

1 [Motion Ordering Submission of Gross Receipts Tax to Voters.]

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3 **Motion ordering submitted to the voters an "Ordinance amending the Business and**  
4 **Tax Regulations Code to: (1) enact a new Article 12-A-1 (Gross Receipts Tax**  
5 **Ordinance), Sections 951 through 958, to impose a gross receipts tax on persons**  
6 **engaging in business activities in San Francisco; (2) amend Article 12 (Business**  
7 **Registration Ordinance) to conform business registration requirements with the**  
8 **enactment of Article 12-A-1 (Gross Receipts Tax Ordinance); (3) amend Article 6**  
9 **(Common Administrative Provisions) to conform them with the enactment of Article 12-**  
10 **A-1 (Gross Receipts Tax Ordinance); and (4) amend Article 12-A (Payroll Expense Tax**  
11 **Ordinance) to conform it with the enactment of Article 12-A-1 (Gross Receipts Tax**  
12 **Ordinance)" at an election to be held on June 2, 2009.**

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14 **MOVED,** That the Board of Supervisors hereby submits the following Ordinance to the  
15 voters of the City and County of San Francisco at an election to be held on June 2, 2009.

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1 Ordinance amending the Business and Tax Regulations Code to: (1) enact a new  
2 Article 12-A-1 (Gross Receipts Tax Ordinance), Sections 951 through 958, to impose a  
3 gross receipts tax on persons engaging in business activities in San Francisco;  
4 (2) amend Article 12 (Business Registration Ordinance) to conform business  
5 registration requirements with the enactment of Article 12-A-1 (Gross Receipts Tax  
6 Ordinance); (3) amend Article 6 (Common Administrative Provisions) to conform them  
7 with the enactment of Article 12-A-1 (Gross Receipts Tax Ordinance); and (4) amend  
8 Article 12-A (Payroll Expense Tax Ordinance) to conform it with the enactment of  
9 Article 12-A-1 (Gross Receipts Tax Ordinance).

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

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

15 Section 1. Pursuant to Article XIIC of the Constitution of the State of California, this  
16 ordinance shall be submitted to the qualified electors of the City and County of San Francisco,  
17 at the June 2, 2009 special election and shall become operative only if approved by the  
18 qualified electors at that election.

19 Section 2. The San Francisco Business and Tax Regulations Code is hereby amended  
20 by adding Article 12-A-1 (Gross Receipts Tax Ordinance), Sections 951 through 958, thereto,  
21 to read as follows:  
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1 SEC. 951. SHORT TITLE.

2 This Article shall be known as the "Gross Receipts Tax Ordinance."  
3 SEC. 952. OPERATION  
4 OF DEFINITIONS.

5 Except where the context otherwise requires, the terms used in this Article shall have the  
6 meanings given to them in Sections 6.2-1 et seq. of Article 6.

7 SEC. 953. IMPOSITION OF GROSS RECEIPTS TAX; STATEMENT OF VOTER INTENT;  
8 AUTHORIZATION AND RATIFICATION OF TAX COLLECTOR REGULATIONS, SAVINGS  
9 CLAUSE, ETC.

10 (a) Except as provided under Sections 954 and 954.1, every person engaging in business within  
11 the City shall pay an annual business tax measured by the person's gross receipts from all taxable  
12 business activities attributable to the City. Section 955.2 defines "Gross receipts." A person's liability  
13 for the Gross Receipts Tax shall be calculated using the rates in Section 953.1.

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

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

1 impose the tax hereunder, regardless of the form (corporate or otherwise) of the person or other legal  
2 entity engaging in such business within the City.

3 (d) The Gross Receipts Tax imposed under this Article is in addition to the Payroll Expense Tax  
4 imposed under Article 12-A. Persons not otherwise exempt from the Gross Receipts Tax or Payroll  
5 Expense Tax shall pay both taxes. Persons exempt from either the Gross Receipts Tax or the Payroll  
6 Expense Tax, but not both, shall pay the tax from which they are not exempt.

7 (e) Nothing in this Article shall be construed as requiring the payment of any tax for engaging  
8 in a business or the doing of an act when such payment would be in violation of the Constitution or a  
9 statute of the United States or of the Constitution or a statute of the State of California. If any section,  
10 clause, part or provision of this Article, or the application thereof to any person or circumstance, is  
11 held invalid or unconstitutional, the remainder of this Article, including the application of such part or  
12 provision to other persons or circumstances, shall not be affected thereby and shall continue in full  
13 force and effect. To this end, the provisions of this Article are severable.

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15 **SEC. 953.1. GROSS RECEIPTS TAX RATES.**

16 The rates of Gross Receipts Tax are:

<u>Type of Business</u>	<u>Rate</u>
<u>Lessors of premises designed, intended, used or occupied</u> <u>for business purposes</u>	<u>1.395%</u>
<u>All other businesses:</u>	<u>0.1%</u>

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21 The amount of a person's liability for the Gross Receipts Tax shall be the product of such person's  
22 taxable gross receipts for the Tax Year multiplied by the tax rate applicable to the type of business that  
23 person operates.

1 SEC. 954. EXEMPTIONS.

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

8 (b) An organization otherwise exempt from income taxation under Subsection (a) that is  
9 directly engaged within the City in an unrelated trade or business within the meaning of Section 513(a)  
10 of the Internal Revenue Code of 1986, as amended, and has, from its own operations, unrelated  
11 business taxable income within the meaning of Section 512(a)(1) of the Internal Revenue Code of 1986,  
12 as amended, shall pay the Gross Receipts Tax on its gross receipts from its unrelated trade or business  
13 activities that are attributable to the City. If it is impracticable, unreasonable or improper to allocate  
14 such organization's gross receipts as aforesaid either because of the particular nature of the  
15 organization's unrelated trade or business or for any other reason, then the amount of gross receipts  
16 reasonably attributable to the organization's unrelated trade or business in the City shall be  
17 determined on the basis of all relevant facts and circumstances of the particular case, in accordance  
18 with any rulings or regulations issued or promulgated by the Tax Collector for that purpose.

19 (c) "Gross receipts" as defined in Section 955.2 shall not include rents from leasing real estate  
20 for use as a residence.

