
5 amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or  
6 county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any  
7 state-administered transactions or use tax.

8 B. There are exempted from computation of the amount of transactions tax imposed by this  
9 Ordinance, gross receipts from:

10 1. The sale of tangible personal property, other than fuel or petroleum products, to  
11 operators of aircraft to be used or consumed principally outside the City and County in which the sale  
12 is made and directly and exclusively in the use of such aircraft as common carriers of persons or  
13 property under the authority of the laws of this State, the United States or any foreign government.

14 2. The sale of property to be used outside the City and County which is shipped to a point  
15 outside the City and County pursuant to the contract of sale, by delivery to such point by the retailer or  
16 his agent or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the  
17 purposes of this paragraph, delivery to a point outside the City and County shall be satisfied:

18 (a) With respect to vehicles (other than commercial vehicles) subject to registration  
19 pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the California Vehicle Code,  
20 aircraft licensed in compliance with Section 21411 of the California Public Utilities Code and  
21 undocumented vessels registered under Chapter 2 of Division 3.5 (commencing with Section 9840) of  
22 the California Vehicle Code; by a combination of registration to an address outside the City and  
23 County and by a declaration under penalty of perjury, signed by the buyer, stating that such address is,  
24 in fact, his or her principal place of residence.

1           **(b) With respect to commercial vehicles, by a combination of registration to a place of**  
2 **business outside the City and County and declaration under penalty of perjury, signed by the buyer,**  
3 **that the vehicle will be operated from that address.**

4           **3. The sale of tangible personal property, if the seller is obligated to furnish the property**  
5 **for a fixed price pursuant to a contract entered into prior to the Operative Date of this Ordinance.**

6           **4. The lease of tangible personal property that constitutes a continuing sale of such**  
7 **property for any period of time for which the lessor is obligated to lease the property for an amount**  
8 **that was fixed by a lease executed prior to the Operative Date of this Ordinance.**

9           **5. For the purposes of subsections 3 and 4 of this section, the sale or lease of tangible**  
10 **personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of**  
11 **time for which any party to the contract or lease has the unconditional right to terminate the contract**  
12 **or lease upon notice, regardless of whether such right is exercised.**

13           **C. There are exempted from computation of the amount of use tax imposed by this**  
14 **Ordinance, gross receipts from the following storage, use or other consumption of tangible personal**  
15 **property:**

16           **1. Any sale that has been subject to a transactions tax under any state-administered**  
17 **transactions and use tax ordinance.**

18           **2. Other than fuel or petroleum products purchased by operators of aircraft and used or**  
19 **consumed by such operators directly and exclusively in the use of such aircraft as common carriers of**  
20 **persons or property for hire or compensation under a certificate of public convenience and necessity**  
21 **issued pursuant to the laws of the State of California, the United States or any foreign government.**  
22 **This exemption is in addition to the exemptions set forth in Sections 6366 and 6366.1 of the California**  
23 **Revenue and Taxation Code.**



1           3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a  
2 contract that was entered into prior to the Operative Date of this Ordinance.

3           4. If the possession of or the exercise of any right or power over the tangible personal  
4 property shall arise under a lease that constitutes a continuing purchase of such property for any  
5 period of time for which the lessee is obligated to lease the property for an amount fixed by a lease that  
6 was executed prior to the Operative Date of this Ordinance.

7           5. For the purposes of paragraphs 3 and 4 of this section, the storage, use, or other  
8 consumption or the possession of or exercise of any right or power over tangible personal property  
9 shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any  
10 party to the contract or lease has the unconditional right to terminate the contract or lease upon notice,  
11 regardless of whether such right is exercised.

12           6. Except as provided in subparagraph 7 of this section, a retailer engaged in business in  
13 the City and County shall not be required to collect use tax from the purchaser of tangible personal  
14 property, unless the retailer ships or delivers the property into the City and County or participates  
15 within the City and County in making the sale of the property, including, but not limited to, soliciting  
16 or receiving the order, either directly or indirectly, at a place of business of the retailer in the City and  
17 County or through any representative, agent, canvasser, solicitor, subsidiary or person in the City and  
18 County under the authority of the retailer.

