

File No. 101099

Committee Item No. 6

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Committee

Date: October 27, 2010

Board of Supervisors Meeting

Date _____

Cmte Board

- | | | |
|-------------------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input type="checkbox"/> | <input type="checkbox"/> | Resolution |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Ethics Form 126 |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form (for hearings) |
| <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"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
| <input type="checkbox"/> | <input type="checkbox"/> | Public Correspondence |

OTHER

(Use back side if additional space is needed)

<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____

Completed by: Victor Young

Date: October 22, 2010

Completed by: Victor Young

Date: _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

1 [Business and Tax Regulations Code: Common Administrative Provisions; Parking Tax;
2 Business Registration]

3 **Ordinance amending the San Francisco Business and Tax Regulations Code by:**
4 **(1) amending Article 6 (Common Administrative Provisions) to revise provisions**
5 **relating to: certificates of authority to collect third-party taxes; prepayment and**
6 **remittance requirements for hotel and parking operators; enforcement procedures and**
7 **penalties; and to otherwise clarify and update the provisions of Article 6; (2) amending**
8 **Article 9 (Tax on Occupancy of Parking Space in Parking Stations), Article 10 (Utility**
9 **Users Tax), and Article 12 (Business Registration), to lengthen the time period that**
10 **service suppliers must preserve records from 4 years to 5 years and to extend the**
11 **payment date of the registration certificate; and (3) repealing Sections 608 through**
12 **608.8 of Article 9 (Tax on Occupancy of Parking Space in Parking Stations); and**
13 **(4) amending the San Francisco Administrative Code by amending Article XIII (Funds),**
14 **Chapter 10 (Finance, Taxation, and Other Fiscal Matters), to correct references to the**
15 **California Government Code.**

16 NOTE: Additions are single-underline italics Times New Roman;
17 deletions are ~~strike-through italics Times New Roman~~.
18 Board amendment additions are double-underlined;
19 Board amendment deletions are ~~striketrough normal~~.

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

20 Section 1. The San Francisco Business and Tax Regulations Code is hereby amended
21 by repealing Sections 6.11-4, 6.14-1, and 6.18-4 and amending Sections 6.1-1, 6.2-8, 6.2-9,
22 6.2-13, 6.2-17, 6.2-18, 6.2-21, 6.4-1, 6.5-2, 6.6-1, 6.7-1, 6.7-2, 6.8-1, 6.9-1, 6.9-2, 6.9-3, 6.9-4,
23 6.9-5, 6.10-1, 6.10-2, 6.10-3, 6.11-1, 6.11-2, 6.11-3, 6.12-2, 6.12-5, 6.13-1, 6.13-3, 6.13-5,
24 6.13-6, 6.15-1, 6.15-2, 6.15-3, 6.15-4, 6.16-1, 6.17-1, 6.17-2, 6.17-3, 6.17-4, 6.18-1, 6.18-2,
25 6.18-3, 6.18-5, 6.19-1, 6.19-3, 6.19-4, 6.19-5, 6.19-6, 6.19-9, 6.21-1, and 6.22-1, to read as

Supervisors Mirkarimi, Dufty
BOARD OF SUPERVISORS

1 follows:

2
3 **SEC. 6.1-1. COMMON ADMINISTRATIVE PROVISIONS.**

4 (a) ~~Except where the specific language of the Business and Tax Regulations Code or context~~
5 ~~otherwise requires, these~~ These common administrative provisions shall apply to Articles 6, 7, 9,
6 10, 10B, 11, 12, 12-A, and 12-B of ~~this~~ the Code and to Chapter 105 of the San Francisco
7 Administrative Code, unless the specific language of either code otherwise requires. Any provision
8 of this Article 6 that references or applies to Article 10 shall be deemed to reference or apply
9 to Article 10B. Any provision of this Article 6 that references or applies to a tax shall be
10 deemed to also reference or apply to a fee administered pursuant to this Article.

11 (b) Unless expressly provided otherwise, all statutory references in this Article and the
12 Articles set forth in ~~subsection~~ Subsection (a) shall refer to such statutes as amended from time
13 to time and shall include successor provisions.

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

17
18 **SEC. 6.2-8. DAY.**

19 The term "day" means a calendar day. If the last day for performance of any act
20 provided for or required by the Business and Tax Regulations Code ~~is shall be~~ a holiday, as
21 defined in Chapter 7 (commencing with Section 6700) of Division 7 of Title 1 of the California
22 Government Code, or a Saturday or Sunday, the act may be performed upon the next
23 business day with the same effect as if it had been performed upon the day appointed. For
24 purposes of this Section, the Friday in November immediately after Thanksgiving Day ~~is shall~~
25 ~~be~~ considered a holiday.

1 **SEC. 6.2-9. EMPLOYEE.**

2 The term "employee" means any individual in the service of an employer, under an
3 appointment or contract of hire or apprenticeship, express or implied, oral or written, whether
4 lawfully or unlawfully employed, and includes but is not limited to, all of the enumerated
5 categories in ~~subsections~~Subsections (a) through (f) of California Labor Code Section 3351,
6 regardless of whether Workers' Compensation Benefits, pursuant to Division 4, Part 1,
7 Section 3200, et seq. of the California Labor Code are required to be paid. Nothing herein
8 shall be deemed to incorporate any provisions from said Labor Code relating to scope of
9 employment.

10
11 **SEC. 6.2-13. OPERATOR.**

12 The term "operator" means:

13 (a) Any person conducting or controlling a business subject to the tax on transient
14 occupancy of hotel rooms;

15 (b) Any person conducting or controlling a business subject to the tax on occupancy of
16 parking spaces in parking stations in the City, including, but not limited to, the owner or proprietor of
17 such premises, lessee, sublessee, mortgagee in possession, licensee or any other person otherwise
18 conducting or controlling such business;

19 (c) Any person conducting or controlling a business subject to the stadium operator
20 occupancy tax in the City;

21 (d) Any service supplier required to collect the utility users tax under Article 10; or

22 (e) Any service supplier required to collect the access line tax under Article 10B.

23 ~~The term "operator" means any person conducting or controlling a business subject to the tax~~
24 ~~on transient occupancy of hotel rooms or the tax on occupancy of parking spaces in parking stations in~~
25 ~~the City, including, but not limited to, the owner or proprietor of such premises, lessee, sublessee,~~

1 ~~mortgagee in possession, licensee or any other person otherwise conducting or controlling such~~
2 ~~business. "Operator" shall also include any person conducting or controlling a business subject to the~~
3 ~~stadium operator occupancy tax in the City, as well as any service supplier required to collect the~~
4 ~~utility users tax under Article 10 or the emergency response fee under Article 10A.~~

5
6 **SEC. 6.2-17. RETURN.**

7 The term "return" means any written statement required to be filed pursuant to Articles
8 6, 7, 9, 10, 10B ~~10A~~, 11, 12 or 12-A.

9
10 **SEC. 6.2-18. SUCCESSOR.**

11 The term "successor" means any person who, directly or indirectly through direct or mesne
12 conveyance, purchases or succeeds to the business or portion thereof, or the whole or any part
13 of the stock of goods, wares, merchandise, fixtures or other assets, or any interest therein of a
14 taxpayer quitting, selling out, exchanging or otherwise disposing of his or her business. Any
15 person obligated to fulfill the terms of a contract shall be deemed a successor to any
16 contractor defaulting in the performance of any contract as to which such person is a surety or
17 guarantor.

18
19 **SEC. 6.2-21. THIRD-PARTY TAXES.**

20 The term "third-party taxes" means the transient hotel occupancy tax (Article 7), the
21 parking space occupancy tax (Article 9), the utility users tax (Article 10) and the access line tax
22 (Article 10B) ~~emergency response fee (Article 10A)~~.

1 **SEC. 6.4-1. RECORDS; INVESTIGATION; SUBPOENAS.**

2 (a) Every taxpayer shall keep and preserve ~~business~~ records ~~for a period of five~~
3 ~~years~~ as may be necessary to determine the amount of tax for which the person may be liable,
4 including all local, ~~State~~ state and federal tax returns of any kind, for a period of 5 years from the
5 date the tax is due or paid, whichever is later.

6 (b) Upon request of the Tax Collector, a taxpayer shall produce such business records at the
7 Tax Collector's Office ~~The Tax Collector shall have the right to inspect, examine, and copy such~~
8 ~~records at any time~~ during normal business hours for inspection, examination, and copying. Refusal
9 to allow full inspection, examination, or copying of such records shall subject the taxpayer to
10 all the penalties authorized by law, including but not limited to the penalties set forth in Section
11 6.17-3. As an alternative to production at the Tax Collector's Office, the Tax Collector may agree to
12 inspect, examine, and copy the requested books, papers, and records at the taxpayer's place of business
13 or some other mutually acceptable location, and may require the taxpayer to reimburse the City for the
14 Tax Collector's ordinary and reasonable expenses incurred in the inspection, examination, and copying
15 of such books, papers, and records, including food, lodging, transportation and other related items, as
16 appropriate. ~~Where the taxpayer does not have the necessary records to determine liability under the~~
17 ~~Business and Tax Regulations Code or fails to produce such records in a timely fashion, the Tax~~
18 ~~Collector may determine the taxpayer's liability based upon any information in the Tax Collector's~~
19 ~~possession or that may come into the Tax Collector's possession. Such determination shall be prima~~
20 ~~facie evidence of the taxpayer's liability in any subsequent administrative or judicial proceeding.~~

21 (c)(b) The Tax Collector may order any person or persons, whether ~~as~~ taxpayers,
22 alleged taxpayers, witnesses, or custodians of ~~custodian or~~ records, to produce ~~for inspection,~~
23 ~~examination and copying at the Tax Collector's office~~ all books, papers, and records which the Tax
24 Collector believes may have relevance to enforcing compliance with the provisions of the
25 Business and Tax Regulations Code for inspection, examination, and copying at the Tax

1 Collector's Office during normal business hours. The Tax Collector may order the attendance before
2 the Tax Collector of all persons, whether as taxpayers, alleged taxpayers, witnesses, or custodian of
3 records, whom the Tax Collector believes may have any knowledge of such books, papers and records.
4 The Tax Collector may issue, and serve, subpoenas to carry out these provisions. As an alternative to
5 production at the Tax Collector's Officeoffice, the Tax Collector may agree to inspect, examine,
6 and copy the requested books, papers, and records at the person's~~taxpayer's~~ place of business
7 or some other mutually acceptable location, and may require the person~~taxpayer~~ to reimburse
8 the City for the Tax Collector's ordinary and reasonable expenses incurred in the inspection,
9 examination, and copying of such books, papers, and records, including food, lodging,
10 transportation, and other related items, as appropriate.

11 (d) The Tax Collector may order the attendance before the Tax Collector of any person or
12 persons, whether taxpayers, alleged taxpayers, witnesses, or custodians of records, whom the Tax
13 Collector believes may have any knowledge of such books, papers, and records.

14 (e) If the taxpayer does not maintain business records that are adequate to determine liability
15 under the Business and Tax Regulations Code, or following a request by the Tax Collector, fails to
16 produce such business records in a timely fashion, the Tax Collector may determine the taxpayer's
17 liability based upon any information in the Tax Collector's possession, or that may come into the Tax
18 Collector's possession. Such determination shall be prima facie evidence of the taxpayer's liability in
19 any subsequent administrative or judicial proceeding.

20 (f) The Tax Collector may issue and serve subpoenas to carry out these provisions.

21
22 **SEC. 6.5-2. PENALTIES FOR FAILURE TO RESPOND~~FILE RESPONSE~~ TO REQUEST**
23 **FOR FINANCIAL INFORMATION.**

24 Any persons, including taxpayers, alleged taxpayers, witnesses, or custodians~~custodian~~
25 of records, who fail to respond to the Tax Collector's written request for financial information

1 shall be subject to any penalties and sanctions provided by law, including but not limited to the
2 penalties and sanctions provided in Section 6.17-3.

3
4 **SEC. 6.6-1. CERTIFICATE OF AUTHORITY FOR THIRD-PARTY TAXES.**

5 (a) These additional provisions shall apply to operators under the transient hotel
6 occupancy tax (Article 7), the parking space occupancy tax (Article 9), the utility users tax
7 (Article 10) and the access line tax (Article 10B)emergency response fee (Article 10A).

8 (b) Every operator ~~engaging in or about to engage in business within the City~~ who is
9 required to collect or remit any third-party tax must possess a valid~~shall immediately apply to the~~
10 ~~Tax Collector for a~~ certificate of authority issued on a form provided by the Tax Collector.

11 (c) The application for a certificate of authority shall be on a form provided by the Tax
12 Collector and shall set forth the name under which the person transacts or intends to transact
13 business, the location of each of the person's places of business in the City, and such other
14 information as the Tax Collector may require. The application shall be signed by the owner if
15 a sole proprietor, by a member or partner, in the case of an association, or by an executive
16 officer or some person specifically authorized by the corporation to sign the application; in the
17 case of a corporation. No person shall operate a business for which a certificate of authority is
18 required under subsection (b) unless and until the Tax Collector has issued that person a certificate of
19 authority. The holder of a certificate of authority must promptly notify the Tax Collector of any
20 changes to the information stated in the certificate of authority application.

21 (d) Except as provided in ~~subsections~~Subsections (f), (g), ~~and~~ (h), and (i) below, the Tax
22 Collector, within ~~45~~30 days after the application is complete, shall issue ~~without charge a~~
23 separate certificate of authority to the operator to collect third-party taxes from customers for
24 each location at which the operator is required to collect such taxes. The certificate will expire
25 on a date certain set by the Tax Collector. The operator must apply for renewal of the certificate.

1 before it expires, if the operator intends to continue to engage in business in the City. Except as
2 provided in subsections (f), (g), (h) and (j), the Tax Collector may issue successive, one-year renewals
3 of an operator's certificate. Each certificate shall state the location of the place of business to
4 which it applies and shall be prominently displayed at such location in plain view of all
5 customers. Certificates of authority may not be assigned or transferred. The operator shall
6 immediately surrender to the Tax Collector the certificate for that location upon the operator's
7 cessation of business at that location or upon the sale or transfer of the business.

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

14 (f) The Tax Collector may refuse to issue the certificate where, within the 4530-day
15 period referred to in ~~subsection~~Subsection (d) above, the Tax Collector determines that the
16 operator, or any signatory to the application, or any person holding a 10 percent or greater
17 legal or beneficial interest in said operator ("10% owner") is not in compliance with any
18 provision of Articles 6, 7, 9, 10, 10B10A, 12, ~~or 12-A~~, or 22, including but not limited to any failure
19 to timely collect, report, pay, or remit any tax imposed by this Code, or where any such person is not in
20 compliance with any provision of Sections 1216 through 1223 inclusive of Article 17 of the Police
21 Code.

22 Solely for purposes of determining under this Section whether any such operator,
23 signatory or 10% owner is not in compliance with such Articles, the Tax Collector may
24 disregard any corporation or association owned or controlled, directly or indirectly, by any
25 such operator, signatory or 10% owner and consider such corporation or association's

1 operations and liabilities as conducted by or as owned by any one or more of such corporation
2 or association's officers, directors, partners, members or owners. For purposes of this
3 Section, (i) the term "owned" means ownership of 50 percent or more of the outstanding
4 ownership interests in such corporation or association, and (ii) the term "controlled" includes
5 any kind of control, whether direct or indirect, whether legally enforceable, and however
6 exercisable or exercised over such corporation or association. A presumption of control arises
7 if the operator, signatory or 10% owner is (or was) an officer, director, partner or member of
8 such corporation or association.

