

File No. 190549

Committee Item No. 3

Board Item No. 39

### COMMITTEE/BOARD OF SUPERVISORS

#### AGENDA PACKET CONTENTS LIST

Committee: Government Audit and Oversight

Date: July 11, 2019

Board of Supervisors Meeting:

Date: July 23, 2019

#### Cmte Board

- |                                     |                                     |  |
|-------------------------------------|-------------------------------------|--|
| <input type="checkbox"/>            | <input type="checkbox"/>            | Motion                                       |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Resolution                                   |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Ordinance                                    |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Legislative Digest                           |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Youth Commission Report                      |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form                            |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/>            | MOU  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Budget                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Subcontract Budget                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Contract/Agreement                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Form 126 – Ethics Commission                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Application                                  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Public Correspondence                        |

#### OTHER

- |                                     |                                     |   |
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| <input type="checkbox"/>            | <input type="checkbox"/>            | _____   |
| <input type="checkbox"/>            | <input type="checkbox"/>            | _____   |
| <input type="checkbox"/>            | <input type="checkbox"/>            | _____   |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Presidential Action Transfer Memo - July 5, 2019</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Referral FYI - May 16, 2019</u>                      |

Prepared by: John Carroll

Date: July 5, 2019

Prepared by: John Carroll

Date: July 16, 2019

1 [Business and Tax Regulations Code - Transient Occupancy Tax Exemption Increase]

2  
3 **Ordinance amending the Business and Tax Regulations Code to increase the daily**  
4 **transient occupancy tax exemption amount from less than \$40 to less than \$52; to**  
5 **increase the weekly transient occupancy tax exemption amount from less than \$100 to**  
6 **less than \$130; and to require review in the September 2022 through September 2024**  
7 **timeframe by the Controller of the exemption amounts for the purpose of considering**  
8 **adjustments in the amounts.**

9  
10 **NOTE:** **Unchanged Code text and uncodified text** are in plain Arial font.  
11 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
12 **Deletions to Codes** are in ~~*italics Times New Roman font*~~.  
13 **Board amendment additions** are in Arial font.  
14 **Board amendment deletions** are in ~~Arial font~~.  
15 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
16 subsections or parts of tables.

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

18 Section 1. The Business and Tax Regulations Code is hereby amended by revising  
19 Article 7, Section 506, to read as follows:

20 **SEC. 506. EXEMPTIONS.**

21 No tax shall be imposed hereunder:

22 (a) Upon a permanent resident;

23 (b) Upon a corporation or association having a formally recognized exemption from  
24 income taxation pursuant to Section 501(c) or 501(d) or 401(a) of Title 26 of the United States  
25 Code as qualified by Sections 502, 503, 504 and 508 of Title 26 of the United States Code; or

1 (c) Where the rent is less than at the rate of ~~\$4052~~ a day or ~~\$100130~~ per week. For  
2 multiple-occupancy guest rooms where the hotel determines who will share the rooms, the  
3 exemption shall be based on the rent charged per person.

4 (d) ~~At some point b~~Between ~~September 1, 2022~~three years and ~~September 1, 2024~~five years  
5 ~~after the effective date of the ordinance setting the exemption rate in subsection (c) as less than \$40 a~~  
6 ~~day~~, the Controller's Office shall review the exemption amounts in subsection (c), and make a  
7 written report and recommendation to the Mayor as to whether the amounts should be  
8 adjusted to take into account, among other things, changes in the economy; the cost of living;  
9 impact on the City's revenue; and affordability and overall impact on the market for hotel guest  
10 rooms subject to the transient occupancy tax.


11  
12 Section 2. Effective and Operative Dates. This ordinance shall become effective 30  
13 days after enactment, and shall be operative on the first day of the month following the  
14 effective date. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
15 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
16 of Supervisors overrides the Mayor's veto of the ordinance.

17  
18 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
19 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
20 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
21 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
22  
23  
24  
25

1 additions, and Board amendment deletions in accordance with the "Note" that appears under  
2 the official title of the ordinance.