19           7. A retailer engaged in business in the City and County shall also include any retailer of  
20 any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section  
21 4000) of Division 3 of the California Vehicle Code, aircraft licensed in compliance with Section 21411  
22 of the California Public Utilities Code and undocumented vessels registered under Chapter 2 of  
23 Division 3.5 (commencing with Section 9840) of the California Vehicle Code. The retailer shall be  
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1 required to collect use tax from any purchaser who registers or licenses the vehicle or aircraft at an  
2 address in the City and County.

3 D. Any person subject to use tax under this Ordinance may credit the amount of such tax  
4 against any transactions tax or reimbursement for transactions tax paid to a county or district imposing  
5 or a retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the California Revenue  
6 and Taxation Code with respect to the sale of property or the storage, use or other consumption of  
7 which is subject to the use tax.

8 SEC. 1633. AMENDMENT OF STATE LAW.

9 After the Effective Date of this Ordinance, any amendments to Part 1 of Division 2 of the  
10 California Revenue and Taxation Code relating to sales and use taxes that are not inconsistent with  
11 Part 1.6 and Part 1.7 of Division 2 of the California Revenue and Taxation Code and any amendments  
12 to Part 1.6 and Part 1.7 of Division 2 of the California Revenue and Taxation Code, shall  
13 automatically become a part of this Ordinance; provided, however, that no such amendment shall  
14 operate so as to affect the rate of tax imposed by this Ordinance.

15 SEC. 1634. ENJOINING OF COLLECTION FORBIDDEN.

16 No injunction or writ of mandate or other legal or equitable process shall issue in any suit,  
17 action or proceeding in any court against the State or the City and County, or against any officer of the  
18 State or the City and County, to prevent or enjoin the collection under this Ordinance or Part 1.6 of  
19 Division 2 of the California Revenue and Taxation Code, of any tax or any amount of tax required to be  
20 collected.

21 SEC. 1635. SEVERABILITY.

22 If any provision of this Ordinance or the application thereof to any person or circumstance is  
23 held invalid, the remainder of the Ordinance and the application of such provision to other persons or  
24 circumstances shall not be affected thereby.

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1     SEC. 1636.    SAVINGS CLAUSE.

2     This Ordinance shall not be interpreted in any manner that conflicts with the laws or  
3 constitutions of the United States or the State of California.

4     SEC. 1637.    TERMINATION OF TRANSACTIONS AND USE TAX.

5     This Ordinance shall remain in effect only until June 30, 2019, and as of that date it shall be  
6 repealed by operation of this section unless a later ordinance is adopted prior to June 30, 2019 that  
7 shall have the effect of deleting or extending the termination date set forth herein.

8           Section 2. Pursuant to Article XIII C of the Constitution of the State of California and  
9 Section 7285 of the California Revenue and Taxation Code, this ordinance shall be submitted  
10 to the qualified electors of the City and County of San Francisco, at the November 8, 2005  
11 general municipal election. This ordinance shall become operative only if approved by the  
12 qualified electors at such election.

13           Section 3. Section 510 of the San Francisco Elections Code shall not apply to the  
14 ballot question for the San Francisco Emergency Medical Services Tax Ordinance set forth  
15 in Section 1 of this ordinance and submitted for voter approval at the November 8, 2005  
16 general municipal election. The ballot question for the San Francisco Emergency Medical  
17 Services Tax Ordinance at such election shall read as follows:

18           Shall the City increase its sales tax on retail sales, except for sales exempt under state  
19 law, by 1/4 of 1%, for the purpose of providing additional support for emergency medical,  
20 hospital inpatient, outpatient, public health, mental health and substance abuse services to  
21 indigent, low-income and uninsured adults, children, families, seniors and other residents of  
22 the City and County of San Francisco?

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1 APPROVED AS TO FORM:  
2 DENNIS J. HERRERA, City Attorney

3 By: \_\_\_\_\_  
4 JEAN H. ALEXANDER  
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