9 (g) Further, if any person subject to this Section violates any provision of Articles 6, 7,
10 9, 10, 10B10A, 12, ~~or~~ 12-A, or 22, or a rule or regulation promulgated by the Tax Collector,
11 including but not limited to any failure to timely collect, report, pay, or remit any tax imposed by this
12 Code, failure failing to maintain accurate registration information, failure to sign any return or
13 pay any tax when due, or failure to timely respond to any request for information, order for
14 records or subpoena, or for any person subject to Article 9 for failure to comply with the
15 requirements of Article 22 of the Business and Tax Regulations Code ~~Article 49 of the Police Code~~, or
16 violates any provision of Sections 1216 through 1223 inclusive of Article 17 of the Police Code, the
17 Tax Collector may, after serving the person with written notice of his or her determination in
18 the manner provided in Section 6.11-2 and an opportunity to be heard pursuant to the notice
19 and review provisions of ~~Section~~ Sections 6.13-1 et seq., revoke or suspend that person's
20 certificate of authority. The Tax Collector may refuse to issue that person a new certificate of
21 authority or to withdraw the suspension of an existing certificate until the person, signatory to
22 the application for the certificate revoked or suspended, signatory to the application for a new
23 certificate or withdrawal of the suspension, and all 10% owners have complied with the
24 provisions of Articles 6, 7, 9, 10, 10B10A, 12, ~~or~~ 12-A, and 22 and corrected the original
25 violation to the satisfaction of the Tax Collector.

1 (h) Before any certificate of authority shall be issued to any applicant to engage in the
 2 business of renting parking space in a parking station in this City, such applicant shall file with
 3 the Tax Collector a bond naming the City as exclusive beneficiary, at all times the applicant
 4 engages in such business. ~~For any parking station with annual gross receipts less than \$100,000,~~
 5 ~~such~~Such bond shall be in the following amounts: amount of \$5,000.

<u>Annual gross receipts for parking station</u>	<u>Bond amount</u>
<u>Less than \$100,000.00</u>	<u>\$20,000</u>
<u>\$100,000.00 to \$250,000.00</u>	<u>\$50,000</u>
<u>\$250,000.01 to \$500,000.00</u>	<u>\$100,000</u>
<u>\$500,000.01 to \$750,000.00</u>	<u>\$150,000</u>
<u>\$750,000.01 to \$1,000,000.00</u>	<u>\$200,000</u>
<u>\$1,000,000.01 to \$2,000,000.00</u>	<u>\$400,000</u>
<u>\$2,000,000.01 to \$4,000,000.00</u>	<u>\$800,000</u>

16 ~~For any parking station with annual gross receipts of \$100,000 or more, such bond shall be in the~~
 17 ~~amount of \$25,000. This bond requirement does not apply to an applicant that is a governmental entity.~~

18 The Tax Collector may, in his or her discretion, independently establish the annual gross
 19 receipts for a parking station and set the bond amount pursuant to the schedule above, based on that
 20 determination. If, at the end of any calendar year, the gross receipts for a parking station have
 21 increased such that a larger bond amount would be required under the above schedule, the operator
 22 shall obtain a new bond in the increased amount by the following April 1. If at the end of any calendar
 23 year the gross receipts for the parking station have decreased, the operator may apply to the Tax
 24 Collector for a reduction of the bond amount.

1 (i) Such bond shall be executed by the applicant as principal, and by a corporation or
2 association which is licensed by the Insurance Commissioner of this State to transact the
3 business of fidelity and surety insurance, as surety. The applicant shall keep the bond in full
4 force and effect for the duration of the certificate of authority and all renewals thereof issued to
5 such applicant. If the bond provides that the term thereof shall be continuous until cancelled,
6 the applicant shall provide the Tax Collector with certification from the surety of the renewal or
7 continuation of the bond: at the same time that the applicant files its annual renewal of its Business
8 Registration Certificate, and (i) when applying for renewal of an existing certificate of authority,
9 (ii) when requesting the withdrawal of a suspension of an existing certificate of authority, or
10 (iii) upon written request of the Tax Collector.

11 (j) The bond shall contain conditions that require the applicant to comply fully with all
12 the provisions of the Business and Tax Regulations Code concerning the collection of third-
13 party taxes from occupants of parking stations and the remittance of such taxes to the Tax
14 Collector. The bond shall be payable to the City in the amount of all unpaid parking taxes
15 on amounts of taxable rents collected by the applicant, together with all administrative
16 collection costs, interest, penalties, and other costs and charges applicable thereto; provided,
17 however, that the aggregate liability of the surety for any and all claims which may arise under
18 such bond shall in no event exceed the face amount of such bond regardless of the amount
19 due and owing to the City. The City may bring an action upon the bond for the recovery of any
20 unpaid parking taxes, administrative collection costs, interest, penalties and other costs and
21 charges at any time prior to the expiration of the period of limitations applicable to the
22 collection of such unpaid taxes by the Tax Collector.

23 (k) When there is a deficiency determination or jeopardy determination against an operator
24 for third-party taxes, the Tax Collector shall issue the deficiency determination or jeopardy
25 determination against the operator and the operator's surety. The liability of the surety shall not

1 exceed the face value of the bond(s). The Tax Collector shall provide notice of such deficiency
2 determination or jeopardy determination to the operator and the bond surety. An operator's petition
3 for redetermination shall be construed by the Tax Collector as a petition on behalf of both the operator
4 and the surety and may request a hearing before the Tax Collector pursuant to Section 6.13-2. The
5 taxpayer and surety hearing may be consolidated at the discretion of the Tax Collector. The surety
6 may file a separate petition for redetermination. Upon the finality of such determination or decision on
7 petition for redetermination, the operator and the surety shall be liable to the Tax Collector in the
8 amount of the determination or decision on petition for redetermination. The surety's liability shall not
9 exceed the face value of the bond(s). The surety shall be subject to the same requirements as the
10 operator with regard to payment of the tax liability and exhaustion of administrative remedies prior to
11 seeking judicial relief. The Tax Collector may exercise all remedies against the surety that are
12 available to the Tax Collector as to an operator or any other person determined to be liable for a tax.

13 (l) Before any certificate of authority shall be issued to any applicant to engage in the business
14 of renting parking space in a parking station in this City, the applicant shall comply with Article 22.
15 The applicant shall reimburse the Tax Collector's costs to inspect the parking station to confirm it
16 complies with Article 22.

17
18 **SEC. 6.7-1. COLLECTION OF THIRD-PARTY TAXES.**

19 (a) Every operator receiving payment of charges from a customer shall collect the
20 amount of the third-party tax from the customer. All amounts of third-party tax so collected
21 shall be ~~held~~considered to be a special fund in trust for the City. For purposes of this Section, a
22 person who otherwise qualifies as an operator under Section ~~6.2-146.2-13~~ shall not, by reason
23 of the fact that the person is exempt from the tax, be exempted from the other obligations of
24 an operator, including without limitation the obligation to collect and remit to the City all third-
25 party taxes collected from non-exempt customers. An exemption from a third-party tax is enjoyed

1 by the customer, not by the operator responsible for collecting and remitting such taxes. The operator
2 may not exclude from taxation charges claimed to be exempt unless the operator has records of each
3 transaction, which demonstrate: (1) the basis for the claim of exemption, and (2) that an amount was
4 not in fact collected from the exempt customer as a tax.

5 ~~Where an operator is exempt from the tax but its tenant is not exempt, the tenant shall be~~
6 ~~deemed to be an operator and shall be liable for the tax.~~ Where a customer is not the end user of
7 a good or service subject to such tax, the customer shall be deemed an operator. The
8 existence of such deemed operator shall not relieve any other operator of obligations under
9 the Business and Tax Regulations Code, including without limitation the obligation to collect
10 and remit the tax to the City. The liability of such deemed operator and any other operator for
11 the tax, including applicable interest and penalties accrued through the date of payment, shall
12 be joint and several; provided, the City shall be limited to only one satisfaction thereof.

13 (b) Third-party taxes shall be collected, ~~insofar as to the extent~~ practicable, at the same
14 time as and along with the collection of charges made in accordance with the regular billing
15 practice of the operator. If the amount paid by a customer is less than the full amount of the
16 charges and tax which has accrued for the billing period, a proportionate share of both the
17 charges and the tax shall be deemed to have been paid.

18 (c) Where a customer receives more than one billing, one or more being for different
19 periods than another, the duty to collect shall arise separately for each billing period. In all
20 cases of transactions upon credit or deferred payment, the payment of tax to the Tax Collector
21 may be deferred in accordance therewith, and the operator shall be liable therefor at the time
22 and to the extent that such credits are paid or deferred payments are made in accordance
23 with the rate of tax owing on the amount thereof.

24 (d) Any third-party tax imposed upon customers shall be deemed a debt owed by the
25 customer to the City. Any such tax required to be collected from customers which has not

1 been remitted to the Tax Collector shall be deemed a debt owed to the City by the person
2 required to collect and remit such tax to the City.

3 (e) The Tax Collector shall have the power to adopt rules and regulations prescribing
4 methods and schedules for the collection and payment of third-party taxes and such methods
5 and schedules shall provide that the fractional part of ~~one~~ cent shall be disregarded unless it
6 amounts to one-half of ~~one~~ cent ~~percent~~ or more, in which case the amount (determined
7 without regard to the fractional part of ~~one~~ cent) shall be increased by ~~one~~ cent.

8 (f) The Tax Collector may, in the exercise of his or her discretion, require an operator under
9 this Section to maintain trust accounts for deposit of third-party taxes collected from customers. The
10 Tax Collector may direct an operator regarding how such trust accounts shall be created and
11 maintained, and may prescribe the terms of such accounts. An operator's refusal to comply with the
12 Tax Collector's direction regarding a trust account shall be grounds for revocation of a certificate of
13 authority and/or of any license or permit to do business in San Francisco. ~~The Tax Collector may~~
14 ~~require operators under this Section to maintain separate trust accounts for taxes collected from~~
15 ~~customers. The Tax Collector shall adopt rules and regulations prescribing, among other things, when~~
16 ~~such accounts shall be required and how such accounts shall be maintained.~~

17 (g) When third-party taxes are not paid when due, or when there is any deficiency
18 determination or jeopardy determination against an operator for third-party taxes, the Tax
19 Collector may collect said liabilities, including interest and penalties accrued through the date
20 of payment, from any person or persons the Tax Collector determines was responsible for
21 performing the acts of collecting, accounting for, and remitting third-party taxes to the City and
22 failed to do so, or who had. ~~For purposes of this Section, a person shall be considered to be~~
23 ~~responsible for performing the acts of collecting, accounting for, and remitting third party taxes to the~~
24 ~~City if and to the extent such person has~~ the power to control the financial decision-making
25 process by which the operator allocates funds to creditors in preference to the operator's

1 obligation to remit third-party taxes to the City. When the person or persons responsible for the
2 acts of collecting, accounting for, and remitting third-party taxes to the City cannot otherwise
3 be determined, the Tax Collector may presume the President, Chief Executive Officer, and/or Chief
4 Financial Officer of a corporation or any managing partner or member of an association to be a
5 person responsible for performing such acts. The Tax Collector is authorized to name all such persons
6 potentially responsible for performing such acts in a notice of deficiency determination or jeopardy
7 determination and, in such case, the Tax Collector shall identify the person or persons responsible for
8 such acts in the final decision. The final decision shall be based on the information available to the
9 Tax Collector or based on the above presumption.~~there shall be a rebuttable presumption that the~~
10 ~~President and Chief Financial Officer of a corporation or any managing partner or member of an~~
11 ~~association is the person responsible for performing such acts.~~ The liability of such persons shall
12 be joint and several with each other and with the operator, and shall be established in the
13 manner provided for under this Article for other determinations.

14
15 **SEC. 6.7-2. REPORTING AND REMITTING THIRD-PARTY TAXES AND STADIUM**
16 **OPERATOR ADMISSION TAX.**

17 (a) All amounts of utility users taxes under Article 10 are due and payable to the Tax
18 Collector for each month on or before the last day of the month immediately following each
19 respective monthly period. All amounts of stadium operator admission taxes under Article 11
20 are due and payable to the Tax Collector within ~~five~~5 days after the event, subject to the
21 provisions of Section 804 of Article 11. All amounts of third-party taxes other than the utility
22 users taxes are due and payable to the Tax Collector for each calendar quarter on or before
23 the last day of the month immediately following each respective quarterly period.

24 (b) On or before the last day of the month immediately following each respective
25 period, every operator except the stadium operator shall file a return for the preceding period

1 with the Tax Collector, on such forms as the Tax Collector may prescribe. Stadium Operators
2 shall file a return within the time periods set forth in Section 804 of Article 11. Filing a return
3 that the Tax Collector determines to be incomplete in any material respect may be deemed failure to
4 file a return in violation of this Section.

5 (c) Returns shall show the amount of tax required to be collected for the subject
6 period, separately, for each location at which the operator conducts business, and such other
7 information as the Tax Collector requires. The Tax Collector may require returns to show the
8 total number of transactions upon which tax was required to be collected and the amount of
9 tax due on each such transaction, and for each location at which the operator conducts
10 business. The Tax Collector may inspect, examine, and copy records ~~for~~ each such
11 location separately, and may issue deficiency and jeopardy determinations pursuant to this
12 Article for each such location separately, or in combination with one or more other locations at
13 which the operator conducts business. The operator shall file the return, together with
14 remittance of the amount of tax due, with the Tax Collector, at the Tax Collector's ~~Office~~
15 on or before the date provided in this Section. Returns and remittances are due immediately
16 upon cessation of business for any reason.

17 (d) When a return is filed without full remittance of the amount reported to be due, the
18 amount remaining unpaid, together with any nonpayment penalties, ~~is~~ immediately due and
19 payable and may be collected by the Tax Collector forthwith.

20
21 **SEC. 6.8-1. CITY, PUBLIC ENTITY AND CONSTITUTIONAL EXEMPTIONS.**

22 Nothing in Articles 6, 7, 9, 10, ~~10B10A~~, 11, 12, or 12-A shall be construed as imposing a
23 tax upon:

- 24 (1) The City;
- 25

1 (2) The State of California, or any county, municipal corporation, district or other
2 political ~~subdivisions~~~~sub-division~~ of the State, except where any constitutional or statutory
3 immunity from taxation is waived or is not applicable;

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

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

8 The foregoing exemption from taxation does not relieve an exempt party from its duty to collect,
9 report, and remit third-party taxes.

10
11 **SEC. 6.9-1. DETERMINATIONS, RETURNS AND PAYMENTS; DUE DATE OF TAXES.**

12 Except for jeopardy determinations under Section 6.12-2, and subject to prepayments
13 required under Section 6.9-2, all amounts of taxes and fees imposed by Articles 6, 7, 9, 10,
14 ~~10B-10A~~, 11, and 12-A are due and payable, and shall be delinquent if not paid to the Tax
15 Collector on or before the following dates:

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

19 (b) For the payroll expense tax (Article 12-A), on or before the last day of February of
20 each year;

21 (c) For the utility users taxes (Article 10) and the access line tax (Article 10B)~~emergency~~
22 ~~response fee (Article 10A)~~, for each monthly period, on or before the last day of the following
23 month; and

24 (d) For the stadium operator admission tax (Article 11-), within ~~five~~5 days after the
25 event, subject to the provisions of ~~Article 11, Section 804~~Section 804 of Article 11.

1 **SEC. 6.9-2. DETERMINATIONS, RETURNS AND PAYMENTS; RETURNS.**

2 (a) Except as provided in ~~subsection~~*paragraph* (b) below, on or before the due date, or
3 in the event of a cessation of business within 15 days of such cessation, each taxpayer shall file
4 a return for the subject period on a form provided by the Tax Collector, regardless of whether
5 there is a tax liability owing. A person subject to any tax or required to remit any third-party tax
6 who has not received a return form or forms from the Tax Collector is responsible for
7 obtaining such form(s) and filing a return or returns on or before the due date, or upon the
8 cessation of business. Returns shall show the amount of tax and any third-party tax paid or
9 otherwise due for the related period and such other information as the Tax Collector may
10 require. Each person subject to any tax or required to remit any third-party tax and required to
11 file the return shall transmit the return, together with the remittance of the amount of tax or
12 third-party tax due, to the Tax Collector at the Tax Collector's ~~office~~Office on or before the due
13 date specified in Section 6.9-1.