21 (d) "Gross receipts" as defined in Section 955.2 shall not include receipts from business  
22 activities if, and only so long as and to the extent that, the City is prohibited from taxing such receipts  
23 under the Constitution or laws of the United States or under the Constitution or laws of the State of  
24 California.

1           (e) Blind persons licensed under the provisions of Chapter 6A of Title 12 of the United States  
2 Code ("Vending Stands for Blind in Federal Buildings") or Article 5 of Chapter 6 of Part 2 of Division  
3 10 of the California Welfare and Institutions Code ("Business Enterprises for the Blind") need not  
4 include in the computation of gross receipts the first \$15,000 of gross receipts in any one year which is  
5 attributable to their licensed operations within the City.

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

9           (g) Receipts derived from contracts for services or sales initiated or consummated at closed  
10 conventions shall be excluded from taxable "gross receipts" as defined in Section 955.2. For purposes  
11 of this Section, a "closed convention" means an assemblage of delegates to or members of a formally  
12 established organization devoted to trade, industrial or commercial purposes, and to which only such  
13 delegates or members are admitted, to the exclusion of the general public.

14           (h) For only so long as and to the extent that the City is prohibited from imposing the tax under  
15 this Article, the following persons shall be exempt from the Gross Receipts Tax:

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

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

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

22                   (4) Persons engaging in intercity transportation as a household goods carrier under  
23 Public Utilities Code Section 5327;

24                   (5) Charter-party carriers operating limousines that are neither domiciled nor maintain  
25 a business office within the City under Public Utilities Code Section 5371.4; and,

1                   (6) Any person upon whom the City is prohibited under the Constitution or statutes of  
2 the State of California from imposing the Gross Receipts Tax.

3                   (A) To the extent that any taxpayer has paid a substantially similar tax to any  
4 other taxing jurisdiction on any gross receipts taxed under this Article, the tax paid to  
5 such taxing jurisdiction shall be credited against the tax due under this Article; in no  
6 event shall this credit reduce the taxpayer's liability to less than zero.

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8 SEC. 954.1. SMALL BUSINESS EXEMPTION.

9                   (a) Notwithstanding any other provision of this Article, "small business enterprises," as  
10 hereinafter defined for purposes of this Article 12-A-1, shall be exempt from payment of the Gross  
11 Receipts Tax; provided, that small business enterprises shall pay the annual registration fee pursuant  
12 to Section 855 of this Code.

13                   (b) The term "small business enterprise", for purposes of this Article 12-A-1, shall mean and  
14 include any taxpayer:

15                   (1) Whose gross receipts for the preceding Tax Year did not exceed \$2,000,000 (two  
16 million dollars); and

17                   (2) Who has filed a tax return by the last day of February for the preceding Tax Year. If  
18 the taxpayer fails to file a return by that date, the taxpayer shall be subject to a penalty as  
19 specified in subsection (c).

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

23                   (1) If the person's Gross Receipts Tax liability under this Article, but for the small  
24 business exemption under this Section, would be less than \$1,000, the penalty shall be \$100 plus  
25 10% of the amount of such liability, for each month, or fraction thereof, that the return is

1 delinquent, up to a maximum amount equal to the person's liability for such tax but for the  
2 small business exemption;

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

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

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12 **SEC. 955. DEFINITIONS.**

13 Except where the context otherwise requires, terms not defined in this Article that are defined in  
14 Article 6 shall have the same meaning given to them in Article 6.

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16 **SEC. 955.1. ADVANCE PAYMENTS.**

17 "Advance payments" means nonrefundable payments for the purchase of tangible personal  
18 property or services to be delivered or performed in the future.

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20 **SEC. 955.2. GROSS RECEIPTS.**

21 (a) "Gross receipts" means the total amount of the sale price of all sales, the total amount  
22 charged or received for the performance of any service of whatever nature it may be, whether such  
23 service is done as part of or in connection with the sale of goods, wares, merchandise or not, for which  
24 a charge is made or credit allowed, including all receipts, cash, credits and property of any kind or  
25 nature, any amount for which credit is allowed by the seller to the purchaser, without any deduction

1 therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs,  
2 interest paid or payable, losses or any other expense whatsoever; provided, that prompt payment  
3 discounts allowed or taken on sales shall not be included. Gross receipts, including advance payments,  
4 shall be included in a taxpayer's gross receipts at the time such receipts are recognized as revenue for  
5 federal income tax reporting purposes.

6 (b) Gross receipts shall also include the total amount of all lease or rental amounts paid or  
7 rendered by, on behalf of, or for the benefit of, all of the tenants of a landlord, valued in money, for the  
8 occupancy or use of all premises located in the City and designed, intended, used or occupied for  
9 business purposes, any services that are part of the lease or rental of the premises, whether received in  
10 money or otherwise, that are paid to, on behalf of, or for the benefit of, the landlord, and all receipts,  
11 cash, credits, property of any kind or character and the fair market value of services so paid or  
12 rendered for such occupancy, use and services. Gross receipts shall also include taxes, insurance and  
13 maintenance costs for the leased premises that are paid by the tenant, as well as a tenant's  
14 reimbursement of a landlord for those expenses. Gross receipts shall also include all payments for the  
15 lease of tangible personal property. Gross receipts shall also include the amount of any federal  
16 manufacturers or importers excise tax included in the price of the property sold, even though the  
17 manufacturer or importer is also the retailer thereof and whether or not the amount of such tax is  
18 stated as a separate charge.

19 (c) "Gross receipts" shall not include the amount of any federal tax imposed on or with respect  
20 to retail sales whether imposed upon the retailer or upon the consumer and regardless of whether or  
21 not the amount of federal tax is stated to customers as a separate charge, or any state and local sales  
22 or use tax required by law to be included in or added to the purchase price and collected from the  
23 consumer or purchaser, or such part of the sales price of any property previously sold and returned by  
24 the purchaser to the seller which is refunded by the seller by way of cash or credit allowances given or  
25 taken as part payment on any property so accepted for resale.