3  
4 APPROVED AS TO FORM:  
5 DENNIS J. HERRERA, City Attorney

6 By:

  
7 SCOTT M. REIBER  
8 Chief Tax Attorney

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LEGISLATIVE DIGEST

[Business and Tax Regulations Code - Transient Occupancy Tax Exemption Increase]

**Ordinance amending the Business and Tax Regulations Code to increase the daily transient occupancy tax exemption amount from less than \$40 to less than \$52; to increase the weekly transient occupancy tax exemption amount from less than \$100 to less than \$130; and to require review in the September 2022 through September 2024 timeframe by the Controller of the exemption amounts for the purpose of considering adjustments in the amounts.**

Existing Law

Existing law provides that no transient occupancy tax shall be imposed where the rent is less than \$40 per day or less than \$100 per week.

Amendments to Current Law

This ordinance would increase the exemptions from the transient occupancy tax to less than \$52 per day or less than \$130 per week. These changes would apply to hotel stays commencing on or after the first day of the month following the effective date of this ordinance.

This ordinance also requires the Controller to review these exemption amounts between September 1, 2022 and September 1, 2024, and to make a written report and recommendation to the Mayor as to whether they should be adjusted.

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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

REVISED 7/9/2019

July 9, 2019

TO: Government Audit and Oversight Committee  
FROM: Budget and Legislative Analyst   
SUBJECT: July 11, 2019 Special Government Audit and Oversight Committee Meeting

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<p><b>Item 3</b> <b>File 19-0549</b></p>	<p><b>Department:</b> [Select Board, Commission, or Department]</p>
<p><b>EXECUTIVE SUMMARY</b></p>	
<p style="text-align: center;"><b>Legislative Objectives</b></p> <ul style="list-style-type: none"> <li>• The proposed ordinance would amend the Business and Tax Regulations Code to (1) increase the daily transient occupancy tax exemption amount from less than \$40 to less than \$52; (2) increase the weekly transient occupancy tax exemption from less than \$100 to less than \$130; and (3) require review between September 2022 and September 2024 of the exemption amounts by the Controller for the purpose of considering adjustments.</li> </ul> <p style="text-align: center;"><b>Key Points</b></p> <ul style="list-style-type: none"> <li>• San Francisco taxes the transient occupancy of hotel guest rooms, often called the hotel tax. The hotel tax is calculated as a percentage of the rent for the occupancy of a hotel guest room in San Francisco. Currently, under the San Francisco Business and Tax Regulation Code Article 7, Section 506, hotels are exempt from the tax if their daily rent is less than \$40 day or \$100 per week. The Controller’s Office must review the exemption amounts every three to five years and recommend adjustments to the Board of Supervisors if appropriate. The Board of Supervisors last amended the code in 2015 (File 14-1146).</li> </ul> <p style="text-align: center;"><b>Fiscal Impact</b></p> <ul style="list-style-type: none"> <li>• Since FY 2015-16, the first full year of the current exemption level, the City has foregone \$2,985,563 in general fund revenue due to the exemption. This represents 0.26 percent of the total \$1,140,200,000 the City collected in hotel taxes.</li> <li>• According to the Controller’s Office, if all hotel owners with current rates of less than \$40 per day or \$100 per week increase their rates to the maximum exempt level, the City would receive at least \$237,000 less per year in hotel tax revenue.</li> </ul> <p style="text-align: center;"><b>Recommendation</b></p> <ul style="list-style-type: none"> <li>• Approval is a policy matter for the Board of Supervisors.</li> </ul>	

**MANDATE STATEMENT**

According to Charter Section 2.105, all legislative acts shall be by ordinance and require the affirmative vote of at least a majority of the members of the Board of Supervisors.

**BACKGROUND**

The City and County of San Francisco taxes the transient occupancy of hotel guest rooms, often called the hotel tax. The hotel tax is calculated as a percentage of the rent for the occupancy of a hotel guest room in San Francisco. Currently, the San Francisco Business and Tax Regulation Code Article 7, Section 506, exempts hotels from the tax if their daily rent is less than \$40 day or \$100 per week.

The Controller's Office must review the exemption amounts every three to five years and recommend adjustments to the Board of Supervisors if appropriate. The Board of Supervisors last amended the code in 2015 (File 14-1146).