14 (b) With respect to each tax year, the Tax Collector may exempt from the annual tax
15 return filing requirement those taxpayers whose liability under the Payroll Expense Tax
16 Ordinance, computed without regard to the small business exemption set forth in
17 Section 905-A of Article 12-A, is less than the Minimum Filing Amount for such tax year. For
18 purposes of this Section, the Minimum Filing Amount shall be an amount of tax liability,
19 computed without regard to such small business exemption, between zero and \$1,000~~one~~
20 ~~thousand dollars (\$1,000)~~. The Tax Collector shall specify the Minimum Filing Amount prior to
21 the beginning of each tax year. If the Tax Collector fails to specify a Minimum Filing Amount
22 prior to the start of a new tax year, the Minimum Filing Amount for such tax year shall be the
23 Minimum Filing Amount for the preceding tax year.
24
25

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

2 (a) **Prepayments and Remittances.** Notwithstanding the due dates otherwise provided
3 in Section 6.9-1, taxpayers shall make prepayments and remittances of taxes and third-party
4 taxes (~~"tax prepayments"~~) to the Tax Collector as follows:

5 (1) **Hotel and Parking Taxes.** The Hotel Tax (Article 7) and the Parking Tax
6 (Article 9) shall be ~~paid in~~remitted monthly ~~installments~~. Such monthly ~~installments~~remittances
7 shall be due and payable to the Tax Collector on or before the last day of the month
8 immediately following the month for which ~~the prepayments~~such remittance is due. Taxes paid in
9 the first ~~two~~ monthly ~~installments~~remittances of any quarterly period shall be a credit against
10 the total liability for such third-party taxes for the quarterly period. ~~Estimated tax prepayments~~
11 ~~shall be computed based on the estimated tax accrued during the month in question, but in no instance~~
12 ~~shall a prepayment be equal to a sum less than 30 percent of the tax collected in the immediately~~
13 ~~preceding quarterly period. If the taxpayer can establish by clear and convincing evidence that the~~
14 ~~amount of any prepayment will exceed the total tax liability for the quarterly period for which the tax~~
15 ~~prepayment becomes due, the Tax Collector may, in writing, adjust the amount of the tax prepayment.~~
16 The third monthly ~~installment~~remittance of any quarterly period shall be in an amount equal to
17 the total tax liability for the quarterly period, less the amount of any ~~tax prepayments~~monthly
18 remittance for such quarter actually paid.

19 (2) **Payroll Expense Tax.** The Payroll Expense Tax (Article 12-A) shall be paid
20 in biannual or quarterly installments as follows:

21 (A) **Small Firm Prepayments.** Every person liable for payment of a total
22 Payroll Expense Tax in excess of ~~\$3,750~~\$2,500 but less than or equal to \$50,000 for any tax
23 year shall pay such tax for the following tax year in ~~two~~ installments. The first installment
24 shall be due and payable, and shall be delinquent if not paid on or before, August 1st. The
25 first installment shall be a credit against the person's total Payroll Expense Tax for the tax year

1 in which the first installment is due. The first installment shall be in an amount equal to one-
2 half (~~1/2~~) of the person's estimated Payroll Expense Tax for such tax year. The estimated
3 liability shall be computed by using ~~52 percent~~ 52% of the person's taxable payroll expense (as
4 defined in Section ~~902.1902.2~~ of Article 12-A) for the preceding tax year, and the rate of tax
5 applicable to the tax year in which the first installment is due. The second installment shall be
6 reported and paid on or before the last day of February of the following year. The second
7 installment shall be in an amount equal to the person's total Payroll Expense Tax for the
8 subject tax year, less the amount of the first installment and other tax prepayments for such
9 tax year, if any, actually paid.

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

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

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

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

20 (d) **Forms and Adjustments.** Tax prepayments required under this Section shall be
21 accompanied by a tax prepayment form prepared by the Tax Collector, but failure of the Tax
22 Collector to furnish the taxpayer with a tax prepayment form shall not relieve the taxpayer
23 from any tax prepayment obligation. The Tax Collector may, in writing, adjust the amount of a
24 tax prepayment if the taxpayer can establish in writing by clear and convincing evidence that
25 the first installment of biannual~~semi-annual~~ tax prepayments, or first, second or third monthly

1 installment of a quarterly tax prepayment, will amount to more than one-half or one-quarter,
2 respectively, of the person's total tax liability for the tax year in which the installment is due.
3

4 **SEC. 6.9-4. DETERMINATIONS, RETURNS AND PAYMENTS; EXTENSION OF TIME FOR**
5 **FILING A RETURN AND PAYING TAX.**

6 (a) For good cause, the Tax Collector, in his or her discretion, may extend, for a
7 period not to exceed 60 days, the time for filing any return pursuant to this Article or
8 regulations prescribed by the Tax Collector. For prepayments of taxes or for taxes required to
9 be deposited monthly, the Tax Collector may only extend the time for filing a return for a
10 period not to exceed 30 days. As a condition of such extension, the person seeking the
11 extension shall make a payment of not less than 90 percent of such person's estimated
12 liability *for such period. For purposes of determining the amount of the conditional payment, the Tax*
13 *Collector may independently establish the taxpayer's estimated tax liability.*

14 (b) Failure to make the required estimated prepayment will result in the taxpayer
15 being subject to penalties and interest under Section 6.17-1.

16 (c) Notwithstanding ~~subsection~~ *Subsection* (a) of this Section, the Tax Collector may
17 extend any time for filing any return or payment of tax or excuse penalties for any late filing or
18 late payment *by a period not to exceed 60 days* if billing or other administrative duties of the Tax
19 Collector cannot be performed in a timely manner.
20

21 **SEC. 6.9-5. DETERMINATIONS, RETURNS AND PAYMENTS; CREDITS AND**
22 **EXEMPTIONS.**

23 The credits and exemptions set forth in Articles 6, 7, 9, 10, 10B10A, 11, 12, ~~and 12-A,~~
24 ~~and 12-C~~ are provided on the assumption that the City has the power to offer such credits and
25 exemptions. If a credit or exemption is invalidated by a court of competent jurisdiction, the

1 taxpayer must pay any additional amount that the taxpayer would have owed but for such
2 invalid credit or exemption. Amounts owed as a result of the invalidation of a credit or
3 exemption that are paid within ~~three~~³ years after the decision of the court becomes final shall
4 not be subject to interest or penalties:

5
6 **SEC. 6.10-1. COLLECTION OF TAX; SECURITY.**

7 The Tax Collector, whenever he or she deems it necessary to ~~insure~~^{ensure} compliance
8 with the Business and Tax Regulations Code, may require any person subject thereto to
9 deposit with the Tax Collector such security as the Tax Collector may determine. The amount
10 of the security shall be fixed by the Tax Collector, but shall not be greater than twice the
11 person's estimated average liability for the period for which said person files returns,
12 determined in such manner as the Tax Collector deems proper. The amount of the security
13 may be increased or decreased by the Tax Collector subject to the limitations herein provided.
14 The Tax Collector may sell the security at public auction if it becomes necessary ~~so~~ to do so in
15 order to recover any tax or any amount required to be collected and remitted to the City,
16 including any interest, or penalty due. Notice of the sale shall be served upon the person who
17 deposited the security and upon the taxpayer, if different, personally or by mail; if by mail,
18 service shall be made in the manner prescribed for service of a notice of a deficiency
19 determination as set out in Section 6.11-2 herein, and shall be addressed to the person at
20 said person's address as it appears in the records of the Tax Collector. Upon any sale, any
21 surplus above the amounts due shall be returned to the person who deposited the security.
22 The return of a cash security shall include interest at a rate equal to the annual fiscal year interest rate
23 earned by the City and County of San Francisco's "Pooled Interest Account" invested and managed by
24 the Treasurer.

1 **SEC. 6.10-2. COLLECTION OF TAX FROM THIRD PARTY.**

2 If any person is delinquent in the payment of the amount required to be paid by said
3 person, or in the event a determination has been made against any person which remains
4 unpaid, the Tax Collector may, not later than ~~three~~³ years after the payment became
5 delinquent, give notice thereof by mail or by personal service to any persons in the State of
6 California~~City~~ having in their possession or under their control any credits or other personal
7 property belonging to the delinquent person, or owing any debts to the delinquent person. After
8 receiving such notice, the persons so notified shall, within 5 days of the receipt of the notice,
9 advise the Tax Collector by sworn writing of all such credits, personal property, or debts. Further, the
10 persons so notified shall neither transfer nor make any other disposition of the credits, other
11 personal property, or debts in their possession or under their control at the time they receive
12 the notice until the Tax Collector consents to a transfer or disposition or until 3020 days elapse
13 after the person has advised the Tax Collector in a sworn writing of all such credits, personal
14 property, or debts. receipt of the notice. All persons so notified shall, within five days after receipt of
15 the notice, advise the Tax Collector of all such credits, other personal property, or debts in their
16 possession, under their control, or owing by them. Unless otherwise required by law, if persons so
17 notified transfer such assets in violation of the provisions of this Section~~section~~, they shall
18 become indebted to the Tax Collector for the value of the property transferred, or the amount
19 owed to the City by the delinquent, whichever is less.

20
21 **SEC. 6.10-3. COLLECTION OF TAX; LEGAL ACTIONS.**

22 (a) The Tax Collector may bring an action in the courts of this State, or any other
23 state, or of the District of Columbia, or of the United States and its territories or possessions,
24 or any other forum where permitted by law to recover in the name of the City any amount of
25

1 taxes due and payable under the Business and Tax Regulations Code and remaining unpaid,
2 together with penalties, interest, and costs, including reasonable attorneys' fees.

3 In any action filed pursuant to this subdivision, the Complaint shall attach a certificate executed
4 by the Tax Collector or his representative that contains the following information: (1) the name of the
5 operator, taxpayer or other person determined to be liable for the tax; (2) the description of the
6 operator's, taxpayer's or other person's business against which the tax has been assessed; (3) the
7 location and/or address of the business; (4) the amount of the tax, penalty and interest remaining
8 unpaid as of the last day of the month prior to the month in which the Complaint is filed; and (5) the
9 fact that the City has complied with all provisions of the Business and Tax Regulations Code in the
10 computation and the levy of the tax, penalty or interest.

11 In prosecuting such actions, the Tax Collector shall be entitled to all of the provisional
12 remedies provided by law. Any such action shall be commenced within ~~three~~3 years from the
13 date any amount of taxes became due and payable, or from the date the return is required to
14 be filed or actually filed, whichever period expires later; except in the case of any deficiency
15 determination pursuant to Sections 6.12-1 et seq. or 6.13-1 et seq., in which case any such
16 action shall be commenced within ~~three~~3 years after such determination became final.
17 However, there shall be no limitation on the time in which such actions may be commenced in
18 cases of fraud, intent to evade the Business and Tax Regulations Code, or failure to file a
19 return.

20 (b) When the amount of any tax, penalty or interest which has become due and
21 payable remains unpaid for 15 days, the Tax Collector may record a tax lien with the
22 Assessor-Recorder, thereby creating a tax lien on all of the assessee's property and rights to
23 property, including realty, personalty, or intangibles. The Tax Collector may record or file such
24 tax lien in the office of the Recorder of any California county, with the California Secretary of State,
25 and with any other California public entity that is otherwise authorized by law to record liens. The Tax

1 Collector may record or file such tax liens in any other office of any other jurisdiction as permitted by
2 law.any other office of any other jurisdiction as permitted by law. The tax lien shall identify the Tax
3 Collector as the lienor, ~~the property subject to the lien,~~ and the amount of the lien.
4 Simultaneously with the recording, a copy of the tax lien shall be mailed to or personally
5 served upon the taxpayer or other person determined to be liable for the tax at said person's
6 last known address based upon the information, contained in the Tax Collector records. The
7 tax lien after recordation has the force, effect and priority of a judgment lien and continues for
8 10 years from the date of recording, unless sooner released or otherwise discharged. This
9 remedy and any other remedies for collection of any taxes, together with all administrative
10 collection costs, interest, penalties and other costs and charges, including reasonable
11 attorneys' fees, are cumulative and may be pursued alternatively and consecutively as the
12 Tax Collector determines.
13

14 **SEC. 6.11-1. DEFICIENCY DETERMINATIONS; RECOMPUTATION; INTEREST.**

15 If the Tax Collector determines that a taxpayer has failed to pay or has underpaid a tax, that
16 an operator has failed to collect and remit all of a third-party tax, or there is a deficiency with the
17 return or returns of the tax or the amount of any tax required to be paid to the City by any person, or
18 the Tax Collector determines that a person other than the taxpayer is jointly and severally liable
19 for any unpaid or underpaid tax, including third-party taxes, the Tax Collector may compute and
20 determine any tax deficiency ~~the amount required to be paid~~ upon the basis of the ~~facts contained in~~
21 ~~the return or returns or upon the basis of any other~~ information within the Tax Collector's
22 possession or that may come into the Tax Collector's possession. One or more deficiency
23 determinations may be made of the amount due for one or for more than one period.

24 The amount of the determination, inclusive of penalties, shall bear interest at the rate of
25 ~~one~~ 1 percent per month, or fraction thereof, from the ~~fifteenth~~ 15th day after the close of the

1 month or the quarterly period for third-party taxes, or from the last day of February following
2 the close of the annual period, for which the amount or any portion thereof should have been
3 returned until the date of payment, or, in the case of stadium operator admission taxes, from
4 the due dates of said tax as set forth in Article 11, Section 804.

5 In making a determination, the Tax Collector may offset overpayments for a period or
6 periods together with interest on the overpayments, against underpayments for another period
7 or periods, against penalties, and against the interest on the underpayments. The interest on
8 underpayments and overpayments shall be computed in the manner set forth in Section
9 6.17-1 for underpayments and in Section 6.15-2 for overpayments.

10
11 **SEC. 6.11-2. DEFICIENCY DETERMINATIONS; REVOCATION AND SUSPENSION**
12 **DETERMINATIONS; NOTICE AND SERVICE.**

13 Upon making a determination pursuant to Section 6.11-1, or upon making a
14 determination pursuant to Section 6.6-1 that a certificate shall not be issued or to suspend or
15 revoke a registration, the Tax Collector shall give to the taxpayer or other person *determined to*
16 *be liable for the tax affected* written notice of the Tax Collector's determination. Except in the
17 case of fraud, intent to evade the Business and Tax Regulations Code or rules and
18 regulations issued or promulgated by the Tax Collector, or failure to file a return, in which case
19 there is no statute of limitations, every notice of a deficiency determination shall be served
20 within ~~three~~³ years after the date that a return was due for a tax for the reporting period or 3 years
21 after the return was actually filed for that reporting period, whichever is later. This limitations period
22 shall apply only to tax periods commencing after December 31, 2007. The notice requirements
23 specified in Board of Supervisors Ordinance No. 26-04 shall continue to apply to obligations arising in
24 prior tax periods. the fifteenth day of the calendar month following the month or the quarterly period
25 for which the amount is proposed to be determined for third party taxes, or within three years after the

1 ~~last day of February following the period for which a return is required to be filed, whichever period~~
2 ~~expires later.~~ The Taxpayer may agree in writing to extend the period for service of a notice of
3 a deficiency determination otherwise provided in this paragraph.

4 The notice of any determination under this Section may be served upon the taxpayer or
5 other affected person ~~determined to be liable for the tax~~ personally or by mail; if by mail, service
6 shall be (1) to the last known address that appears or is shown in the Tax Collector's records,
7 provided there is such an address in the Tax Collector's record, or (2) to an address that the Tax
8 Collector concludes in his discretion is the last known address of the person(s) by mail to the last
9 ~~known address as indicated in the Tax Collector's records.~~

10 In case of service by mail of any notice required by this Article to be served upon the
11 taxpayer or other person, the service is complete at the time of deposit with the United States
12 Postal Service~~Post Office~~.

