

1 [Payroll Expense Tax Exclusion for Persons Who Hire the Disabled and the Homeless.]

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3 **Ordinance amending the Payroll Expense Tax Ordinance to establish a tax exclusion**
4 **for persons who hire the disabled and the homeless, as specified.**

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

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

9 Section 1. The San Francisco Business and Tax Regulations Code is hereby amended
10 by adding Sections 906.3 and 906.4 of Article 12-A (Payroll Expense Tax Ordinance), as
11 follows:

12 SEC. 906.3. DISABLED EMPLOYEE EXCLUSION.

13 (a) Any person engaging in business within the City may exclude from their payroll expense all
14 compensation paid to, on behalf of or for the benefit of any disabled employee of that person, subject to
15 the conditions and limitations set forth in this Section. For purposes of this Section, outside
16 independent contractors shall not be considered employees of the business.

17 (b) For purposes of this section, "disabled" means a person who meets the definition of
18 disability under Section 12102(b) of Title 42 of the United States Code, known as the Americans with
19 Disabilities Act ("ADA").

20 (c) The Director of the Mayor's Office on Disability ("MOD") shall adopt a form entitled
21 "Verification of Employer's Right to Request Payroll Tax Exclusion" and provide the form to employers
22 upon request. Persons wishing to claim the exclusion authorized under this section must, for each
23 qualifying employee, file the MOD's form certification of disability and verification of the right to claim
24 the exclusion with the Tax Collector along with their payroll tax return.

1 (d) The disabled employee exclusion authorized under this Section shall be available to and
2 may be taken by each person engaging in business in the City for a period of ten years from the
3 effective date of this Section or the commencement of the person's business in the City, whichever is
4 later. The date the Tax Collector received the person's application for a business registration
5 certificate for the person's business shall be presumed to be the date of commencement of such
6 business unless the person establishes a different commencement date to the satisfaction of the Tax
7 Collector.

8 (e) The exclusion authorized under this Section shall expire on the fifteenth anniversary of
9 the effective date of this Section. A person may not use or claim any unused portion of the ten year
10 disabled employee exclusion after the expiration date of this Section. Unless exempted under Sections
11 906 of this Article, every person engaging in business in the City shall pay the tax imposed under this
12 Article on the full amount of the person's payroll expense attributable to the City from and after the
13 expiration of this Section.

14 (f) If a person's calculated liability for the Payroll Expense Tax does not exceed \$2,500 for
15 the tax year after applying the disabled employee exclusion under this Section, the person shall be
16 exempt from payment of the Payroll Expense Tax for that tax year as provided in Section 905-A.

17 (g) The effective date of this ordinance shall be January 1, 2006.

18 h) The Tax Collector shall submit an annual report to the Board of Supervisors for each year
19 for which the disabled employee exclusion authorized under this Section is available that sets forth
20 aggregate information on the dollar value of the disabled employee exclusions taken each year, the
21 number of businesses taking the exclusion, and any identifiable increase or decrease in the number of
22 jobs held by disabled employees compared to the number of jobs held by disabled employees for the
23 immediately preceding calendar year.

1 (i) The Controller, after five years from the enactment of this Ordinance, shall perform an
2 assessment and review of the effect of the disabled employee tax exclusion. Based on such assessment
3 and review the Controller shall prepare and submit an analysis to the Board of Supervisors. The
4 analysis shall be based on criteria deemed relevant by the Controller, and may include but is not
5 limited to, data contained in the annual reports to the Board of Supervisors as required by subsection
6 (h) of Section 1.

7 (j) A misrepresentation or misstatement by any person regarding eligibility for the payroll
8 expense tax exclusion authorized by this section that results in the underpayment or underreporting of
9 the payroll expense tax shall be subject to penalties as provided in Section 6.17-2 of Article 6 of the San
10 Francisco Business and Tax Administrative Code.

11 SEC. 906.4. HOMELESS EMPLOYEE EXCLUSION.

12 (a) Any person engaging in business within the City may exclude from their payroll expense all
13 compensation paid to, on behalf of or for the benefit of any homeless employee of that person, subject
14 to the conditions and limitations set forth in this Section. For purposes of this Section, outside
15 independent contractors shall not be considered employees of the business.

16 (b) For purposes of this section, "homeless" means an indigent person who qualifies for public
17 assistance under the County Adult Assistance Program ("CAAP") or other public assistance program,
18 or who is receiving financial and/or supportive services from a government program or non-profit
19 organization who is currently homeless or who was formerly homeless during the past year.

20 (c) The Human Services Agency ("HSA") shall adopt a form entitled "Verification of
21 Employer's Right to Request Payroll Tax Exclusion" and provide the form to employers upon request.
22 The form shall include written authorization from the homeless individual for HSA to share this
23 information with prospective employer and the Tax Collector for the limited purpose of securing a tax
24 exclusion under this Chapter. Persons wishing to claim the exclusion authorized under this section
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1 must, for each qualifying employee, file HSA's form certification of eligibility and verification of the
2 right to claim the exclusion with the Tax Collector along with their payroll tax return.

3 (d) The homeless employee exclusion authorized under this Section shall be available to and
4 may be taken by each person engaging in business in the City for a period of ten years from the
5 effective date of this Section or the commencement of the person's business in the City, whichever is
6 later. The date the Tax Collector received the person's application for a business registration
7 certificate for the person's business shall be presumed to be the date of commencement of such
8 business unless the person establishes a different commencement date to the satisfaction of the Tax
9 Collector.

10 (e) The exclusion authorized under this Section shall expire on the fifteenth anniversary of
11 the effective date of this Section. A person may not use or claim any unused portion of the ten year
12 homeless employee exclusion after the expiration date of this Section. Unless exempted under Sections
13 906 of this Article, every person engaging in business in the City shall pay the tax imposed under this
14 Article on the full amount of the person's payroll expense attributable to the City from and after the
15 expiration of this Section.

16 (f) If a person's calculated liability for the Payroll Expense Tax does not exceed \$2,500 for
17 the tax year after applying the homeless employee exclusion under this Section, the person shall be
18 exempt from payment of the Payroll Expense Tax for that tax year as provided in Section 905-A.

19 (g) The effective date of this ordinance shall be January 1, 2006.

20 h) The Tax Collector shall submit an annual report to the Board of Supervisors for each year
21 for which the homeless employee exclusion authorized under this Section is available that sets forth
22 aggregate information on the dollar value of the homeless employee exclusions taken each year, the
23 number of businesses taking the exclusion, and any identifiable increase or decrease in the number of
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1 jobs held by homeless employees compared to the number of jobs held by homeless employees for the
2 immediately preceding calendar year.

3 (i) The Controller, after five years from the enactment of this Ordinance, shall perform an
4 assessment and review of the effect of the homeless employee tax exclusion. Based on such assessment
5 and review the Controller shall prepare and submit an analysis to the Board of Supervisors. The
6 analysis shall be based on criteria deemed relevant by the Controller, and may include but is not
7 limited to, data contained in the annual reports to the Board of Supervisors as required by subsection
8 (h) of Section 1.

9 (j) A misrepresentation or misstatement by any person regarding eligibility for the payroll
10 expense tax exclusion authorized by this section that results in the underpayment or underreporting of
11 the payroll expense tax shall be subject to penalties as provided in Section 6.17-2 of Article 6 of the San
12 Francisco Business and Tax Administrative Code.

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14 APPROVED AS TO FORM:
15 DENNIS J. HERRERA, City Attorney

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17 By: _____
18 Carol A. Boardman
19 Deputy City Attorney

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