**DETAILS OF PROPOSED LEGISLATION**

The proposed ordinance would amend the Business and Tax Regulations Code to (1) increase the daily transient occupancy tax exemption amount from less than \$40 to less than \$52; (2) increase the weekly transient occupancy tax exemption from less than \$100 to less than \$130; and (3) require review between September 2022 and September 2024 of the exemption amounts by the Controller for the purpose of considering adjustments.

The recommended increases are based on a report completed by the Controller's Office in May 2019. The Controller's Office considered the cost of living and the impact on the City's revenue when reviewing the exemption level. Between 2014 and 2018, the Controller's Office estimates that the average daily rate for hotel rooms less than \$75 in Northern California increased by 29.6 percent, from \$47.47 in 2014 to \$61.53 in 2018.

**FISCAL IMPACT**

Since FY 2015-16, the first full year of the current exemption level, the City has foregone \$2,985,563 in general fund revenue due to the exemption. This represents 0.26 percent of the total \$1,140,200,000 the City collected in hotel taxes, as shown in Table 1 below.

**Table 1: Hotel tax and exemptions from the past three fiscal ears**

Fiscal Year	Hotel Tax Collected (approximate)	Hotel Tax Foregone	Percentage of Hotel Tax Foregone of Total Tax Collected
FY 2015-16	\$387,700,000	\$1,014,513	0.26%
FY 2016-17	370,300,000	1,180,458	0.32%
FY 2017-18	382,200,000	790,592	0.21%
<b>Total</b>	<b>\$1,140,200,000</b>	<b>\$2,985,563</b>	<b>0.26%</b>

Source: Controller's Office



In FY 2017-18, exemptions were taken by 21 hotels, representing a 14 percent decrease in the number of hotels taking the exemption, or 24 hotels, in FY 2016-17.

According to Ms. Michelle Allersma, Director of Budget and Analysis at the Controller's Office, if all hotel owners with current rates of less than \$40 per day or \$100 per week increase their rates to the maximum exempt level, the City would receive at least \$237,000 less per year in hotel tax revenue; therefore the foregone hotel tax revenue to the City would increase by 30 percent, from approximately \$790,000 per year to \$1,027,000 per year.

**RECOMMENDATION**

Approval is a policy matter for the Board of Supervisors.

## Carroll, John (BOS)

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**From:** Carroll, John (BOS)  
**Sent:** Wednesday, July 10, 2019 9:25 AM  
**To:** Mar, Gordon (BOS); 'Brown, Vallie (vallie.brown@sfgov.org)'; Peskin, Aaron (BOS); 'Calvillo, Angela (angela.calvillo@sfgov.org)'; Fewer, Sandra (BOS)  
**Cc:** Somera, Alisa (BOS); Wright, Edward (BOS); Cancino, Juan Carlos (BOS); 'Angulo, Sunny (sunny.angulo@sfgov.org)'; Mchugh, Eileen (BOS); Loeza, Gabriela; BOS Legislation, (BOS); Yu, Angelina (BOS)  
**Subject:** FW: REVISED - July 11, 2019 Government Audit and Oversight Committee Report  
**Attachments:** 071119 GAO Committee Report\_Revised 070919.pdf


**Categories:** 190547, 190549, 2019.07.11 - GAO

Good morning, Chair Mar, members of the GAO committee, and Supervisor Fewer:

Please find and review the attached BLA report for agenda item nos. 1 and 3 on tomorrow's GAO special meeting agenda.

Best to you, all,

**John Carroll**  
Assistant Clerk  
Board of Supervisors  
San Francisco City Hall, Room 244  
San Francisco, CA 94102  
(415) 554-4445

 Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form.

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation and archived matters since August 1998.