13
14 **SEC. 6.11-3. DETERMINATION IF NO RETURN MADE; ESTIMATE OF LIABILITY,**
15 **PENALTIES AND INTEREST.**

16 If any taxpayer or person responsible for paying a tax or remitting a third-party tax fails
17 to make a timely return or estimated tax prepayment, the Tax Collector may make a
18 determination based upon an estimate of the amount of the total tax liability of the taxpayer.
19 The estimate shall be made for the period or periods in respect to which the person failed to
20 timely make a return, failed to timely make a prepayment or failed to timely remit a tax, and
21 may be based upon any information which is in the Tax Collector's possession or may come
22 into his or her possession. Upon the basis of this estimate, the Tax Collector shall compute
23 and determine the amount required to be paid to the City, adding to the sum thus computed a
24 penalty equal to 20 percent thereof. One or more determinations may be made for one or
25

1 more than one period. Any such determination shall be prima facie evidence of the person's
2 liability in any subsequent administrative or judicial proceeding.

3 In making a determination, the Tax Collector may offset overpayments for a period or
4 periods, together with interest on the overpayments; against underpayments for another
5 period or periods, against penalties, and against the interest on the underpayments. The
6 interest on underpayments and overpayments shall be computed in the manner set forth in
7 Sections 6.17-1 and 6.15-2, respectively. The amount of the determinations, ~~including exclusive~~
8 ~~of~~ penalties, shall bear interest at the rate of one percent per month, or fraction thereof, from
9 the date of delinquency until the date of payment.

10 The Tax Collector shall serve the person or persons determined to be liable for the tax as
11 determined under Section 6.11-3 with written notice of the determination and penalty. The Tax
12 Collector shall serve the notice upon such person(s) personally or by mail. Service by mail shall be
13 (1) to the last known address as indicated in the Tax Collector's records, provided there is such an
14 address in the Tax Collector's record, or (2) to an address that the Tax Collector concludes in his
15 discretion is the last known address of the person(s).

16
17 ~~SEC. 6.11-4. DETERMINATION IF NO RETURN MADE; NOTICE AND SERVICE.~~

18 ~~The Tax Collector shall serve the person or persons determined to be liable for the tax as~~
19 ~~determined under Section 6.11-3 with written notice of the determination and penalty. The Tax~~
20 ~~Collector shall serve the notice upon such person(s) personally or by mail.~~

21
22 **SEC. 6.12-2. JEOPARDY DETERMINATIONS; WHEN DUE AND PAYABLE; STAY OF**
23 **COLLECTION; PETITION FOR REDETERMINATION; TIME OF HEARING.**

24 (a) A jeopardy determination of tax, interest or penalty is immediately due and
25 payable upon the service of the notice of jeopardy determination ~~to~~on the taxpayer or other

1 person determined to be liable therefor. A lien for the amount due in the notice of jeopardy
2 determination may be recorded immediately notwithstanding the provisions of Section 6.10-1
3 et seq., summary judgment pursuant to Section 6.18-1 et seq. may be sought at once, and judicial
4 proceedings for collection may be commenced at once. Prior to service of such notice, the Tax
5 Collector may, notwithstanding the provisions of Section 6.10-1 et seq., record a lien in the amount due
6 as set forth in the notice of jeopardy determination. Immediately upon service of such notice, the Tax
7 Collector may, notwithstanding the provisions of Section 6.10-1 et seq., seek summary judgment
8 pursuant to Section 6.18 et seq., and may commence a collection action in any court having jurisdiction
9 over the matter.

10 (b) The taxpayer may stay the enforcement of a jeopardy assessment~~collection of the whole or~~
11 ~~any amount of a jeopardy determination may be stayed~~ by filing with the Tax Collector: (i) a bond in
12 an amount equal to the amount of the assessment (together with interest thereon to the date of
13 payment) payable on the Tax Collector's certification of the amount of the assessment after the Tax
14 Collector makes a final determination of the taxpayer's petition as to which the stay is desired,
15 ~~conditioned upon the payment of the amount, the collection of which is stayed by the bond, upon notice~~
16 ~~and demand by the Tax Collector after a final determination is reached on the appeal~~, or (ii) other
17 security of a value in such amount as the Tax Collector ~~deems~~may deem necessary, but not
18 exceeding double the amount of the assessment (together with interest thereon to the date of
19 payment) together with a security agreement that authorizes the Tax Collector to use or dispose of the
20 security to satisfy the amount of the assessment after the Tax Collector makes a final determination of
21 the taxpayer's petition as to which the stay is desired. The taxpayer must also agree to pay the
22 assessment, upon notice and demand by the Tax Collector, after the Tax Collector makes a final
23 determination of the petition. If the penal amount of the bond is less than the assessment, the Tax
24 Collector may collect the part of the assessment that exceeds that penal amount. If the value of other
25 security is less than twice the assessment, the Tax Collector may collect the assessment until the unpaid

1 balance is reduced to twice the value of the security. Any stay pursuant to this subsection shall be
2 effective only against the person on whose behalf the bond or other security is provided.

3 (c) Upon filing of the bond or other security, the collection of so much of the jeopardy
4 determination amount as is covered by the bond or other security shall be stayed pending the
5 exercise by the taxpayer or other person determined to be liable for the tax of his or her
6 appeal rights. The person on whose behalf the bond or other security is submitted, shall have
7 the right to waive such stay at any time in respect of the whole or any part of the amount
8 covered by the bond or other security, and if as a result of such waiver any part of the amount
9 covered by the bond or other security is paid, then the bond or other security shall, at the
10 request of said person, be proportionately reduced. If any portion of the jeopardy
11 determination is abated, the bond or other security shall be proportionately reduced, at the
12 request of the person on whose behalf the bond or other security was provided.

13 (d) Where collection of the whole or any amount of a jeopardy determination has been
14 stayed under this Section, the period of limitation on any action to collect from the person on
15 whose behalf the bond or other security has been provided shall be tolled during the period of
16 such stay.

17
18 **SEC. 6.12-5. JEOPARDY DETERMINATIONS; PETITION FOR REDETERMINATION.**

19 Any person against whom a jeopardy determination is made may petition for the
20 redetermination thereof pursuant to Section 6.13-1 et seq. of this Article. The taxpayer shall,
21 however, file the petition for redetermination with the Tax Collector within 15 days after the
22 service of notice of determination. If a petition for redetermination of a jeopardy determination
23 is not filed within the foregoing 15-day period, the determination becomes final at the
24 expiration of that period.

1 The filing of a petition for redetermination of a jeopardy determination shall not operate
2 to stay collection. Collection may be stayed only as provided in Section 6.12-2 above.

3 If a timely petition for redetermination of a jeopardy determination is filed, the Tax
4 Collector shall review the matters raised in the petition including, if requested, whether the
5 issuance of the jeopardy determination was warranted under the circumstances. In making
6 this determination, the Tax Collector shall grant the taxpayer or other person determined to be
7 liable for the tax or such taxpayer or person's authorized representative an oral hearing if
8 requested in the petition.

9 If, in the review process, the Tax Collector determines that the determination of
10 jeopardy was improper or unwarranted, any collection action taken shall be withdrawn,
11 pending the ultimate administrative determination of the amount of the deficiency due from the
12 taxpayer or other person claimed to be liable for the tax claimed to be due in the jeopardy
13 determination notice. Neither the validity of the determination of tax, nor the burden of proof,
14 shall be affected by the Tax Collector's determination that the determination of jeopardy was
15 improper or unwarranted.

16 The taxpayer or other person determined to be liable for the tax has the right to an oral
17 hearing and determination by the Tax Collector upon the matters raised in the petition within
18 45 days from the date of the filing of the petition for redetermination, as scheduled by the Tax
19 Collector, unless the taxpayer waives said time period. The 45-day period shall be tolled
20 ~~during the period between the date the Tax Collector serves of service of~~ a written notification
21 ~~under authorized by~~ Section 6.13-1(b) ~~that the Tax Collector requires of the~~ additional information or
22 records ~~necessary for the Tax Collector to~~ evaluate and decide the petition, and the date ~~the Tax~~
23 ~~Collector receives that of receipt of all such~~ information and ~~those~~ records ~~by the Tax Collector.~~

1 **SEC. 6.13-1. REDETERMINATIONS; PETITION; TIME FOR FILING; INCOMPLETE**
2 **PETITIONS.**

3 (a) Any person against whom a determination is made under the Business and Tax
4 Regulations Code may petition the Tax Collector for a redetermination within 30 days after
5 service of the notice thereof, except for a petition for redetermination of a jeopardy
6 determination, which the person may file within 15 days after service of the notice as provided
7 in Section 6.12-5. If a petition for redetermination is not filed within the applicable period, the
8 determination becomes final at the expiration of the period. The final determination may be
9 enforced or collected by any method authorized by law, including but not limited to lien, levy,
10 and judicial enforcement, including provisional remedies and injunctive relief.

11 (b) Every petition for redetermination shall be verified by the person against whom the
12 Tax Collector made the determination, stating under penalty of perjury the specific grounds
13 upon which the petition is founded, with specificity sufficient to enable the Tax Collector to
14 understand and evaluate the petition, and verifying the information and authenticating the
15 records upon which the petitioner relies in support of the petition. Any ground for
16 redetermination that is not specified in the petition for redetermination shall be deemed waived by the
17 petitioner in any later judicial proceeding to collect the tax specified in the notice of determination.

18 If the Tax Collector determines that the petition fails to state specific grounds for
19 redetermination, lacks sufficient specificity to understand and evaluate the petition, or is not
20 accompanied by information and records in support of the petition the Tax Collector
21 reasonably deems necessary to evaluate and decide the petition, the Tax Collector in his or
22 her discretion may either deny the petition as incomplete or may require the petitioner in
23 writing to supplement the petition with additional information or records the Tax Collector
24 deems reasonably necessary to decide the petition. The petitioner shall submit such
25 information and records in support of the petition to the Tax Collector within 30 days of service

1 of the Tax Collector's written request, which shall be served in the manner prescribed in
2 Section 6.11-2. If mailed, service of the notice is complete at the time of deposit within the
3 United States Postal Service Post Office. Failure of the petitioner to provide all of the information
4 and records set forth in the written request within the 30-day period shall be sufficient ground
5 for the Tax Collector to deny the petition, and the petitioner shall be subject to the penalties
6 and sanctions provided in Section 6.17-3.

7 8 **SEC. 6.13-3. REDETERMINATIONS; ALTERATION OF DETERMINATION.**

9 The Tax Collector may decrease or increase the amount of the determination, including
10 the amount of the tax, penalties or interest, before it becomes final. The amount may be
11 increased only if a claim for the increase is asserted by the Tax Collector, and the Tax
12 Collector provides written notice thereof to the person against whom the Tax Collector issued
13 the determination at least five days before the hearing. If the Tax Collector increases the amount
14 before the hearing described in Section 6.13-2, such written notice shall be served at least 15 days
15 before the hearing and the person receiving such notice shall file a supplemental petition for
16 redetermination addressing the increased deficiency amount at least 5 days before the hearing date.
17 The Tax Collector may reschedule the hearing for purposes of allowing the requisite notice of increase.
18 If the Tax Collector increases the amount after the hearing described in Section 6.13-2, the Tax
19 Collector shall serve notice of such increase before issuing a final decision. Within 15 days of service
20 of such notice, the person against whom a claim for increase is asserted by the Tax Collector may serve
21 a supplemental petition for redetermination contesting the increased deficiency amount. The Tax
22 Collector shall hold an additional oral hearing on the increased amount upon the request of the
23 petitioner. A supplemental petition for redetermination filed pursuant to this Section shall state any
24 additional specific grounds for redetermination applicable to the increased deficiency amount. Any
25 specific ground for redetermination that is not specified in either the initial petition for redetermination

1 or the supplemental petition for redetermination shall be deemed waived by the petitioner in any later
2 judicial proceeding to collect the tax specified in the notice of determination. Nothing in this Section
3 shall preclude a new audit or determination by the Tax Collector of a new or supplemental
4 deficiency. The burden of proof in any proceeding for redetermination or appeal thereof shall
5 be on the taxpayer, who shall have the burden of proving that the Tax Collector's
6 determination is incorrect.

7
8 **SEC. 6.13-5. EXHAUSTION OF ADMINISTRATIVE REMEDIES.**

9 Prior to seeking judicial relief, persons against whom a jeopardy determination or
10 deficiency determination is made must exhaust their administrative remedies by: (i) petitioning
11 to the Tax Collector for redetermination and including all specific grounds supporting the petition
12 for redetermination; and (ii) paying the full amount owed as set ~~forth~~ in the final
13 determination; and (iii) presenting a claim for refund to the Controller under ~~Section~~ Sections
14 6.15-1 et seq. which the City Attorney has denied or which the claimant has deemed denied under
15 Section 6.15-1(d).

16
17 **SEC. 6.13-6. EFFECT OF TAX COLLECTOR'S NOTICE OF ~~DEFICIENCY~~ EXAMINATION**
18 **~~OF RECORDS.~~**

19 The Tax Collector's issuance of a notice of deficiency or failure to issue such a notice
20 for any period may not be treated as precedent for any particular method or manner of
21 reporting or treating any item included or excluded on any return for purposes of any other or
22 future item appearing or reported on a return. The Tax Collector's making of a determination or
23 jeopardy determination as to a person for a period shall not bar the Tax Collector from making further
24 determinations regarding the liability of the person for that period.