1           (d) “Gross receipts” shall not include any amount received from or charged to any person  
2 that is a related entity to the taxpayer. A person is a related entity to a taxpayer if 50% or more of the  
3 ownership interests in both value and voting power of such person and the taxpayer are held, directly  
4 or indirectly, by the same person or persons. Notwithstanding the foregoing, any amount received from  
5 or charged to any person which is a related entity to a taxpayer shall be included in “gross receipts”  
6 when said amount is compensation for activities, including, but not limited to, selling, renting and  
7 service, performed by the taxpayer for any person which is not a related entity to the taxpayer, unless  
8 such amount has been included in the “gross receipts” by the related entity and the tax thereon has  
9 been paid to the City.

10           (e) “Gross receipts” shall not include any amount derived from the sale of the taxpayer’s  
11 ownership interest in real property.

12           (f) “Gross receipts” shall not include any amount received by persons acting as agents or  
13 brokers, other than amounts received as commissions or fees earned or charges of any character made  
14 or compensation of any character received for the performance of any service as agent or broker.

15           (g) “Gross receipts” shall not include any amount of third party taxes that a taxpayer collects  
16 from or on behalf of the taxpayer’s customers and remits to the appropriate governmental entity  
17 imposing such tax.

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19           **SEC. 955.3. LANDLORD AND LESSOR.**

20           “Landlord” and “Lessor” mean a lessor of real estate located within the City and designed,  
21 intended, used or occupied for business purposes (such as an office, retail business, factory, or  
22 warehouse). The failure of a landlord or tenant, or both, to obtain a business registration certificate  
23 under Article 12, or any other license or permit required for engaging in either person’s business or  
24 occupation in the City, shall not relieve such landlord or tenant from the tax or other obligations  
25 imposed under this Article or Article 6.

1           SEC. 955.4 PREMISES.

2           "Premises" means any land and/or building, or any portion thereof, that is located within the  
3 City and designed, intended, used or occupied for business purposes.

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5           SEC. 955.5. PROMPT PAYMENT DISCOUNT.

6           "Prompt payment discount" means a deduction from the invoice price of goods or charge for  
7 services which is allowed if the bill is paid on or before a specified date.

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9           SEC. 955.6. RENT.

10          "Rent" means the total amount of all lease or rental amounts paid or rendered by, on behalf of,  
11 or for the benefit of, a lessor's tenant, valued in money, for the occupancy or use of real estate located  
12 within the City and designed, intended, used or occupied for business purposes, and for any services,  
13 privileges, furnishings and facilities provided in connection with the use or occupancy thereof,  
14 including storage, garage and parking facilities, whether paid in money or otherwise, to, on behalf of,  
15 or for the benefit of, the lessor. "Rent" includes all receipts, cash, credits, property of any kind or  
16 character and the fair market value of services so paid or rendered for such occupancy, use, services,  
17 privileges, furnishings and facilities. "Rent" shall also include taxes, insurance and maintenance costs  
18 for the leased premises that are paid by the tenant, as well as a tenant's reimbursement of a landlord  
19 for those expenses.

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21          SEC. 955.7. SALE AND SELL.

22          "Sale" and "sell" mean the making of any transfer of title, in any manner or by any means  
23 whatsoever, to tangible personal property for a price, any lease of tangible personal property for a  
24 price, and to the serving, supplying or furnishing, for a price, of any tangible personal property  
25 fabricated or made at the special order of consumers who do or who do not furnish directly or

1 indirectly the specifications therefore. A transaction whereby the possession of property is transferred  
2 but the seller retains the title as security for the payment of the price shall likewise be deemed a sale.

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4 SEC. 955.8. SALES PRICE.

5 “Sales price” means the actual amount charged or received for the sale or lease of an item of  
6 tangible personal property.

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8 SEC. 955.9. TENANT AND TENANCY.

9 “Tenant” and “Tenancy” include tenants and tenancies of all types, and persons occupying and  
10 the occupation of a building or structure, or space in a building or structure, or any other real estate in  
11 the City and designed, intended, used or occupied for business purposes, under any lease, rental  
12 agreement, license or concession agreement with a lessor. The right to use or possess such space shall  
13 be deemed to be the same as actual occupation.

14  
15 **SEC. 956. ALLOCATION AND APPORTIONMENT; BUSINESS WITHIN AND WITHOUT**  
16 **CITY.**

17 (a) Any person deriving gross receipts from business activities engaged in both within and  
18 without the City shall allocate and apportion such gross receipts to determine the amount thereof  
19 derived from or attributable to such activities within the City for purposes of calculating the person’s  
20 tax liability under this Article. The person shall make such allocation and apportionment, which shall  
21 be set forth on appropriate returns, using the ordinary methods of allocation and apportionment, as  
22 follows:

23 (1) Taxpayers shall include 100% of gross receipts derived from or attributable to sales  
24 of tangible personal property if: (i) a purchaser takes physical or constructive possession of the  
25 property within the City regardless of the f.o.b. point or other conditions of the sale; or (ii) the

1 property is delivered or shipped to a purchaser within the City regardless of the f.o.b. point or  
2 other conditions of the sale; or (iii) the property is shipped from an office, store, warehouse,  
3 factory, or other place of storage within the City to a location outside the City provided the  
4 taxpayer is not subject to a tax on the gross receipts derived from such sale in the city, county  
5 or analogous local jurisdiction to which the property is shipped.

6 (2) Taxpayers shall apportion gross receipts derived from or attributable to the  
7 performance of all services of whatever nature by multiplying 100% of such gross receipts by  
8 the percentage of the taxpayer's payroll expense attributable to the City under Section 904 of  
9 Article 12-A.

10 (3) Taxpayers who are landlords (as defined in Section 955.3) shall include 100% of  
11 gross receipts derived from or attributable to the leasing or renting of all of the landlord's  
12 premises located within the City; taxpayers shall not include gross receipts that are derived  
13 from or attributable to the leasing or renting of real estate located outside of the City.

14 (b) Nothing in this Section may be construed to deny any person (i) exempt from the tax  
15 imposed under this Article, (ii) entitled to a credit against the person's liability for the tax, or  
16 (iii) whose receipts from business activities or any amount thereof are excluded from "gross receipts"  
17 as defined in Section 955.2 of this Article or from liability for the tax, under any applicable provision of  
18 law, from the benefit of such exemption, credit or exclusion.