*Disclosures: Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.*

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**From:** Loeza, Gabriela (BUD)  
**Sent:** Tuesday, July 09, 2019 1:50 PM  
**To:** Calvillo, Angela (BOS) <angela.calvillo@sfgov.org>; Carroll, John (BOS) <john.carroll@sfgov.org>; BOS Legislation, (BOS) <bos.legislation@sfgov.org>; Laxamana, Junko (BOS) <junko.laxamana@sfgov.org>; Lew, Lisa (BOS) <lisa.lew@sfgov.org>; Major, Erica (BOS) <erica.major@sfgov.org>; Mchugh, Eileen (BOS) <eileen.e.mchugh@sfgov.org>; Somera, Alisa (BOS) <alisa.somera@sfgov.org>; Wong, Linda (BOS) <linda.wong@sfgov.org>; Young, Victor (BOS) <victor.young@sfgov.org>  
**Cc:** Campbell, Severin (BUD) <severin.campbell@sfgov.org>  
**Subject:** REVISED - July 11, 2019 Government Audit and Oversight Committee Report

AS - 11  
City Aides  
Leg. Sec. PLUS  
Leg. Clerk PLUS  
Dep. City of SF  
Dep. City of SF

President, District 7  
BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102-4689  
Tel. No. 554-6516  
Fax No. 554-7674  
TDD/TTY No. 544-6546

Norman Yee

PRESIDENTIAL ACTION

Date: 6/20/2019  
To: Angela Calvillo, Clerk of the Board of Supervisors

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2019 JUL -5 AM 10:25  
OC

Madam Clerk,  
Pursuant to Board Rules, I am hereby:

Waiving 30-Day Rule (Board Rule No. 3.23)

File No. \_\_\_\_\_ (Primary Sponsor)

Title.

Transferring (Board Rule No 3.3)

File No. 190549 Peskin (Primary Sponsor)

Title. Business and Tax Regulations Code - Transient Occupancy Tax Exemption Increase

From: Budget & Finance Sub Committee

To: Government Audit & Oversight Committee

Assigning Temporary Committee Appointment (Board Rule No. 3.1)

Supervisor \_\_\_\_\_

Replacing Supervisor \_\_\_\_\_

For: \_\_\_\_\_ Meeting  
(Date) (Committee)

Norman Yee, President  
Board of Supervisors

BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

## MEMORANDUM

TO: Jose Cisneros, Treasurer, Office of the Treasurer & Tax Collector  
Ben Rosenfield, City Controller, Office of the Controller  
Sophia Kittler, Liaison to the Board of Supervisors, Office of the Mayor

FROM: Linda Wong, Assistant Clerk, Budget and Finance Sub-Committee  
Board of Supervisors

DATE: May 16, 2019

SUBJECT: LEGISLATION INTRODUCED

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The Board of Supervisors' Budget and Finance Sub-Committee has received the following proposed legislation, introduced by Supervisor Aaron Peskin on May 14, 2019:

**File No. 190549**

**Ordinance amending the Business and Tax Regulations Code to increase the daily transient occupancy tax exemption amount from less than \$40 to less than \$52; to increase the weekly transient occupancy tax exemption amount from less than \$100 to less than \$130; and to require review in the September 2022 through September 2024 timeframe by the Controller of the exemption amounts for the purpose of considering adjustments in the amounts.**

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: [linda.wong@sfgov.org](mailto:linda.wong@sfgov.org).

c: Amanda Kahn Fried, Office of the Treasurer & Tax Collector  
Todd Rydstrom, Office of the Controller  
Peg Stevenson, Office of the Controller  
Natasha Mihal, Office of the Controller  
Andres Power, Office of the Mayor  
Rebecca Peacock, Office of the Mayor

# Introduction Form

By a Member of the Board of Supervisors or Mayor

BOARD OF SUPERVISORS  
SAN FRANCISCO

2019 MAY 14

Time stamp  
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor [ ] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [ ] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. [ ]
- 9. Reactivate File No. [ ]
- 10. Topic submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

**Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.**

Sponsor(s):

Supervisor Peskin

Subject:

[Business and Tax Regulations Code - Transient Occupancy Tax Exemption Increase]

The text is listed:

Ordinance amending the Business and Tax Regulations Code to increase the daily transient occupancy tax exemption amount from less than \$40 to less than \$52; to increase the weekly transient occupancy tax exemption amount from less than \$100 to less than \$130; and to require review in the September 2022 - September 2024 time frame by the Controller of the exemption amounts for the purpose of considering adjustments in the amounts.

Signature of Sponsoring Supervisor:

For Clerk's Use Only