1 ~~SEC. 6.14-1. BOARD OF REVIEW; JURISDICTION TO DECIDE PENDING TAXPAYER~~
2 ~~PETITIONS; TAX COLLECTOR RULES AND REGULATIONS.~~

3 ~~(a) From and after the effective date of the repeal of Sections 6.14-2 and 6.14-3 of this Article,~~
4 ~~the Board of Review shall lack jurisdiction to accept any new petition for redetermination or petition~~
5 ~~for refund, or any modification or amendment to such petitions pending before the Board of Review~~
6 ~~upon such effective date.~~

7 ~~(b) The Board of Review shall promptly review and rule upon all petitions for redetermination~~
8 ~~and petitions for refund pending before it upon the effective date of the repeal of Sections 6.14-2 and~~
9 ~~6.14-3 of this Article. Such reviews and rulings shall be made in accordance with the provisions of~~
10 ~~Sections 6.14-1 through 6.14-3 of this Article, inclusive, as such sections read on the date immediately~~
11 ~~preceding the effective date of the repeal of Sections 6.14-2 and 6.14-3 of this Article.~~

12 ~~(c) From and after the effective date of the repeal of Section 6.14-3 of this Article, the Board of~~
13 ~~Review shall lack jurisdiction to approve or disapprove any rule or regulation adopted by the Tax~~
14 ~~Collector. Any rule or regulation adopted by the Tax Collector that is pending before the Board of~~
15 ~~Review on the date immediately preceding the effective date of the repeal of Section 6.14-3 of this~~
16 ~~Article shall take effect by operation of law on the effective date of the repeal of Section 6.14-3 of this~~
17 ~~Article.~~

18 ~~(d) Upon issuance of the ruling by the Board of Review or other disposition on all petitions for~~
19 ~~redetermination and petitions for refund pending before the Board of Review on the effective date of the~~
20 ~~repeal of Section 6.14-2 of this Article, the Clerk of the Board of Review shall issue a written~~
21 ~~certification to the Mayor, Clerk of the Board of Supervisors and Tax Collector that the Board of~~
22 ~~Review has concluded its work. Upon issuance of such certification, the Board of Review shall cease to~~
23 ~~exist.~~

1 **SEC. 6.15-1. REFUNDS.**

2 (a) Except as otherwise provided in subdivision (c) below, the Controller shall refund
3 or cause to be refunded the amount of any tax, interest or penalty that has been overpaid or
4 paid more than once, or has been erroneously or illegally collected or received by the City,
5 provided the person that paid such amount files with the Controller, within the later of ~~one~~
6 year of payment of such amount or when the return accompanying such payment was due, a
7 verified claim in writing therefor, stating under penalty of perjury: (i) the specific amount
8 claimed to have overpaid or paid more than once, or erroneously or illegally collected or
9 received by the City, (ii) the tax periods at issue, and (iii) the grounds upon which the claim is
10 founded, with specificity sufficient to enable the Tax Collector and other responsible City
11 officials to understand and evaluate the claim. The Controller shall enter the claim in the claim
12 register, and shall forthwith forward it to the City Attorney. If the City Attorney determines the
13 claim is insufficient, the City Attorney shall give the claimant written notice of how the claim is
14 insufficient, stating with particularity the defects or omissions therein. The City Attorney shall send the
15 claimant that notice within 20 days after the claimant presents the claim.~~The City Attorney shall review~~
16 ~~the claim for compliance with this section and other laws as may be applicable thereto. Within 20 days~~
17 ~~after the claim is presented the City Attorney shall give written notice of its insufficiency, stating with~~
18 ~~particularity the defects or omissions therein. Upon receipt of the claim, the City Attorney shall~~
19 ~~forthwith request an investigation by the Tax Collector. The Tax Collector shall submit a report with~~
20 ~~respect to the claim and recommendation thereon to the City Attorney within 30 days of receipt of the~~
21 ~~City Attorney's request.~~ The City Attorney may reject any and all claims the Controller forwards
22 to the City Attorney, and shall notify the claimant of such rejection. Allowance or compromise
23 and settlement of claims under this ~~Section~~section in excess of \$25,000 shall require the written
24 approval of the City Attorney and approval of the Board of Supervisors by resolution. The City
25 Attorney may allow or compromise and settle such claims if the amount is \$25,000 or less. No

1 claim may be paid until the Controller certifies that monies are available from the proper funds
2 or appropriations to pay the claim as allowed or as compromised and settled. For purposes of
3 this Section ~~6.15.1~~, a claim shall be deemed to accrue on the later of the date the return was
4 due or the tax was paid.

5 (b) The claim shall be on a form furnished by the Controller. A claim may be returned
6 to the person if it was not presented using the form. A refund claim may ~~only be signed~~ be made
7 only by the taxpayer or other person determined to be liable for the tax or said person's
8 guardian or conservator. No other agent, including the taxpayer's attorney, may sign a refund
9 claim. Class claims for refunds shall not be permitted. The customer who pays a third-party tax
10 to an operator is the proper party to seek the refund of a disputed third-party tax. No operator or other
11 person responsible for collecting or remitting a disputed third-party tax may obtain a tax refund unless
12 that operator or other person has paid the tax to the Tax Collector pursuant to a deficiency
13 determination or a jeopardy determination in which case the operator or other person who paid the
14 tax, and not the individual customer, may seek a refund. If the claim is approved as set forth in
15 subsections ~~subdivision~~ (a) above, the excess amount collected or paid may be refunded or may
16 be credited on any amount due and payable, from the person from whom it was collected or
17 by whom paid and the balance may be refunded to such person, his administrator or
18 executors.

19 (c) The City Attorney, in his or her discretion and upon good cause shown, prior to the
20 expiration of the ~~one~~-year limitations period, may waive the requirement set forth in
21 subdivision (a) above that a taxpayer file a written verified claim for a refund in any case in
22 which the Tax Collector and City Attorney determine on the basis of other evidence that (i) an
23 amount of tax, interest or penalty has been overpaid or paid more than once, or has been
24 erroneously or illegally collected or received by the City, and (ii) all other conditions precedent
25 to the payment of a refund to the taxpayer have been satisfied.

1 (d) The City Attorney shall allow, reject or otherwise act upon a claim for refund in a
2 manner specified in Government Code Section 912.6 within 45 days after it is presented to
3 the Controller. If the claim is amended, the City Attorney shall act on the amended claim
4 within 45 days after the amended claim is presented. The claimant may agree in writing to
5 extend the period within which the City Attorney must act on the claim for refund prior to
6 expiration of the original 45-day period. The claimant may deem the claim for refund denied
7 and seek judicial relief if the City Attorney does not act upon the claim within the 45-day
8 period, or such extended period to which the claimant has agreed.

9 (e) The Tax Collector may authorize the Controller to refund tax payments, without a refund
10 claim having been filed, without the need for a refund claim, and without review by the City Attorney, if
11 the Tax Collector determines:

12 (i) the tax was paid more than once; or

13 (ii) the amount paid exceeds the amount due as a result of an arithmetic or clerical error.

14 The Tax Collector may authorize such a refund no later than 1 year after payment of the tax.

15
16 **SEC. 6.15-2. REFUNDS; INTEREST.**

17 (a) Any amounts refunded shall bear interest at the rate of 2/3 of ~~one~~1 percent per
18 month or fraction thereof; or the average rate of interest computed over the preceding ~~six~~6-
19 month period ~~obtained, lawfully obtainable~~ by the San Francisco Treasurer on deposits of public
20 funds at the time refund is made, whichever rate is lower, and shall be computed from the
21 date of payment to the date of refund ~~except for amounts refunded as a result of a final judicial~~
22 ~~determination of the invalidity of any portion of or amendment to the Business and Tax Regulations~~
23 ~~Code, or the invalidity of any administrative interpretation thereof, in which case interest shall be~~
24 ~~computed from the date of the claim for refund to the date of refund.~~

1 (b) If the Controller offsets overpayments for a period or periods against
2 underpayments for another period or periods, against penalties or against interest on the
3 underpayments, the taxpayer will be credited with interest on the amount so applied at the
4 rate of interest set forth above, computed from the date of payment.

5 (c) If a taxpayer chooses to apply all or part of a refund against a *future year's liability,*
6 San Francisco tax liability for a future period, the taxpayer will not be credited with interest on the
7 amount so applied.

8
9 **SEC. 6.15-3. REFUNDS; NOTICE OF DENIAL.**

10 If the claim for refund is denied, the City Attorney shall serve or cause to be served
11 notice of such denial upon the taxpayer personally or by mail. The notice of denial of such
12 claim shall be in a form substantially similar to the form for notice of rejection of claims set
13 forth in Government Code Section 913. If the City Attorney does not serve such a notice of denial
14 of claim, then the statute of limitations for filing a suit for refund shall be as set forth in Section 6.15-4.

15
16 **SEC. 6.15-4. EXHAUSTION OF ADMINISTRATIVE REMEDIES; PRESENTATION OF**
17 **CLAIM FOR REFUND AS PREREQUISITE TO SUIT; PAYMENT OF DISPUTED AMOUNT**
18 **AND PETITION FOR REFUND; LIMITATIONS.**

19 (a) Persons claiming they are aggrieved under the Business and Tax Regulations
20 Code must ~~first pay the amount of the disputed tax, penalty and interest, and present a claim for~~
21 ~~refund to the Controller,~~ prior to seeking judicial relief: (1) pay the amount of the disputed tax,
22 penalty and interest; (2) if the disputed tax was paid pursuant to the Tax Collector's jeopardy
23 determination or deficiency determination, file a petition for redetermination, pursuant to
24 Section 6.12-5 or Section 6.13-1; and (3) present a claim for refund to the Controller and allow action
25 to be taken on such claim, pursuant to Section 6.15-1.

1 (b) Any suit for tax refund shall be commenced no later than 6 months from the date the notice
2 of denial of the claim for refund was personally delivered or deposited in the mail, or within 2 years of
3 accrual of the cause of action if notice of denial of the claim for refund is not served on the person as
4 set forth in Section 6.15-3. Persons claiming they are aggrieved under the Business and Tax
5 Regulations Code may not seek any type of judicial relief other than a refund action. Notwithstanding
6 any other section of this Code, no claim or defense that, for any reason, a tax is not due or cannot be
7 applied under this Code may be raised in any judicial proceeding except as specified in the preceding
8 sentence. Presentation of a claim for refund that substantially complies with Sections 6.15 et seq. is a
9 prerequisite to suit.

10 ~~(e) Any judicial proceeding shall be commenced no later than six (6) months from the date the~~
11 ~~notice of denial of the claim for refund was personally delivered or deposited in the mail, or within two~~
12 ~~(2) years of acerual of the cause of action if notice of denial of the claim for refund is not served on the~~
13 ~~person as set forth in Section 6.15-3.~~

14

15 **SEC. 6.16-1. RULES AND REGULATIONS.**

16 The Tax Collector may promulgate regulations and issue rules, and issue determinations
17 and interpretations consistent with the provisions of the Business and Tax Regulations Code
18 as may be necessary or appropriate for the purpose of carrying out and enforcing the
19 payment, collection and remittance of taxes and to apply such Code and any rules and
20 regulations promulgated thereunder in a lawful manner. The Tax Collector shall hold a public
21 hearing and allow public comment on any proposed rule or regulation prior to adoption
22 thereof. The Tax Collector shall provide not less than 10 ~~days~~days' notice of such public
23 hearing. A copy of such rules and regulations shall be on file and available for public
24 examination in the Tax Collector's Office~~office~~. Failure or refusal to comply with any rules and
25 regulations promulgated by the Tax Collector shall be deemed a violation of the Business and

1 Tax Regulations Code. ~~The Tax Collector may prescribe the extent to which any ruling or regulation~~
2 ~~shall be applied without retroactive effect.~~

3
4 **SEC. 6.17-1. PENALTIES AND INTEREST FOR FAILURE TO PAY.**

5 (a) Any person who fails to pay any tax to the City, or any operator or other person who
6 fails to collect and remit any third-party taxes amount of tax required to be collected and paid to the
7 City, from the date such tax becomes delinquent under Section 6.9-1 shall pay a penalty of five
8 percent of the tax or amount of the tax, in addition to the tax or amount of tax, if the failure is for
9 not more than one month after the tax became delinquent, plus with an additional 5 percent for
10 each following month or fraction of a month during which such failure continues, up to 20
11 percent 20% in the aggregate, plus interest at the rate of one percent per month, or fraction of a
12 month, from the date such tax or the amount of such tax becomes delinquent under Section 6.9-1 until
13 the date of payment. Any taxes remaining unpaid for a period of 90 days after notification that
14 the tax is delinquent shall be subject to an additional penalty of 20 percent of the tax or
15 amount of the tax.

16 (b) If the failure to pay any tax is due to fraud or an intent to evade the Business and
17 Tax Regulations Code or the Tax Collector's rules and regulations, an additional penalty in the
18 amount of 50 percent of the amount due, in addition to ~~exclusive of~~ any other penalties and
19 interest, shall be added thereto. A taxpayer or other person against whom a fraudulent failure
20 to pay penalty is asserted is entitled to a notice of such determination to be issued in
21 accordance with the provisions of Section 6.11-1 et seq. and to the appeal rights set forth in
22 Section ~~Sections~~ 6.13-1 et seq.

23 (c) Unpaid taxes and penalties shall also accrue interest at the rate of 1 percent per month, or
24 fraction of a month, from the date the taxes become delinquent through the date the taxpayer or
25 operator pays the delinquent taxes, penalties, interest and fees accrued to the date of payment in full.

1 **SEC. 6.17-2. PENALTIES FOR UNDERREPORTING OF TAX.**

2 (a) Penalties for Negligence. If the Tax Collector determines that all or part of any tax
3 required to be reported on any return was underreported and that such underreporting was
4 attributable to negligence ~~or intentional disregard of rules and regulations~~, the Tax Collector may
5 impose a penalty ~~upon the taxpayer~~ in the amount of 5 percent of the amount of the
6 underreported tax, in addition to the tax or amount of tax, if the negligence ~~or intentional~~
7 ~~disregard of rules and regulations~~ is for not more than ~~one~~ month, with an additional 5 percent
8 for each month or fraction of a month during which such negligence ~~or intentional disregard of~~
9 ~~rules and regulations~~ continues, up to 20 percent in the aggregate.

10 (b) Penalties for Intentional Disregard of Rules, Fraud, or Intend to Evade Tax. When it is
11 determined by the Tax Collector that all or part of any tax required to be reported on any
12 return was underreported and such underreporting was attributable to fraud or an intent to
13 evade the Business and Tax Regulations Code, the Tax Collector may impose a penalty ~~upon~~
14 ~~the taxpayer~~ in the amount of 50 percent of the amount of the underreported tax. The taxpayer
15 or other person determined to be liable for penalties pursuant to this Section ~~is~~ are entitled to a
16 notice of ~~deficiency~~ ~~such~~ determination ~~or jeopardy determination to be issued in accordance with the~~
17 ~~provisions of Section 6.11-1 et seq.~~ and to the appeal rights ~~as to such determinations set forth in~~
18 ~~Sections 6.13-1 et seq.~~

19
20 **SEC. 6.17-3. NEGLIGENCE PENALTIES FOR FAILURE TO REGISTER,**
21 **MISSTATEMENTS IN REGISTRATION, FAILURE TO TIMELY UPDATE REGISTRATION,**
22 **FAILURE TO ALLOW INSPECTION OF RECORDS UPON REQUEST, AND FAILURE TO**
23 **FILE A RETURN; SANCTION FOR FAILURE TO PRODUCE REQUESTED RECORDS.**

24 (a) Any person who fails to register, fails to ~~amend up date~~ a registration within ~~seven~~
25 days of a material change or ~~who makes a material misrepresentation in a registration whose~~

1 *registration contains a material misstatement, or who fails to comply with a rule or regulation*
2 promulgated by the Tax Collector *in a timely manner pursuant to the provisions of the Business and*
3 *Tax Regulations Code within the prescribed time limits* shall pay, in addition to any other liability
4 that may be imposed under the provisions of this Article, a penalty in an amount equal to the
5 penalized taxpayer's annual fee for obtaining a registration certificate as set forth in Article 12.

6 (b) *The Tax Collector may impose a penalty upon any* Any person who fails to file a return
7 or returns required under this Article on or before the date prescribed for filing *shall pay a*
8 *penalty in up to* the amount of ~~\$500~~~~\$100~~ for each such failure. The penalty under this provision
9 shall be in addition to any other liability that may be imposed under the provisions of this
10 Article. *Filing a return that the Tax Collector determines to be incomplete in any material aspect may*
11 *be deemed failure to file a return in violation of this Section.*

12 (c) Any person who fails to allow a full inspection of records pursuant to a request
13 made by the Tax Collector within the time prescribed by the Tax Collector shall pay, in
14 addition to any other liability that may be imposed under the provisions of this Article, a
15 penalty in the amount of \$500 for each such failure.

16 (d) Unless the failure to allow inspection was due to reasonable cause and not willful
17 neglect, any person who fails to *provide allow a full inspection of* records pursuant to a written
18 request made by the Tax Collector may not contest the Tax Collector's decision regarding the
19 amount of such person's liability for any taxes, administrative collection costs, interest,
20 penalties or other costs and charges imposed under the Business and Tax Regulations Code,
21 or oppose the collection of such amount, in any subsequent administrative or judicial
22 proceeding, on the basis of any record the Tax Collector previously requested in writing that
23 such person failed to make available to the Tax Collector on or before the earliest to occur of
24 the following:
25

1 (1) The conclusion of the hearing on a petition for redetermination held pursuant
2 to Sections 6.12-5 or 6.13-2;

3 (2) The date the jeopardy determination became final under Section 6.12-5 if
4 such person did not request hearing thereon;

5 (3) The date the deficiency determination became final under Section 6.13-4 if
6 such person did not request a hearing thereon.