19 (c) The Tax Collector may promulgate regulations and issue rules, determinations and  
20 interpretations regarding the ordinary methods of allocation and apportionment set forth in this  
21 Section so as to fairly allocate the gross receipts of all persons subject to this Article in order to impose  
22 the tax generally and in individual cases only upon gross receipts from the business activities that are  
23 derived from or attributable to such activities engaged in within the City. The Tax Collector may, in  
24 the application of such regulations, rules, determinations and interpretations and regulations to  
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1 individual cases, depart from or make such modifications thereto as may be necessary to fairly allocate  
2 the taxpayer's gross receipts and impose the tax under this Article in a lawful manner.

3 (d) If the Tax Collector reallocates gross receipts upon examination of any return, the Tax  
4 Collector shall notify the person in writing of the basis upon which the Tax Collector made  
5 the reallocation. The Tax Collector shall provide such notice as soon as practicable  
6 following such reallocation, and within 10 days of receipt of a written request therefore  
7 from the taxpayer. The time for the doing of any act required by this Article or Article 6,  
8 and the commencement of any liability for penalties and interest under such Articles, shall  
9 not begin to run until the Tax Collector provides such notice.

10  
11 **SEC. 957. PAYMENTS, RETURNS, PREPAYMENTS AND EXTENSIONS.**

12 Payments, returns, prepayments and extensions for person's subject to this Article shall be as  
13 prescribed in the common administrative provisions set forth in Article 6.

14  
15 **SEC. 958. AUTHORITY TO PROMULGATE REGULATIONS.**

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

1 Section 3. Operative Date of Article 12-A-1 (Gross Receipts Tax Ordinance). Article  
2 12-A-1 of the Business and Tax Regulations Code (Gross Receipts Tax Ordinance), as  
3 enacted by this Ordinance, shall be operative commencing January 1, 2010.  
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5 Section 4. The San Francisco Business and Tax Regulations Code is hereby amended  
6 by amending Sections 855 and 856 of Article 12 (Business Registration Ordinance) thereof, to  
7 read as follows:

8 SEC. 855. REGISTRATION CERTIFICATE - FEE.

9 (a) Except as otherwise provided in this Section and Section 856 of this Article, the  
10 annual fee for obtaining a registration certificate, payable in advance, shall be as follows:

11 Computed Payroll Expense Tax 12 <i>and Gross Receipts Tax</i> for the 13 Immediately Preceding Tax Year	Annual Registration Fee
14 Less than \$ 1	\$ 25
15 \$ 1 to \$ 10,000	\$ 150
16 \$ 10,000 to \$ 50,000	\$ 250
17 More than \$ 50,000	\$ 500

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

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

1 (d) Any organization having a formally recognized exemption from income taxation  
2 pursuant to Section 501(c), 501(d) or 401(a) of the Internal Revenue Code of 1986, as  
3 amended, as qualified by Sections 502, 503, 504 and 508 of the Internal Revenue Code of  
4 1986, as amended, shall not be required to pay a registration fee under this Article unless the  
5 organization is also engaged within the City in an unrelated trade or business within the  
6 meaning of Section 906 of Article 12-A and Section 954 of Article 12-A-1.

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

10  
11 SEC. 856. REGISTRATION CERTIFICATE— APPLICATION AND ISSUANCE.

12 (a) Each person engaging in business within the City shall apply to the Tax Collector,  
13 on a form prescribed by the Tax Collector, for a registration certificate. The application shall  
14 be accompanied by the person's registration fee as determined under this Article. To ease  
15 administrative burdens on taxpayers (by consolidating the deadlines to file annual tax returns  
16 and apply for renewal of registration certificates), the term of registration certificates shall be  
17 changed from the calendar year basis to a fiscal year basis. The purpose of Subsections (b)  
18 through (e) of this Section is to facilitate such change and shall be interpreted in accordance  
19 with this purpose.

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

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

15 (d) Any person engaging in business within the City during the Registration Transition  
16 Period shall, between January 1 and February 28, 2003, apply to the Tax Collector for a  
17 registration certificate for the succeeding registration year (commencing July 1, 2003, and  
18 ending June 30, 2004). The application for renewal of such certificate shall become  
19 delinquent if not paid on or before February 28, 2003.

20 (e) A registration certificate issued for any registration year after the Registration  
21 Transition Period shall be valid through June 30 of such registration year. Except as provided  
22 in Subsection (f) of this Section, for any registration year commencing on or after July 1, 2003,  
23 any person engaging in business within the City shall, between January 1 and the last day of  
24 February, apply to the Tax Collector for a registration certificate for the succeeding registration  
25

1 year. The application for renewal of the annual registration certificate shall become  
2 delinquent if the registration fee is not paid on or before the last day of February.

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

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

11 (2) For the tax year ending on December 31, 2002, the fee for obtaining a  
12 registration certificate for a newly established business shall be determined pursuant to  
13 Section 855 of this Article using the estimated Payroll Expense Tax liability for such tax  
14 year. The registration fee for any person who commences business operations within  
15 the City during such tax year shall be prorated as follows: For persons commencing  
16 business between January 1st and March 31st, the registration fee shall be 100  
17 percent of the annual fee; for persons commencing business between April 1st and  
18 June 30th, the registration fee shall be 75 percent of the annual fee; for persons  
19 commencing business between July 1st and September 30th, the registration fee shall  
20 be 50 percent of the annual fee; and for persons commencing business between  
21 October 1st and December 31st, the registration fee shall be 25 percent of the annual  
22 fee. Where a registration certificate is issued for a period other than for a calendar  
23 year, the Tax Collector shall have discretion to prorate the registration fee in  
24 accordance with the formula set forth in this paragraph.

25

1           (3) For the Registration Transition Period, the fee for obtaining a registration  
2 certificate for a newly established business shall be determined pursuant to Section  
3 855 of this Article using the applicant's estimated tax liability under Article 12-A (Payroll  
4 Expense Tax Ordinance) for the 2003 tax year. For any person who commences  
5 business operations within the City on or after January 1, 2003, and before April 1,  
6 2003, the registration fee shall be as set forth in Subsection (c) of this Section. For any  
7 person who commences business operations within the City on or after April 1, 2003,  
8 and before July 1, 2003, the registration, fee shall be 25 percent of the amount of the  
9 annual registration fee otherwise applicable under Section 855(a) of this Article.