7
8 **SEC. 6.17-4. WAIVER OF PENALTIES.**

9 Any penalty or interest assessed under Sections 6.17-1, ~~6.17-2, 6.172~~ or 6.17-3 may be
10 waived by the Tax Collector, in whole or in part, upon a finding of any of the following:

11 ~~(a) Failure to make timely payment or reporting of tax liability or otherwise comply with the~~
12 ~~provisions of the Article was due to reasonable cause and not wilful neglect;~~

13 ~~(a)(b)~~ Failure to make timely payment or report of tax liability or otherwise comply with
14 the provisions of the Business and Tax Regulations Code occurred notwithstanding the
15 exercise of ordinary care by the taxpayer and in the absence of wilful neglect;

16 ~~(b)(e)~~ The taxpayer made an inadvertent error in the amount of payment made,
17 provided any deficiency is cured by payment in full to the Tax Collector within 10 days after
18 notice of the deficiency is mailed to the taxpayer by the Tax Collector; or

19 ~~(c)(d)~~ Waiver of the penalty or interest is ordered by a court of competent jurisdiction.

20
21 **SEC. 6.18-1. SUMMARY JUDGMENT; NOTICE; CERTIFICATE.**

22 If any tax imposed pursuant to the Business and Tax Regulations Code is not paid by
23 the last day of the month after the delinquency date, or after any jeopardy determination, or
24 after any deficiency determination of the Tax Collector becomes final pursuant to Sections
25 6.12-1 et seq. or 6.13-1 et seq., the Tax Collector may file, no sooner than 20 days after the

1 mailing of the notice required in ~~subsection~~*Subdivision* (b), in the office of the Clerk of the Court,
2 without fee, a certificate specifying as follows:

3 (a) The fact that a notice of intent to file the certificate has been sent, by certified mail,
4 to the operator, taxpayer or other person determined to be liable for the tax, ~~as defined in~~
5 ~~Section 6.2-13 of Article 6,~~ at the person's last known address, not less than 20 days prior to the
6 date of the certificate;

7 (b) The fact that the notice required in ~~subsection~~*Subdivision* (a) set forth the following
8 information:

9 (1) The name of the operator, taxpayer or other person determined to be liable
10 for the tax,

11 (2) The description of the operator's, taxpayer's or other person's business
12 against which the tax has been assessed,

13 (3) The location and/or address of the business,

14 (4) The fact that judgment will be sought in the amount of the tax, penalty and
15 interest remaining unpaid at the time of the filing of the certificate,

16 (5) The fact that, upon issuance and recordation of the judgment, additional
17 interest will continue to accrue at the rate prescribed by the Enforcement of Judgments Law (Title
18 9 of Part 2 of the Code of Civil Procedure) ~~in this Article,~~ and that any bond premium posted or
19 other costs to enforce the judgment shall be an added charge, and

20 (6) The fact that a recording fee in the amount set forth in Section 27361.3 of the
21 California Government Code will be required to be paid for the purpose of the recordation of
22 any release of the judgment lien;

23 (c) The name of the operator, taxpayer or other person determined to be liable for the
24 tax;

25 (d) The amount for which judgment is to be entered;

1 (e) The fact that the City has complied with all provisions of the Business and Tax
2 Regulations Code in the computation and the levy of the tax, penalty or interest; and

3 (f) The fact that a request is therein made for issuance and entry of judgment against
4 the operator, taxpayer or other person determined to be liable for the tax.

5
6 **SEC. 6.18-2. SUMMARY JUDGMENT; FILING OF CERTIFICATE; ENTRY OF JUDGMENT.**

7 The County Clerk of the Court, immediately upon the filing of the certificate shall enter a
8 judgment for the City and County against the operator, taxpayer or other person determined to
9 be liable for the tax in the amount of the tax, penalty and interest set forth in the certificate.
10 The County Clerk of the Court may file the judgment in a loose-leaf book entitled "City and
11 County Summary Tax Judgments."

12
13 **SEC. 6.18-3. SUMMARY JUDGMENT; RECORDING OF JUDGMENT; LIEN.**

14 An abstract or copy of the judgment shall be recorded, without fee, in the Office of
15 the Assessor-Recorder, and may be recorded in any other office in which such filing is
16 permitted by law. The summary judgment shall be enforceable pursuant to the Enforcement of
17 Judgments Law (Title 9 of Part 2 of the Code of Civil Procedure). From the time of the recording, the
18 amount of the tax, penalty and interest set forth constitutes a lien upon all property of the judgment
19 debtor in the City, and upon all property of the judgment debtor in any other jurisdiction where such
20 abstract or copy of the judgment is recorded, owned by the judgment debtor on the date of recording or
21 acquired by the judgment debtor thereafter, and before the lien expires, acquired by the judgment
22 debtor. The lien has the force, effect and priority of a judgment lien and continues for 10 years from the
23 date of the recording unless sooner released or otherwise discharged.

1 **~~SEC. 6.18-4. SUMMARY JUDGMENT; PENALTY IN LIEU OF JUDGMENT INTEREST.~~**

2 ~~Notwithstanding any other provision of law relating to interest authorized or allowed as a result~~
3 ~~of any judgment duly entered, the additional penalties and interest provided for in Sections 6.17-1 shall~~
4 ~~be imposed in lieu of any such judgment interest.~~

5
6 **SEC. 6.18-5. SUMMARY JUDGMENT; ADDITIONAL PENALTY.**

7 In addition to any penalty or fee imposed pursuant to the Business and Tax
8 Regulations Code, a penalty equal to the costs incurred to enforce the judgment entered
9 pursuant to ~~Section~~Sections 6.18-1 et seq., including reasonable ~~attorneys'~~attorney's fees and
10 costs, and the City's cost of salary and benefits for City staff to enforce the judgment, shall be
11 imposed.

12
13 **SEC. 6.19-1. CIVIL ACTIONS.**

14 In addition to the actions provided for in Section 6.10-3, ~~the attorney for~~ the Tax
15 Collector may bring a civil action to enjoin any violation of the Business and Tax Regulations
16 Code. No person shall conduct business without the certificate of authority required under Section
17 6.6-1 or without the San Francisco business registration certificate required under Section 853 of
18 Article 12, the Tax Collector may seek an injunction to prohibit any such person from doing business in
19 San Francisco until such time as the violation is cured. Such injunction shall issue notwithstanding
20 that judicial review of the Tax Collector's action regarding such certificate of authority or business
21 registration certificate has not been completed. The ~~Tax Collector~~City shall be entitled to its
22 ~~attorneys'~~attorney's fees and costs in any action brought pursuant to this Section where the ~~Tax~~
23 ~~Collector~~City is the prevailing party.

1 **SEC. 6.19-3. ADMINISTRATIVE PENALTIES AND CITATIONS:**

2 (a) **Administrative Penalties; Citations.** An administrative penalty may be assessed
 3 for a violation of the provisions of this Code as specified below. The penalty may be assessed
 4 by means of an administrative citation issued by any person designated as an "enforcement
 5 officer" in subsection (c).

6 (b) **Penalty Amounts.** In addition to all other civil penalties provided for by law, the
 7 following violations shall be subject to administrative penalties in the amounts set forth below:

VIOLATION	PENALTY AMOUNT
<ul style="list-style-type: none"> • Failure to obtain or post a Certificate of Authority to Collect Third-Party <i>Taxestaxes</i> 	\$500 <i>\$100.00</i>
<ul style="list-style-type: none"> • Failure to obtain or post an Annual Business Registration Certificate 	\$100 <i>100.00</i>
<ul style="list-style-type: none"> • Failure to show proof of current Business <i>Registration Certificate License</i> 	\$100 <i>100.00</i>
<ul style="list-style-type: none"> • Failure of an operator in the business of renting parking space in a parking station to post a bond 	\$500 <i>100.00</i>
<ul style="list-style-type: none"> • Failure to produce information requested by the Tax Collector within 30 days of mailing of such request 	\$100 <i>100.00</i>
<ul style="list-style-type: none"> • Failure to produce financial records requested by the Tax Collector 	\$500 <i>500.00</i>
<ul style="list-style-type: none"> • Failure to retain financial records 	\$500 <i>500.00</i>
<ul style="list-style-type: none"> • Failure to allow the Tax Collector to inspect financial records 	\$500 <i>500.00</i>
<ul style="list-style-type: none"> • <i>Failure to file a return, including filing a blank return or a return that the Tax Collector determines to be incomplete in any material aspect</i> 	\$500

1	• <u>Failure to provide a Receipt to an Occupant as required in Article 22.</u>	<u>\$100</u>
2	<u>Each time an Operator fails to provide a Receipt shall be considered a separate</u>	
3	<u>violation.</u>	
4	• <u>Operating a Parking Station without utilizing RCE or business practices and</u>	<u>\$500</u>
5	<u>procedures as required by Article 22</u>	
6	• <u>Failure to cooperate with any City agency as required by this Article or Article</u>	<u>\$500</u>
7	<u>22</u>	
8	• <u>Failure to maintain RCE Records as required by Article 22</u>	<u>\$500</u>
9		
10	• <u>Failure to accurately report the dates and times that the Parking Station did not</u>	<u>\$500</u>
11	<u>utilize RCE in monthly or quarterly Parking Tax statements as required by this</u>	
12	<u>Article and Article 22</u>	
13	• <u>Failure to use good faith efforts to repair non-functioning RCE</u>	<u>\$100</u>
14	• <u>Failure to certify conformance with the provisions of Article 22 concurrent with</u>	<u>\$500</u>
15	<u>payment or remittance of Parking Taxes</u>	
16	• <u>Intentionally tampering with RCE, including but not limited to altering or</u>	<u>\$500</u>
17	<u>deleting data gathered or maintained by RCE</u>	
18	• <u>Substituting a Parking Ticket with a Discount Parking Ticket for the purposes of</u>	<u>\$500</u>
19	<u>falsely reporting or falsely recording the amount of Rent collected from an</u>	
20	<u>Occupant</u>	
21	• <u>Refusing to produce RCE Records timely when requested by the Tax Collector or</u>	<u>\$500</u>
22	<u>other authorized agency as required under Sections 2223, 2230 and 2236 of</u>	
23	<u>Article 22 or when requested under Section 6.4-1 and 6.5-1 of this Article</u>	
24		
25		

1	• <u>Failure to comply with any other obligation or duty imposed under the Business</u>	<u>\$500</u>
2	<u>and Tax Regulations Code</u>	

Except in the case of failure to file a return, including filing a blank return or a return that the Tax Collector determines to be incomplete, each day that an Operator does not comply with the provisions of this Article shall be considered a separate violation. The penalty amounts shall be increased cumulatively by ~~fifty~~ 50 percent (~~50%~~) for each subsequent violation of the same provision by the same person within a ~~three (3)~~ 3-year period. The maximum penalty amount that may be imposed by administrative citation in a calendar year for each type of violation listed above shall be ~~\$25,000~~ \$5,000. In addition to the penalty amounts listed above, the Tax Collector may assess enforcement costs to cover the reasonable costs incurred in enforcing the administrative penalty, including reasonable attorneys' fees. Enforcement costs shall not count toward the ~~\$25,000~~ \$5,000 annual maximum.

(c) **Persons Who May Issue Citations.** The following classes of employees within the ~~Office of the Treasurer and Tax Collector~~ Treasurer/Tax Collector's office are designated "enforcement officers" and are authorized to issue administrative citations pursuant to this Article:

CLASSIFICATION NUMBER	CLASS TITLE
4334	Investigator
4335	Senior Investigator
4337	Principal Investigator
<u>09224340</u>	Assistant Director, <u>Bureau of Delinquent Revenue Collections</u>

1	<u>8173</u>	<u>Legal Assistant</u>
2	<u>0931</u>	<u>Director, Bureau of Delinquent Revenue Collections</u>

3
4 **SEC. 6.19-4. VIOLATIONS.**

5 (a) **Separate and Continuing Violations; Penalties Paid Do Not Cure Violations.**

6 Each and every day that a violation exists constitutes a separate and distinct offense. Each
7 section violated constitutes a separate violation for any day at issue. If the person or persons
8 responsible for a violation fail to correct the violation, subsequent administrative citations may
9 be issued for the same violation(s). ~~The enforcement officer may issue such subsequent~~
10 ~~administrative citations for uncorrected violations(s) pursuant to this Section without issuing a new~~
11 ~~notice as otherwise required by Section 6.19-5.~~ Payment of the penalty shall not excuse the failure
12 to correct the violation nor shall it bar any further enforcement action by the City. If penalties
13 and costs are the subject of administrative appeal or judicial review, then the accrual of such
14 penalties and costs shall be stayed until the determination of such appeal or review is final.

15 (b) **Payments to City; Due Date; Late Payment Penalty.** All penalties assessed
16 shall be payable to the City and County. Administrative penalties and costs assessed by
17 means of an administrative citation shall be due within ~~thirty (30)~~ 30 days from the date of the
18 citation. The failure of any person to pay an administrative penalty and costs within that time
19 shall result in the assessment of an additional late fee. The amount of the late fee shall be ~~ten~~
20 ~~(10)~~ 10 percent of the total amount of the administrative penalty assessed for each month the
21 penalty and any already accrued late payment penalty remains unpaid.

22 (c) **Collection of Penalties; Special Assessments.** The failure of any person to pay
23 a penalty assessed by administrative citation within the time specified on the citation
24 constitutes a debt to the City. The City may file a civil action, create and impose liens as set
25 forth below, or pursue any other legal remedy to collect such money.

1 (d) **Liens.** The City may create and impose liens against any property owned or
2 operated by a person who fails to pay a penalty assessed by administrative citation. The
3 procedures provided for in Section 6.10-3 Article XX of Chapter 10 of the San Francisco
4 Administrative Code shall govern the imposition and collection of such liens.

5
6 **SEC. 6.19-5. ADMINISTRATIVE CITATION; ISSUANCE NOTICE OF VIOLATION.**

7 ~~(a) *Notice and Opportunity to Cure.* The enforcement officer shall notify any person in~~
8 ~~violation of the Code provisions identified in Section 6.19-3(b) of such violation prior to the issuance of~~
9 ~~an administrative citation. The enforcement officer may post the notice of violation by affixing the~~
10 ~~notice to a surface in a conspicuous place on the property regardless of the manner of service of the~~
11 ~~notice under Section 6.19-6. The notice of violation shall specify the action required to correct or~~
12 ~~otherwise remedy the violation(s). The person or persons responsible for the violation shall be allowed~~
13 ~~not less than ten (10) days from the date of the notice of violation to correct or otherwise remedy the~~
14 ~~violation; provided, however, that the enforcement officer may, in his or her discretion, assign a longer~~
15 ~~period, not to exceed twenty one (21) days, within which to correct or otherwise remedy each violation.~~
16 ~~The enforcement officer may consider the cost of correction and the time needed to obtain information,~~
17 ~~documents, data and records for correction in assigning a specific period of time within which to~~
18 ~~correct or otherwise remedy each violation.~~

19 ~~(b) *Issuance of Citation.* If the person or persons responsible for the violation fail to comply~~
20 ~~with any portion of a notice of violation within the time provided, the~~The enforcement officer may
21 issue an administrative citation to any person who violates the Code provisions identified in Section
22 6.19-3(b) the violator. The administrative citation shall be issued on a form prescribed by the
23 Tax Collector.

1 **SEC. 6.19-6. ADMINISTRATIVE CITATION ~~AND NOTICE OF VIOLATION~~; SERVICE.**

2 Service of ~~a notice of violation and~~ an administrative citation may be accomplished as
3 follows:

4 (a) The enforcement officer may obtain the signature of the person responsible for the
5 violation to establish personal service of the citation; or

6 (b) (1) The enforcement officer shall post the citation by affixing the citation to a
7 surface in a conspicuous place on the property. Conspicuous posting of the citation is not
8 required when personal service is accomplished or when conspicuous posting poses a
9 hardship or is excessively expensive; and

10 (2) The enforcement officer shall serve the citation by first-class mail as follows:

11 (i) The administrative citation shall be mailed to the person responsible for the
12 violation by first-class mail, postage prepaid, with a declaration of service under penalty
13 of perjury; and

14 (ii) A declaration of service shall be made by the person mailing the
15 administrative citation showing the date and manner of service by mail and reciting the
16 name and address of the citation addressee; and

17 (iii) Service of the administrative citation by mail in the manner described
18 above shall be effective on the date of mailing.