10           (4) For registration years commencing on or after July 1, 2003, the fee for  
11 obtaining a registration certificate for a newly established business shall be determined  
12 pursuant to Section 855 of this Article using the applicant's estimated tax liability under  
13 Article 12-A (Payroll Expense Tax Ordinance) *and Article 12-A-1 (Gross Receipts Tax*  
14 *Ordinance)* for the tax year in which the person commences such business within the  
15 City. The registration fee for persons who commence business operations after the  
16 Registration Transition Period shall be prorated as follows: For persons commencing  
17 business between January 1st and March 31st, the registration fee shall be 50 percent  
18 of the annual fee; for persons commencing business between April 1st and June 30th,  
19 the registration fee shall be 25 percent of the annual fee; for persons commencing  
20 business between July 1st and September 30th, the registration fee shall be 100  
21 percent of the annual fee; and for persons commencing business between October 1st  
22 and December 31st, the registration fee shall be 75 percent the annual fee. Where a  
23 registration certificate is issued for a period other than for a registration year, the  
24 Tax Collector shall have discretion to prorate the registration fee in accordance with  
25 this model.

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

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

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

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

1 (j) Each registration certificate shall be non-assignable and nontransferable. The  
2 holder of the registration certificate shall surrender the certificate to the Tax Collector  
3 immediately upon the sale or transfer of the business for which the Tax Collector issued the  
4 registration certificate. The holder of the registration certificate shall also surrender the  
5 certificate to the Tax Collector when such holder ceases to conduct business at the location  
6 designated in the certificate.

7 (k) If the Tax Collector determines that any liabilities enumerated in Subsection (h) of  
8 this Section remain unpaid as of the date an application is received, the Tax Collector shall  
9 give written notification of that fact to the applicant. The written notification shall set forth the  
10 amount owed, the liabilities enumerated in Subsection (h) of this Section for which the  
11 amount(s) are owed, the dates the liabilities were incurred and any other information the Tax  
12 Collector deems necessary to apprise the applicant of what specific liabilities are owed to the  
13 City. The Tax Collector shall not issue a registration certificate unless and until the applicant  
14 has paid all amounts owing to the City, including but not limited to, taxes, license fees, and  
15 costs or charges assessed for failure to abate a nuisance condition on a public right-of-way  
16 under Section 174.2 of Article 5.1 of the Public Works Code, as amended from time to time,  
17 for which the applicant is liable; provided, that if a good faith dispute exists regarding the  
18 amount of the outstanding liability or liabilities owed by the applicant to the City and the  
19 dispute is pending before a City agency or court of competent jurisdiction, then the Tax  
20 Collector shall not refuse to issue a registration certificate solely for non-payment of the  
21 amount in dispute.

22 (l) Each registration certificate, and each duplicate thereof, shall set forth the name  
23 under which the person transacts or intends to transact business, the location of the  
24 registrant's place of business and such other information as the Tax Collector may require,  
25 and be prominently displayed therein. In the case of a sole proprietorship, the registration

1 certificate shall be signed by the sole proprietor; in the case of a partnership, the registration  
2 certificate shall be signed by a general partner; in the case of a limited liability company, the  
3 registration certificate shall be signed by the managing member; and in the case of a  
4 corporation, the registration certificate shall be signed by the person authorized by the  
5 corporation to sign on its behalf.

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

9  
10 Section 5. The San Francisco Business and Tax Regulations Code is hereby amended  
11 by amending Sections 6.1-1, 6.2-12, 6.2-17, 6.6-1, 6.8-1, 6.9-1, 6.9-2, 6.9-3, 6.9-5, and 6.21-1  
12 and by adding Section 6.2-9-A of Article 6 (Common Administrative Provisions) thereof, to  
13 read as follows:

14 SEC. 6.1-1. COMMON ADMINISTRATIVE PROVISIONS.

15 (a) Except where the specific language of the Business and Tax Regulations  
16 Code or context otherwise requires, these common administrative provisions shall apply to  
17 Articles 6, 7, 9, 10, 10A, 11, 12, 12-A, 12-A-1 and 12-B of such Code.

18 (b) Unless expressly provided otherwise, all statutory references in this Article and the  
19 Articles set forth in Subsection (a) shall refer to such statutes as amended from time to time  
20 and shall include successor provisions. For purposes of collecting the Emergency Response  
21 Fee under Article 10A, any reference to a "tax" in this Article shall include the Emergency  
22 Response Fee where appropriate.

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

1           **SEC. 6.2-9-A. GROSS RECEIPTS TAX ORDINANCE; GROSS RECEIPTS TAX.**

2           "Gross Receipts Tax Ordinance" means Article 12-A-1; "Gross Receipts Tax" means the tax  
3 imposed thereunder.

4  
5           SEC. 6.2-12. NEXUS: "ENGAGING IN BUSINESS WITHIN THE CITY."

6           (a) The taxes imposed by Article 12-A (Payroll Expense Tax Ordinance), Article 12-A-1  
7 (Gross Receipts Tax Ordinance), and the registration fee imposed by Article 12 (Business  
8 Registration Ordinance) shall apply to any person engaging in business within the City unless  
9 exempted therefrom under such Articles. A person is "engaging in business within the City,"  
10 within the meaning of this Article, if that person meets one or more of the following conditions:

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

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

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

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

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

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

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

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

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

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

13  
14 SEC. 6.2-17. RETURN.

15 The term "return" means any written statement required to be filed pursuant to Articles  
16 6, 7, 9, 10, 10A, 11, 12, 12-A, or 12-A-1.

17  
18 SEC. 6.6-1. CERTIFICATE OF AUTHORITY FOR THIRD-PARTY TAXES.

19 (a) These additional provisions shall apply to operators under the transient hotel  
20 occupancy tax (Article 7), the parking space occupancy tax (Article 9), the utility users tax  
21 (Article 10) and the emergency response fee (Article 10A).

22 (b) Every operator engaging in or about to engage in business within the City who is  
23 required to collect or remit any third-party tax shall immediately apply to the Tax Collector for  
24 a certificate of authority on a form provided by the Tax Collector.

1 (c) The application for a certificate of authority shall set forth the name under which the  
2 person transacts or intends to transact business, the location of each of the person's places of  
3 business in the City, and such other information as the Tax Collector may require. The  
4 application shall be signed by the owner if a sole proprietor, by a member or partner, in the  
5 case of an association, or by an executive officer or some person specifically authorized by  
6 the corporation to sign the application, in the case of a corporation.

7 (d) Except as provided in Subsections(f), (g) and (h) below, the Tax Collector, within  
8 30 days after the application is complete, shall issue without charge a separate certificate of  
9 authority to the operator to collect third party taxes from customers for each location at which  
10 the operator is required to collect such taxes. Each certificate shall state the location of the  
11 place of business to which it applies and shall be prominently displayed at such location in  
12 plain view of all customers. Certificates of authority may not be assigned or transferred. The  
13 operator shall immediately surrender to the Tax Collector the certificate for that location upon  
14 the operator's cessation of business at that location or upon the sale or transfer of the  
15 business.

16 (e) The holder of a certificate of authority to collect parking taxes under Article 9 shall  
17 remain presumptively liable for the collection of parking taxes at the location named in the  
18 certificate, and for the reporting and remittance of such taxes to the Tax Collector, unless and  
19 until the holder of the certificate both (i) notifies the Tax Collector in writing that the holder has  
20 ceased to conduct a parking business at such location, and (ii) surrenders the certificate for  
21 that location to the Tax Collector.

22 (f) The Tax Collector may refuse to issue the certificate where, within the 30-day  
23 period referred to in Subsection (d) above, the Tax Collector determines that the operator, or  
24 any signatory to the application, or any person holding a 10 percent or greater legal or  
25 beneficial interest in said operator ("10% owner") is not in compliance with any provision of

1 Articles 6, 7, 9, 10, 10A, 12, ~~or 12-A,~~ or 12-A-1. Solely for purposes of determining under this  
2 Section whether any such operator, signatory or 10% owner is not in compliance with such  
3 Articles, the Tax Collector may disregard any corporation or association owned or controlled,  
4 directly or indirectly, by any such operator, signatory or 10% owner and consider such  
5 corporation or association's operations and liabilities as conducted by or as owned by any one  
6 or more of such corporation or association's officers, directors, partners, members or owners.  
7 For purposes of this Section, (i) the term "owned" means ownership of 50 percent or more of  
8 the outstanding ownership interests in such corporation or association, and (ii) the term  
9 "controlled" includes any kind of control, whether direct or indirect, whether legally  
10 enforceable, and however exercisable or exercised over such corporation or association. A  
11 presumption of control arises if the operator, signatory or 10% owner is (or was) an officer,  
12 director, partner or member of such corporation or association.

13 (g) Further, if any person subject to this Section violates any provision of Articles 6, 7,  
14 9, 10, 10A, 12, ~~or 12-A,~~ or 12-A-1, or a rule or regulation promulgated by the Tax Collector,  
15 including but not limited to failing to maintain accurate registration information, failure to sign  
16 any return or pay any tax when due, failure to timely respond to any request for information,  
17 order for records or subpoena, or for any person subject to Article 9 for failure to comply with  
18 the requirements of Article 49 of the Police Code, the Tax Collector may, after serving the  
19 person with written notice of his or her determination in the manner provided in Section 6.11-2  
20 and an opportunity to be heard pursuant to the notice and review provisions of Sections 6.13-  
21 1 et seq., revoke or suspend that person's certificate of authority. The Tax Collector may  
22 refuse to issue that person a new certificate of authority or to withdraw the suspension of an  
23 existing certificate until the person, signatory to the application for the certificate revoked or  
24 suspended, signatory to the application for a new certificate or withdrawal of the suspension,  
25

1 and all 10% owners have complied with the provisions of Articles 6, 7, 9, 10, 10A, 12, ~~or~~ 12-A,  
2 or 12-A-1 and corrected the original violation to the satisfaction of the Tax Collector.

3 (h) Before any certificate of authority shall be issued to any applicant to engage in the  
4 business of renting parking space in a parking station in this City, such applicant shall file with  
5 the Tax Collector a bond naming the City as exclusive beneficiary, at all times the applicant  
6 engages in such business. For any parking station with annual gross receipts less than  
7 \$100,000, such bond shall be in the amount of \$5,000. For any parking station with annual  
8 gross receipts of \$100,000 or more, such bond shall be in the amount of \$25,000. Such bond  
9 shall be executed by the applicant as principal, and by a corporation or association which is  
10 licensed by the Insurance Commissioner of this State to transact the business of fidelity and  
11 surety insurance, as surety. The applicant shall keep the bond in full force and effect for the  
12 duration of the certificate of authority and all renewals thereof issued to such applicant. If the  
13 bond provides that the term thereof shall be continuous until cancelled, the applicant shall  
14 provide the Tax Collector with certification from the surety of the renewal or continuation of the  
15 bond: (i) when applying for renewal of an existing certificate of authority, (ii) when requesting  
16 the withdrawal of a suspension of an existing certificate of authority, or (iii) upon written  
17 request of the Tax Collector.

18 The bond shall contain conditions that require the applicant to comply fully with all the  
19 provisions of Business and Tax Regulations Code concerning the collection of third-party  
20 taxes from occupants of parking stations and the remittance of such taxes to the Tax  
21 Collector. The bond shall be payable to this City in the amount of all unpaid parking taxes on  
22 amounts of taxable rents collected by the applicant, together with all administrative collection  
23 costs, interest, penalties, and other costs and charges applicable thereto; provided, however,  
24 that the aggregate liability of the surety for any and all claims which may arise under such  
25 bond shall in no event exceed the face amount of such bond regardless of the amount due

1 and owing to the City. The City may bring an action upon the bond for the recovery of any  
2 unpaid parking taxes, administrative collection costs, interest, penalties and other costs and  
3 charges at any time prior to the expiration of the period of limitations applicable to the  
4 collection of such unpaid taxes by the Tax Collector.