19
20 **SEC. 6.19-9. REGULATIONS.**

21 The Tax Collector may promulgate and enforce rules and regulations, and issue
22 determinations and interpretations relating to the administrative penalty and citation system,
23 and the conducting of administrative hearings and rendering of decisions, pursuant to
24 Sections 6.19-3 through 6.19-11, inclusive. Any rules and regulations promulgated by the Tax
25 Collector shall be approved as to legal form by the City Attorney. The rules and regulations

1 shall become effective 30 days after ~~receipt~~^{receipt} by the Clerk of the Board of Supervisors and
2 the Clerk of the Finance Committee, unless the Board of Supervisors by resolution
3 disapproves or modifies the regulations. The Board of Supervisors' determination to modify or
4 disapprove a rule or regulation submitted by the Tax Collector shall not impair the ability of the
5 Tax Collector to resubmit the same or similar rule or regulation directly to the Board of
6 Supervisors if the Tax Collector determines it is necessary to effectuate the purposes of the
7 administrative penalty and citation system.

8
9 **SEC. 6.21-1. TRANSFEREE AND SUCCESSOR LIABILITY.**

10 ~~(a) The liability at law or in equity of a successor, transferee or alter ego of any taxpayer or~~
11 ~~other person determined to be liable for any tax, interest, cost or penalty subject to this Article,~~
12 ~~imposed upon a taxpayer shall be determined, collected and paid in the same manner and subject to the~~
13 ~~same provisions and limitations as in the case of a deficiency determination pursuant to Sections 6.12-1~~
14 ~~et seq. and 6.13-1 et seq. Nothing in this subsection shall be construed to limit the rights or procedures~~
15 ~~available to the Tax Collector to collect from any successor, transferee or alter ego, at law or in equity,~~
16 ~~as may be provided by statutory or decisional law.~~

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

23 ~~(b)(e)~~ The Tax Collector shall issue such a receipt or certificate, or a notice of the
24 amount that must be paid as a condition of issuing the certificate, to the buyer within 30 days
25 after receiving a written request. However, failure of the Tax Collector to timely mail the notice

1 will not release the buyer from his or her obligations under this Section, except to the extent of
2 penalties and interest in the event that the Tax Collector enforces the buyer's obligation in a
3 civil action authorized pursuant to the Business and Tax Regulations Code.

4 ~~(c)(4)~~ If the buyer purchases or acquires an interest in a business owing any taxes,
5 interest or penalties imposed under Articles 7, 9 or 12-A, the buyer shall withhold from the
6 purchase price and pay to the Tax Collector a sufficient amount to satisfy said taxes, interest
7 and penalties.

8 ~~(d)(e)~~ If the buyer purchases or acquires an interest in a business in violation of this
9 Section, the buyer shall become personally liable for the amount of taxes, interest and
10 penalties owed on the business.

11 ~~(e)(f)~~ The buyer's obligations shall accrue at the time the business is purchased or the
12 interest acquired, or at the time the Tax Collector determines the seller's final liability,
13 whichever is later.

14 (f) The liability at law or in equity of a successor, transferee or alter ego of any taxpayer or
15 other person determined to be liable for any tax, interest, cost or penalty subject to this Article,
16 imposed upon a taxpayer may be determined, collected and paid in the same manner and subject to the
17 same provisions and limitations as a deficiency determination pursuant to Sections 6.11-1, 6.11-2, and
18 6.13-1 et seq. Nothing in this subsection shall be construed to limit the rights or procedures available
19 to the Tax Collector to collect from any successor, transferee or alter ego, at law or in equity, as may
20 be provided by law.

21
22 **SEC. 6.22-1. CONFIDENTIALITY.**

23 (a) The information in a taxpayer's return is confidential, as is any information the Tax
24 Collector learns about a taxpayer's business from the taxpayer or in response to the Tax Collector's
25 request for information made under Sections 6.4-1 or 6.5-1. Information regarding the Tax Collector's

1 investigation of a particular taxpayer, including the fact that the Tax Collector has sent a request for
2 information to a particular taxpayer or is investigating a particular taxpayer, is also confidential.
3 Except as permitted by this Section or as otherwise required by law, neither the Tax Collector nor his
4 or her staff, nor any other of the City's current or former employees or agents may disclose any
5 taxpayer's confidential information to any person.~~Except where disclosure is otherwise required by~~
6 ~~law, it is a violation of this section for the Tax Collector or any officer, employee or agent of the City to~~
7 ~~make known in any manner whatever the business affairs, operations or information obtained by an~~
8 ~~investigation of records or any person visited or examined in the discharge of official duty, or the~~
9 ~~amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or~~
10 ~~disclosed in any return, or to permit any return or copy thereof or any book containing any abstract or~~
11 ~~particulars thereof to be seen or examined by any person, except as set forth below. These~~
12 ~~confidentiality provisions also apply to former Tax Collectors and employees and agents thereof.~~

13 (b) At the discretion of the Tax Collector, otherwise~~Otherwise~~ confidential information may
14 be disclosed in any federal, state, city or county judicial or administrative proceeding
15 pertaining to tax administration, determination, assessment, collection, or enforcement, of any
16 civil or criminal liability arising under the Business and Tax Regulations Code if the
17 information concerns a person who is a party to the proceeding, or the proceeding arose out
18 of, or in connection with determining that person's civil or criminal liability, or the collection of
19 that person's liability with respect to any tax imposed thereunder.

20 (c) At the discretion of the Tax Collector, disclosure~~Disclosure~~ of otherwise confidential
21 information may be made to the extent such disclosures are reasonably necessary to
22 obtaining information bearing a direct transactional relationship to the determination,
23 assessment, collection, or enforcement, of any civil or criminal liability arising under the
24 Business and Tax Regulations Code.

1 (d) At the discretion of the Tax Collector, disclosure~~Disclosure~~ of otherwise confidential
2 information may be to other employees or agents of the Tax Collector or employee of the City
3 in matters preparatory to any judicial or administrative proceeding pertaining to the
4 administration or enforcement of any civil or criminal liability arising out of the Business and
5 Tax Regulations Code.

6 (e) If the Tax Collector determines that a liability owing from a taxpayer may be
7 collected from another person, the Tax Collector may disclose to such other person
8 information relevant to the determination of tax due or owing from the taxpayer.

9 (f) The taxpayer, his successors, receivers, trustees, executors, administrators,
10 assignees and guarantors, and their duly authorized legal representatives if directly
11 interested, may be given information as to the items included in the measure and amount of
12 any unpaid tax or amounts of tax required to be collected, interest and penalties.

13 (g) Notwithstanding any other provision of the Business and Tax Regulations Code or
14 of any City ordinance, the Tax Collector is authorized to enter into agreements with other
15 public agencies ~~the California Franchise Tax Board, the State Board of Equalization, and/or the~~
16 ~~Internal Revenue Service~~ providing for the exchange of information for official purposes of said
17 agencies, and to implement any such agreement through the exchange of information.

18 (h) Notwithstanding any other provision of the Business and Tax Regulations Code or
19 of any City ordinance, the Tax Collector shall provide any and all information to the Controller
20 that is needed to fulfill the Controller's responsibilities under Section 3.105 of the Charter.
21 With regard to all such information provided by the Tax Collector, the Controller shall be
22 subject to the confidentiality provisions of subsection~~Subsection~~ (a) of this Section.

23 (i) The Tax Collector may disclose to any City employee or agent for official purposes
24 any information described in subsection~~Subsection~~ (a) in aggregate or other form that does not
25 disclose the identity of particular taxpayers.

1 (j) Nothing in this Section shall impose any liability upon the Tax Collector or any
2 employee or agent thereof for any disclosures of confidential information made *in good faith* in
3 the performance of his or her duties.

4 Section 2. The San Francisco Business and Tax Regulations Code is hereby amended
5 by amending Sections 604, 713, 856, and 859, to read as follows:
6

7 **SEC. 604. COLLECTION OF TAX BY OPERATOR; RECEIPT TO OCCUPANT; RULES**
8 **FOR COLLECTION SCHEDULES.**

9 (a) Every Operator maintaining a place of business in this City and County as
10 provided in Section 603 herein, and Renting ~~a~~ parking space in a Parking Station in this City
11 and County to an Occupant who is not exempted under Section 606 of this Article or
12 elsewhere in this Code, shall at the time of collecting the Rent from the Occupant, collect the
13 Parking Tax from the Occupant and on demand shall give to the Occupant a Receipt that
14 meets the requirements of Article 22 of this Code. In all cases in which the Parking Tax is not
15 collected by the Operator, as aforesaid, the Operator shall be liable to the Tax Collector of the
16 City and County for the amount of Parking Tax due on the amount of taxable Rent collected
17 from the Occupant under the provisions of this Article the same as though the Parking Tax
18 were paid by the Occupant. In all cases of transactions upon credit or deferred payment, the
19 remittance or payment of Parking Tax to the Tax Collector may be deferred in accordance
20 therewith, and the Operator shall be liable therefore at the time and to the extent that such
21 credits are paid or deferred payments are made in accordance with the rate of tax owing on
22 the amount thereof.

23 (b) Unless the Operator can provide an explanation or other sufficient proof that the
24 Enforcing Agency in its sole discretion deems to be credible to establish the validity of a claim
25 for a Lost Ticket or an otherwise Unaccounted Ticket (as those terms are defined in Section

1 2201 of Article 22 of this Code), every Lost Ticket and Unaccounted Ticket shall be considered
2 as a full value Parking Ticket for which the Operator is liable for transmitting to the City the full
3 value of the Parking Tax and surcharge required under this Code applicable to ~~a full day's Rent~~
4 ~~for a single Parking Space Occupancy~~ the highest maximum daily rate charged for any parking space
5 without discount, except that an Operator shall be allowed an Unaccounted Ticket Ratio of
6 1.5 percent for each Parking Station that it operates (as that term is defined and used in
7 Article 22 of this Code) in a reporting period, for which the Operator ~~shall~~may not be liable for
8 failure to remit the Parking Tax.

9 (c) The Operator shall have the burden of explaining and establishing the validity of
10 Lost Tickets and Cancelled Transactions, as those terms are defined in Article 22 of this
11 Code. The Enforcing Agency may consider a verifiable statement signed by the Occupant
12 claiming a Lost Ticket that includes the Occupant's name, address, telephone number, the
13 Occupant's Motor Vehicle license plate number, the time of entry and the time of exit as
14 sufficient proof of a valid Lost Ticket transaction. An Operator shall maintain a log of all Lost
15 Tickets and Cancelled Transactions. The Enforcing Agency may consider in its sole and
16 absolute discretion an Operator's log of Cancelled Transactions or Lost Ticket transactions
17 that includes the cashier or attendant's name and/or Log File identification number who
18 processed the Transaction, the date and time of the Transaction, and a credible reason for
19 processing the transaction as a Lost Ticket transaction.

20 (d) The Tax Collector shall have the power to adopt rules and regulations prescribing
21 methods and schedules for the collection and payment of the tax and such methods and
22 schedules shall provide that the fractional part of ~~one~~1 cent shall be disregarded unless it
23 amounts to $\frac{1}{2}$ of ~~one~~1 cent or more, in which case the amount (determined without regard to
24 the fractional part of ~~one~~1 cent) shall be increased by ~~one~~1 cent.
25

1 **SEC. 713. RECORDS.**

2 It shall be the duty of every service supplier required to collect and remit to the City and
3 County any tax imposed by this Article to keep and preserve, for a period of ~~four~~5 years, all
4 records as may be necessary to determine the amount of such tax service supplier may have
5 been required to collect and remit to the City and County, which records the Tax Collector
6 shall have the right to inspect at all reasonable times.

7
8 **SEC. 856. REGISTRATION CERTIFICATE—APPLICATION AND ISSUANCE.**

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

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

23 (c) To accomplish the change from the calendar year registration period to a fiscal
24 year registration period, there shall be a Registration Transition Period commencing
25 January 1, 2003, and ending June 30, 2003. A registration certificate issued for the

1 Registration Transition Period shall be valid through June 30, 2003. Except as provided in
2 Subsectionsubsection (f) of this Section, any person engaging in business within the City during
3 the calendar year preceding the Registration Transition Period shall, before October 31, 2002,
4 apply to the Tax Collector for a registration certificate covering the Registration Transition
5 Period. The application for renewal of the registration certificate covering the Registration
6 Transition Period shall become delinquent if the registration fee is not paid on or before
7 October 31, 2002. Except as provided in Subsectionsubsection (f) of this Section, the fee for a
8 registration certificate covering the Registration Transition Period shall be 50 percent of the
9 amount of the annual registration fee otherwise applicable under Section 855 of this Article.

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

15 (e) A registration certificate issued for any registration year after the Registration
16 Transition Period shall be valid through June 30 of such registration year. Except as provided
17 in Subsectionsubsection (f) of this Section, for any registration year commencing on or after
18 July 1, 2003, any person engaging in business within the City shall, between January 1 and
19 the last day of ~~February~~May, apply to the Tax Collector for a registration certificate for the
20 succeeding registration year. The application for renewal of the annual registration certificate
21 shall become delinquent if the registration fee is not paid on or before the last day of
22 ~~February~~May.

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

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

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

19 (3) For the Registration Transition Period, the fee for obtaining a registration
20 certificate for a newly established business shall be determined pursuant to Section 855 of
21 this Article using the applicant's estimated tax liability under Article 12-A (Payroll Expense Tax
22 Ordinance) for the 2003 tax year. For any person who commences business operations within
23 the City on or after January 1, 2003, and before April 1, 2003, the registration fee shall be as
24 set forth in Subsection subsection (c) of this Section. For any person who commences business
25 operations within the City on or after April 1, 2003, and before July 1, 2003, the registration,

1 fee shall be 25 percent of the amount of the annual registration fee otherwise applicable under
2 Section 855(a) of this Article.

3 (4) For registration years commencing on or after July 1, 2003, the fee for
4 obtaining a registration certificate for a newly established business shall be determined
5 pursuant to Section 855 of this Article using the applicant's estimated tax liability under Article
6 12-A (Payroll Expense Tax Ordinance) for the tax year in which the person commences such
7 business within the City. The registration fee for persons who commence business operations
8 after the Registration Transition Period shall be prorated as follows: For persons commencing
9 business between January 1st and March 31st, the registration fee shall be 50 percent of the
10 annual fee; for persons commencing business between April 1st and June 30th, the
11 registration fee shall be 25 percent of the annual fee; for persons commencing business
12 between July 1st and September 30th, the registration fee shall be 100 percent of the annual
13 fee; and for persons commencing business between October 1st and December 31st, the
14 registration fee shall be 75 percent the annual fee. Where a registration certificate is issued
15 for a period other than for a registration year, the Tax Collector shall have discretion to prorate
16 the registration fee in accordance with this model.

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

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

24 (h) Promptly after receiving a properly completed application and registration fee from
25 any person, the Tax Collector shall determine whether the applicant has paid all outstanding:

1 (1) Payroll Expense Taxes; (2) costs and/or charges assessed pursuant to Section 174.2 of
2 Article 5.1 of the Public Works Code, as amended from time to time, for failure to abate a
3 nuisance regarding the cleanliness of an abutting public sidewalk or right-of-way; and
4 (3) other taxes and license fees due to the City. In addition, the Tax Collector may investigate
5 whether the applicant has paid other amounts owing to the City as a result of fines,
6 penalties, interest, assessments, or any other financial obligations imposed by law, regulation
7 or contract. If the Tax Collector determines that all liabilities have been paid, the Tax Collector
8 shall issue a registration certificate to the applicant for each place of business maintained by
9 the applicant.

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

15 (j) Each registration certificate shall be non-assignable and nontransferable. The
16 holder of the registration certificate shall surrender the certificate to the Tax Collector
17 immediately upon the sale or transfer of the business for which the Tax Collector issued the
18 registration certificate. The holder of the registration certificate shall also surrender the
19 certificate to the Tax Collector when such holder ceases to conduct business at the location
20 designated in the certificate.

21 (k) If the Tax Collector determines that any liabilities enumerated in
22 Subsection (h) of this Section remain unpaid as of the date an application is received,
23 the Tax Collector shall give written notification of that fact to the applicant. The written
24 notification shall set forth the amount owed, the liabilities enumerated in Subsection
25 (h) of this Section for which the amount(s) are owed, the dates the liabilities were incurred and

1 any other information the Tax Collector deems necessary to apprise the applicant of what
2 specific liabilities are owed to the City. The Tax Collector shall not issue a registration
3 certificate unless and until the applicant has paid all amounts owing to the City, including but
4 not limited to, taxes, license fees, and costs or charges assessed for failure to abate a
5 nuisance condition on a public right-of-way under Section 174.2 of Article 5.1 of the Public
6 Works Code, as amended from time to time, for which the applicant is liable; provided, that if a
7 good faith dispute exists regarding the amount of the outstanding liability or liabilities owed by
8 the applicant to the City and the dispute is pending before a City agency or court of competent
9 jurisdiction, then the Tax Collector shall not refuse to issue a registration certificate solely for
10 non-payment of the amount in dispute.

11 (l) Each registration certificate, and each duplicate thereof, shall set forth the name
12 under which the person transacts or intends to transact business, the location of the
13 registrant's place of business and such other information as the Tax Collector may require,
14 and be prominently displayed therein. In the case of a sole proprietorship, the registration
15 certificate shall be signed by the sole proprietor; in the case of a partnership, the registration
16 certificate shall be signed by a general partner; in the case of a limited liability company, the
17 registration certificate shall be signed by the managing member; and in the case of a
18 corporation, the registration certificate shall be signed by the person authorized by the
19 corporation to sign on its behalf.

20 (m) Each person liable for payment of a registration fee pursuant to this Article shall
21 only pay one registration fee; however, the Tax Collector shall issue a separate registration
22 certificate for each location within the City where the person engages in business.
23
24
25

1 **SEC. 859. BUSINESS TAX REGISTRATION TAG REQUIRED ON CERTAIN VEHICLES.**

2 (a) The Tax Collector shall require persons engaged in the businesses listed in
3 ~~subsection~~ *Subsection* (b) to display prominently upon each vehicle which is registered as a
4 commercial vehicle with the California Department of Motor Vehicles; and which is used by
5 the person in the conduct of his or her business, a registration tag in such form and color and
6 containing such information as the Tax Collector shall determine. An employee's personally
7 owned vehicles are exempt from this requirement. The Tax Collector shall charge an annual
8 fee of \$30 for each tag issued to cover the cost of issuing the tag. The registration tag shall
9 be valid for the year of issuance, or 1 year, whichever ends later ~~one year concurrent with the business~~
10 ~~tax registration certificate.~~

11 It is unlawful for any person, required to display a registration tag pursuant to this
12 Section, to use or cause to be used any company vehicle which is registered as a commercial
13 vehicle with the California Department of Motor Vehicles in the conduct of the person's
14 business within the City and County that does not have a business tax registration tag
15 attached thereto or to remove or deface or cover up the registration tag, or to place such
16 registration tag upon any vehicle other than a vehicle used by the person in his or her
17 business, or to use or cause to be used any such vehicle more than 30 days after the
18 expiration of the period for which the registration tag was issued. An employee's personally
19 owned vehicles are exempt from this requirement.

20 Each person required to display a registration tag on vehicles used in conduct of his or
21 her business shall keep the registration tag(s) issued by the Tax Collector firmly affixed upon
22 each vehicle for which a registration tag was issued at such location upon the vehicle as is
23 designated by the Tax Collector.

24 Subsequent to the issuance of any business tax registration certificate and prior to the
25 expiration date, any person seeking to use any company vehicle which is registered as a

1 commercial vehicle with the California Department of Motor Vehicles in his or her business,
2 for which a tag has not been issued, shall procure a tag for such vehicle from the Tax
3 Collector. Upon the payment of a fee for such tag, the Tax Collector shall deliver the tag to the
4 person, which tag shall be securely affixed to the vehicle upon the location designated by the
5 Tax Collector.

6 (b) Persons engaged in the following business(es) shall be required to display a
7 registration tag on company vehicles which are registered as commercial vehicles with the
8 California Department of Motor Vehicles and which are used in the conduct of his or her
9 business:

10 Roofing contractor and any other contractor performing work for which a reroofing
11 permit is required.

12
13 Section 3. The San Francisco Business and Tax Regulations Code is hereby amended
14 by repealing Sections 608 through 608.8 in their entirety:

15
16 ~~SEC. 608. PARKING TAX AMNESTY PROGRAM.~~

17
18 ~~SEC. 608.1. SHORT TITLE.~~

19 ~~*This ordinance shall be known as the "Parking Tax Penalty Amnesty Program."*~~

20
21 ~~SEC. 608.2. DEFINITIONS.~~

22 ~~*The terms used in this Section 608 shall have the meaning given to them in Article 9, Section*~~
23 ~~*601 of this Code.*~~

1 ~~SEC. 608.3. AMNESTY PROGRAM.~~

2 ~~(a) A Tax Penalty Amnesty Program is hereby established for Operators of Parking Stations~~
3 ~~required to collect and remit Parking Taxes under Articles 6 and 9 of this Code who have liabilities~~
4 ~~eligible for amnesty under Section 608.4 of this Article and who satisfy the eligibility requirements~~
5 ~~established in Sections 608.4 and 608.5 of this Article.~~

6 ~~(b) For any person who has a liability eligible for amnesty under Section 608.4 of the Article~~
7 ~~and who meets the eligibility requirements established in Sections 608.4 and 608.5 of this Article and~~
8 ~~who applies for and is granted amnesty:~~

9 ~~(1) The Tax Collector shall waive all penalties and interest on penalties owed for~~
10 ~~failure to collect and/or remit Parking Taxes under Article 22 and Sections 6.17-1, 6.17-2, and~~
11 ~~6.17-3 of this Code; and~~

12 ~~(2) The Tax Collector shall waive all penalties and interest on penalties owed for~~
13 ~~delinquent remittance of Parking Taxes owed under the provisions Articles 6 and 9 of the~~
14 ~~Business and Tax Regulations Code without need to make the findings required under Section~~
15 ~~6.17-4; and~~

16 ~~(3) No proceeding to suspend or revoke a business registration certificate pursuant to~~
17 ~~Section 6.6-1 of this Code shall be initiated for an Operator's failure to collect or remit parking~~
18 ~~taxes for which the Tax Collector has granted amnesty; and~~

19 ~~(4) No civil or criminal action shall be brought against an Operator, for any tax period~~
20 ~~for which the Tax Collector grants tax penalty amnesty, based upon the nonreporting, under-~~
21 ~~reporting, failure to remit Parking Tax and Parking Tax liabilities or the nonpayment of or~~
22 ~~failure to remit any taxes owed under the provisions of Article 22 of this Code.~~

23 ~~(c) The Amnesty Program shall not apply to Operators that do not voluntarily and in good faith~~
24 ~~contact the Tax Collector during the Amnesty Period to submit voluntarily to an audit.~~

1 ~~SEC. 608.4. LIABILITIES SUBJECT TO AMNESTY PROGRAM.~~

2 ~~(a) The Tax Penalty Amnesty Program shall apply to remittance of penalties and interest on~~
3 ~~penalties for unpaid owing third party Parking Tax liabilities for the tax periods ending on or before 75~~
4 ~~days prior to the effective date of this Ordinance, with the following exceptions:~~

5 ~~(1) The Tax Collector shall not waive penalties owed as a result of any jeopardy~~
6 ~~determination or any audit deficiency determination that has become final prior to the~~
7 ~~commencement of the Amnesty Application Period.~~

8 ~~(2) The Tax Collector shall not waive, under the authority of this Article, penalties,~~
9 ~~which are included in any civil tax collection litigation commenced by the Tax Collector prior~~
10 ~~to the commencement of or during the Amnesty Application Period.~~

11 ~~(3) Taxes owed that have been reduced to a notice of deficiency prior to the~~
12 ~~commencement of the Amnesty Period are not eligible for inclusion in the Amnesty Program.~~

13 ~~(4) Parking taxes owed and interest on those owed taxes are not subject to amnesty.~~

14 ~~(b) No refund or credit shall be granted of any penalty paid by any person prior to the time the~~
15 ~~person submits an Amnesty Application pursuant to Sections 608.3 and 608.8 of this Article.~~

16
17 ~~SEC. 608.5. AMNESTY APPLICATIONS.~~

18 ~~(a) The provisions of this Article shall apply to any person who is responsible for the collection~~
19 ~~and remittance to the City of Parking Taxes under Article 22 and Section 6.7 1 of this Code and who~~
20 ~~files an application for Parking Tax amnesty within the Amnesty Application Period designated by the~~
21 ~~Tax Collector pursuant to Section 608.8 of this Article and who does both of the following:~~

22 ~~(1) Files completed tax returns for all periods for which he or she has not previously~~
23 ~~filed a tax return or files amended tax returns for all periods for which he or she under reported~~
24 ~~taxes owed; and~~

25 ~~(2) Pays/remits in full all taxes, fees, and interest due.~~

1 ~~(b) Notwithstanding the provisions of Subsection (a) of this Section, if necessary to effectuate~~
2 ~~the purposes of this Article, the Tax Collector in its sole and absolute discretion may extend the period~~
3 ~~for payment of taxes and interest due or enter into an installment payment agreement in lieu of~~
4 ~~complete payment. Failure of the taxpayer to comply with the terms of any extension granted or~~
5 ~~installment payment agreement entered under this subsection by the Tax Collector shall render the~~
6 ~~waiver of any penalties applicable thereto null and void, and the total amount of tax, interest and all~~
7 ~~penalties shall be immediately due and payable.~~

8
9 ~~**SEC. 608.6.—SUBSEQUENT DEFICIENCIES.**~~

10 ~~If the Tax Collector issues a deficiency determination based upon a return filed pursuant to~~
11 ~~Section 608.5 of this Article, penalties shall be imposed only with respect to the difference between the~~
12 ~~amount shown on the return and the correct amount of tax.~~

13
14 ~~**SEC. 608.7.—SUBSEQUENT REFUNDS.**~~

15 ~~If any overpayment of tax under this Section 608 is refunded or credited, the City shall have no~~
16 ~~liability for or obligation to pay interest on that overpayment.~~

17
18 ~~**SEC. 608.8.—AUTHORITY OF TAX COLLECTOR.**~~

19 ~~Upon effective date of this Ordinance, the Tax Collector shall designate an Amnesty Application~~
20 ~~Period, which shall not exceed six months in duration, in which Amnesty Applications shall be~~
21 ~~accepted. The Tax Collector shall publicize the Tax Penalty Amnesty Program established by this~~
22 ~~Article and shall notify Operators about the amnesty program and about the new requirements of~~
23 ~~Article 22 of this Code and the increased penalties imposed by the provisions of Section 2231. The Tax~~
24 ~~Collector shall issue all forms and instructions necessary to implement this Article. The Tax Collector~~
25


1 ~~shall enforce the provisions of this Article and may prescribe, adopt, and enforce rules and regulations~~
2 ~~relating to the administration and enforcement of this Article.~~

3
4 Section 4. The San Francisco Administrative Code is hereby amended by amending
5 Section 10.80-2, to read as follows:

6
7 **SEC. 10.80-2. TREASURY OVERSIGHT COMMITTEE - DUTIES.**

8 The duties of the Committee shall be the following: (a) Review and monitor the
9 investment policy described in Government Code Section 27133 ~~27933~~ and annually prepared
10 by the County Treasurer; (b) Cause an annual audit to be conducted to determine the
11 Treasurer's compliance with Government Code Article 6 including Sections 27130 ~~27930~~
12 through 27137 and with this ordinance. The audit may examine the structure of the investment
13 portfolio and risk; (c) Nothing herein shall be construed to allow the Committee to direct
14 individual decisions, select individual investment advisors, brokers, or dealers, or impinge on
15 the day-to-day operations of the Treasurer.

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

19
20 By: 
21 JULIE VAN NOSTERN
22 Deputy City Attorney

LEGISLATIVE DIGEST

[Business and Tax Regulations Code: Common Administrative Provisions; Parking Tax; Business Registration]

Ordinance amending the San Francisco Business and Tax Regulations Code by: (1) amending Article 6 (Common Administrative Provisions) to revise provisions relating to: certificates of authority to collect third-party taxes; prepayment and remittance requirements for hotel and parking operators; enforcement procedures and penalties; and to otherwise clarify and update the provisions of Article 6; (2) amending Article 9 (Tax on Occupancy of Parking Space in Parking Stations), Article 10 (Utility Users Tax), and Article 12 (Business Registration), to lengthen the time period that service suppliers must preserve records from 4 years to 5 years and to extend the payment date of the registration certificate; and (3) repealing Sections 608 through 608.8 of Article 9 (Tax on Occupancy of Parking Space in Parking Stations); and (4) amending the San Francisco Administrative Code by amending Article XIII (Funds), Chapter 10 (Finance, Taxation, and Other Fiscal Matters), to correct references to the California Government Code.

Existing Law

The Treasurer/Tax Collector administers the City's taxes pursuant to the Common Administrative Provisions in Article 6 of the San Francisco Business and Tax Regulations Code. Article 6 imposes on taxpayers and businesses charged with collecting third-party taxes, specific requirements regarding collecting, reporting and remitting taxes. Article 6 also contains provisions describing the refund, audit and enforcement processes. Article 6 applies to Article 7: Tax on Transient Occupancy of Hotel Rooms, Article 9: Tax on Occupancy of Parking Space in parking Stations, Article 10: Utility Users Tax, Article 10B: Access Line Tax, Article 11: Stadium Operator Admission Tax, Article 12: Business Registration, Article 12-A: Payroll Expense Tax and 12-B: Business Tax Refund of the Business and Tax Regulations Code and to Chapter 105 of the Administrative Code: Cigarette Litter Abatement Fee Ordinance.

Amendments to Current Law

This ordinance would amend the Common Administrative Provisions of the San Francisco Business and Tax Regulations Code to assist the enforcement and collection of third-party taxes. The amendments will, among other things:

- Increase bond amounts for parking station operators;
- Require annual renewal of a Certificate of Authority to collect third-party taxes;
- Authorize the Tax Collector to revoke a parking station operator's business registration certificate and Certificate of Authority for failure to collect and remit parking taxes, install and maintain revenue control equipment, or maintain trust accounts as directed;
- Establish a process to collect a parking tax deficiency from an Operator's surety;
- Increase penalties for failure to file a tax return;
- Deem the filing an incomplete tax return failure to file a return;
- Eliminate the use of estimated prepayments for third-party taxes and instead require hotel and parking tax operators to remit the actual tax owed each month;

FILE NO.

- Prohibit anyone from doing business without a Certificate of Authority or business registration certificate, through an injunction;
- Increase penalty amounts for administrative citations; and
- Improve enforcement of Revenue Control Equipment requirements.

Background Information

In 2004, the administrative provisions of the Business and Tax Regulations Code were amended, renumbered and enacted into law as Article 6 (Common Administrative Provisions). These changes strengthen the Treasurer/Tax Collector's ability to enforce the City's taxes. They also correct errors, delete outdated provisions and make other nonsubstantive changes to clarify the existing law.