5  
6 SEC. 6.8-1. CITY, PUBLIC ENTITY AND CONSTITUTIONAL EXEMPTIONS.

7 Nothing in Articles 6, 7, 9, 10, 10A, 11, 12, ~~or 12-A~~, or 12-A-1 shall be construed as  
8 imposing a tax upon:

9 (1) The City;

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

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

16 (4) Any person exempted from the particular tax by the Constitution or statutes  
17 of the United States or the Constitution or statutes of the State of California.

18  
19 SEC. 6.9-1. DETERMINATIONS, RETURNS AND PAYMENTS; DUE DATE OF  
20 TAXES.

21 Except for jeopardy determinations under Section 6.12-2, and subject to prepayments  
22 required under Section 6.9-2, all amounts of taxes and fees imposed by Articles 6, 7, 9, 10,  
23 10A, 11, ~~and 12-A~~, and 12-A-1 are due and payable, and shall be delinquent if not paid to the  
24 Tax Collector on or before the following dates:

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

4 (b) For the payroll expense tax (Article 12-A) and gross receipts tax (Article 12-A-1), on or  
5 before the last day of February of each year;

6 (c) For the utility users taxes (Article 10) and the emergency response fee (Article  
7 10A), for each monthly period, on or before the last day of the following month; and

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

10  
11 SEC. 6.9-2. DETERMINATIONS, RETURNS AND PAYMENTS; RETURNS.

12 (a) Except as provided in paragraph (b) below, on or before the due date, or in the  
13 event of a cessation of business, each taxpayer shall file a return for the subject period on a  
14 form provided by the Tax Collector, regardless of whether there is a tax liability owing. A  
15 person subject to any tax or required to remit any third party tax who has not received a return  
16 form or forms from the Tax Collector is responsible for obtaining such form(s) and filing a  
17 return or returns on or before the due date, or upon the cessation of business. Returns shall  
18 show the amount of tax and any third party tax paid or otherwise due for the related period  
19 and such other information as the Tax Collector may require. Each person subject to any tax  
20 or required to remit any third party tax and required to file the return shall transmit the return,  
21 together with the remittance of the amount of tax or third party tax due, to the Tax Collector at  
22 the Tax Collector's office on or before the due date specified in Section 6.9-1.

23 (b) With respect to each tax year, the Tax Collector may exempt from the annual tax  
24 return filing requirement those taxpayers whose liability under the Payroll Expense Tax  
25 Ordinance, computed without regard to the small business exemption set forth in Section 905-

1 A of Article 12-A, and/or under the Gross Receipts Tax Ordinance, computed without regard to the  
2 small business exemption set forth in Section 954.1 of Article 12-A-1, is less than the Minimum  
3 Filing Amount for such tax year. For purposes of this Section, the Minimum Filing Amount  
4 shall be an amount of tax liability, computed without regard to such small business exemption,  
5 between zero and one thousand dollars (\$1,000). The Tax Collector shall specify the  
6 Minimum Filing Amount prior to the beginning of each tax year. If the Tax Collector fails to  
7 specify a Minimum Filing Amount prior to the start of a new tax year, the Minimum Filing  
8 Amount for such tax year shall be the Minimum Filing Amount for the preceding tax year.

9

10 SEC. 6.9-3. DETERMINATIONS, RETURNS AND PAYMENTS; PREPAYMENTS.

11 (a) Prepayments. Notwithstanding the due dates otherwise provided in Section 6.9-1,  
12 taxpayers shall make prepayments of taxes and third party taxes (“tax prepayments”) to the  
13 Tax Collector as follows:

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

1 monthly installment of any quarterly period shall be in an amount equal to the total tax  
2 liability for the quarterly period, less the amount of any tax prepayments actually paid.

3 (2) Payroll Expense Tax and the Gross Receipts Tax. The Payroll Expense Tax  
4 (Article 12-A) and Gross Receipts Tax (Article 12-A-1) shall be paid in biannual or quarterly  
5 installments as follows:

6 (A) Small Firm Prepayments. Every person liable for payment of a total  
7 Payroll Expense Tax or Gross Receipts Tax (or the combined total if subject to both  
8 taxes) in excess of \$2,500 but less than \$50,000 for any tax year shall pay such  
9 tax for the following tax year in two installments. The first installment shall be  
10 due and payable, and shall be delinquent if not paid on or before, August 1st.  
11 The first installment shall be a credit against the person's total Payroll Expense  
12 Tax and Gross Receipts Tax liability for the tax year in which the first installment is  
13 due. The first installment shall be in an amount equal to one- half (1/2) of the  
14 person's estimated Payroll Expense Tax and/or Gross Receipts Tax liability, as the  
15 case may be, for such tax year. The estimated liability shall be computed by  
16 using 52% of the person's taxable payroll expense (as defined in Section 902.2  
17 of Article 12-A) and/or gross receipts (as defined in Sections 955.2 of Article 12-A-1)  
18 for the preceding tax year, and the rate of tax applicable to the tax year in which  
19 the first installment is due. The second installment shall be reported and paid on  
20 or before the last day of February of the following year. The second installment  
21 shall be in an amount equal to the person's total Payroll Expense Tax and/or  
22 Gross Receipts Tax liability for the subject tax year, less the amount of the first  
23 installment and other tax prepayments for such tax year, if any, actually paid.  
24 The estimated liability for the 2010 tax year shall be computed by using 104% of the  
25

1 person's taxable payroll expense for the 2009 tax year, plus the person's estimated gross  
2 receipts for the 2009 tax year.

3 (B) Large Firm Prepayments. Every person liable for payment of a total  
4 Payroll Expense Tax and/or Gross Receipts Tax (or the combined total if subject to  
5 both taxes) in excess of \$50,000 for any tax year shall pay such tax for the  
6 following tax year in four quarterly installments. The first, second and third  
7 quarterly installments shall be due and payable, and shall be delinquent if not  
8 paid on or before, May 1st, August 1st and November 1st, respectively. The  
9 first, second and third quarterly installments shall be a credit against the  
10 person's total Payroll Expense Tax and/or Gross Receipts Tax for the tax year in  
11 which such first, second and third quarterly installments are due. Such quarterly  
12 installments each shall be in an amount equal to one-quarter (1/4) of the  
13 person's estimated Payroll Expense Tax and/or Gross Receipts Tax liability, as the  
14 case may be, for such tax year. The estimated liability for such tax year shall be  
15 computed by using 104% of the person's taxable payroll expense (as defined in  
16 Section 902.1 of Article 12-A) and/or gross receipts (as defined in Section 955.2 of  
17 Article 12-A-1) for the preceding tax year, and the rate of tax applicable to the  
18 tax year in which the first, second and third quarterly installments are due. The  
19 fourth installment shall be reported and paid on or before the last day of  
20 February of the following year. The fourth quarterly installment shall be in an  
21 amount equal to the person's total Payroll Expense Tax and/or Gross Receipts Tax  
22 liability for the subject tax year, less the amount of the first, second and third  
23 quarterly installments and other tax prepayments, if any, actually paid. The  
24 estimated liability for the 2010 tax year shall be computed by using 104% of the person's  
25

1                    taxable payroll expense for the 2009 tax year, plus the person's estimated gross receipts  
2                    for the 2009 tax year.

3                    (b) Tax Prepayment Penalties. Every person who fails to pay any tax prepayment  
4                    required under this Section before the relevant delinquency date shall pay a penalty in the  
5                    amount of five percent (5%) of the amount of the delinquent tax prepayment per month, or  
6                    fraction thereof, up to twenty percent (20%) in the aggregate, and shall also pay interest on  
7                    the amount of the delinquent tax prepayment from the date of delinquency at the rate of one  
8                    percent (1%) per month, or fraction thereof, for each month the prepayment is delinquent, until  
9                    paid.

10                   (c) Hotel and Parking Taxes. Upon commencing business, an operator subject to the  
11                   Hotel Tax (Article 7) or the Parking Tax (Article 9) shall have the option of making  
12                   prepayments in the amount of the actual tax owed or making an estimate of the prepayment  
13                   for the month based on the estimated tax accrued during the month in question. Once the  
14                   operator has selected an option, the operator must continue to follow that procedure unless  
15                   prior written permission to use the alternative procedure has been obtained from the Tax  
16                   Collector.

17                   In no instance shall an estimated prepayment of hotel or parking taxes be less than 30  
18                   percent of such tax collected in the immediately preceding quarterly period. If such estimated  
19                   prepayment is less than 30 percent of the tax collected in such preceding quarterly period, the  
20                   operator shall be subject to penalties and interest for the deficiency pursuant to Section 6.17-  
21                   1. If a prepayment based on actual tax owed is less than 90 percent of the actual liability for  
22                   the month, the operator shall be subject to penalties and interest for the deficiency pursuant to  
23                   Section 6.17-1.

24                   (d) Forms and Adjustments. Tax prepayments required under this Section shall be  
25                   accompanied by a tax prepayment form prepared by the Tax Collector, but failure of the Tax

1 Collector to furnish the taxpayer with a tax prepayment form shall not relieve the taxpayer  
2 from any tax prepayment obligation. The Tax Collector may, in writing, adjust the amount of a  
3 tax prepayment if the taxpayer can establish by clear and convincing evidence that the first  
4 installment of biannual tax prepayments, or first, second or third monthly installment of a  
5 quarterly tax prepayment, will amount to more than one half or one quarter, respectively, of  
6 the person's total tax liability for the tax year in which the installment is due.

7

8 SEC. 6.9-5. DETERMINATIONS, RETURNS AND PAYMENTS; CREDITS AND  
9 EXEMPTIONS.

10 The credits and exemptions set forth in Articles 7, 9, 10, 10A, 11, 12, ~~and~~ 12-A, and 12-  
11 A-I are provided on the assumption that the City has the power to offer such credits and  
12 exemptions. If a credit or exemption is invalidated by a court of competent jurisdiction, the  
13 taxpayer must pay any additional amount that the taxpayer would have owed but for such  
14 invalid credit or exemption. Amounts owed as a result of the invalidation of a credit or  
15 exemption that are paid within three years after the decision of the court becomes final shall  
16 not be subject to interest or penalties.

17

18 SEC. 6.21-1. TRANSFEREE AND SUCCESSOR LIABILITY.

19 (a) The liability at law or in equity of a successor, transferee or alter ego of any  
20 taxpayer or other person determined to be liable for any tax, interest, cost or penalty subject  
21 to this Article, imposed upon a taxpayer shall be determined, collected and paid in the same  
22 manner and subject to the same provisions and limitations as in the case of a deficiency  
23 determination pursuant to Sections 6.12-1 et seq. and 6.13-1 et seq. Nothing in this  
24 subsection shall be construed to limit the rights or procedures available to the Tax Collector to

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1 collect from any successor, transferee or alter ego, at law or in equity, as may be provided by  
2 statutory or decisional law.

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

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

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

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

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

25

1           Section 6. The San Francisco Business and Tax Regulations Code is hereby amended by  
2 amending Section 903 as follows:

3           SEC. 903. IMPOSITION OF PAYROLL EXPENSE TAX.

4           (a) A tax for general governmental purposes is hereby imposed upon every person engaging  
5 in business within the City as defined in Section 6.2-12 of Article 6; provided, that such tax shall be  
6 levied only upon that portion of the person's payroll expense that is attributable to the City as set forth  
7 in Section 904.

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

12           (c) The Payroll Expense Tax imposed under this Article is in addition to the Gross Receipts  
13 Tax imposed under Article 12-A-1. Persons not otherwise exempt from the Payroll Expense Tax or  
14 Gross Receipts Tax shall pay both taxes. Persons exempt from either the Payroll Expense Tax or the  
15 Gross Receipts Tax, but not both, shall pay the tax from which they are not exempt.

16  
17 APPROVED AS TO FORM:  
18 DENNIS J. HERRERA, City Attorney

19  
20 By: \_\_\_\_\_  
21 Michael K. Slattery  
22 Deputy City Attorney  
23  
24  
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