

[Business and Tax Regulations Code - Payroll Expense Tax Exclusion in Central Market Street and Tenderloin Area]

Ordinance amending Article 12-A of the Business and Tax Regulations Code by adding Section 906.3 to establish a payroll expense tax exclusion for businesses located in the Central Market Street and Tenderloin Area.

NOTE: Additions are *single-underline italics Times New Roman*; deletions are ~~*strike-through italics Times New Roman*~~. Board amendment additions are double-underlined; Board amendment deletions are ~~strike-through normal~~.

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

Section 1. Findings. The Board of Supervisors hereby finds that:

(a) In January of 2010, Mayor Gavin Newsom announced the Central Market Partnership – a public/private initiative to renew and coordinate efforts to revitalize the Central Market neighborhood (from approximately Fifth Street to Tenth Street) with a focus on cultivating an eclectic, community-serving arts district.

(b) As part of the Central Market Partnership, the City has developed the following tools to assist with this effort:

(1) An \$11.5 million loan fund for low-interest loans to small businesses in the area;

(2) Coordinated incentives, including a renewed effort to generate tax increment financing through a Redevelopment Area;

(3) The Better Market Street initiative, which will overhaul the streetscape and repave the corridor in 2014;

(4) Technical assistance and limited funding for arts groups looking to relocate to Central Market;

1 (5) An NEA grant to undertake visible arts-oriented activities that will
2 generate positive foot traffic; and

3 (6) Partnerships with recently established Community Benefit Districts and
4 other Community Benefit Organizations whose focus is on improving the neighborhood as
5 well as an Interagency Working Group to target City attention and resources to the
6 neighborhood.

7 (c) Therefore, attracting businesses to the Central Market Street neighborhood is a
8 key component in the revitalization of the area.

9 Section 2. The San Francisco Business and Tax Regulations Code is hereby amended
10 by adding Section 906.3, to read as follows:

11 **SEC. 906.3. CENTRAL MARKET STREET AND TENDERLOIN AREA PAYROLL**
12 **EXPENSE TAX EXCLUSION.**

13 (a) The amount of payroll expense tax due under this Section shall be:

14 (1) For any person maintaining a fixed place of business in the Central Market
15 Street and Tenderloin Area on the effective date of this ordinance, such person shall owe the lesser of
16 that person's payroll expense tax liability for 2010 or that person's payroll expense tax liability for the
17 year they are claiming the exclusion, including zero;

18 (2) For any person who commences to maintain a fixed place of business in the
19 Central Market Street and Tenderloin Area after the effective date of this legislation, such person shall
20 owe the lesser of that person's payroll expense tax liability for the tax year prior to the date the person
21 commenced to maintain a fixed place of business in the Central Market Street and Tenderloin Area or
22 that person's payroll expense tax liability for the year they are claiming the exclusion, including zero;
23 or

24 (3) For any person who commences to maintain a fixed place of business in the
25 Central Market Street and Tenderloin Area after relocating to San Francisco, such person shall owe

1 the lesser of the amount that person paid in payroll expense tax for that person's initial year in
2 San Francisco and that person's payroll expense tax liability for the year they are claiming the
3 exclusion, including zero.

4 (b) For purposes of this Section, the following terms shall have the meanings set forth
5 below:

6 (1) "Central Market Street and Tenderloin Area" means the area located in
7 downtown San Francisco, generally including: parcels fronting the south side of Market Street from
8 Eleventh Street to Sixth Street; a portion of the parcels fronting the south side of Market Street from
9 Sixth Street to Fifth Street (odd numbered addresses from 999 to 933 Market Street); parcels fronting
10 the north side of Market Street from Van Ness Avenue to Eighth Street; 875 Stevenson Street; and
11 parcels in the area bordered by: Geary Street, from Polk Street to Taylor Street (south side only);
12 Taylor Street, from Geary Street to Ellis Street (west side only); Ellis Street, from Taylor Street to
13 Mason Street (south side only); Mason Street, from Ellis Street to Market Street (west side only);
14 Market Street, from Mason Street to Charles J. Brenham Place (north side only); Charles J. Brenham
15 Place, from Market Street to McAllister Street (east side only); McAllister Street, from Charles J.
16 Brenham Place to Larkin Street (north side only); Larkin Street, from McAllister Street to Eddy Street
17 (east side only); Eddy Street, from Larkin Street to Polk Street (north side only); and Polk Street, from
18 Eddy Street to Geary Street (east side only). The exclusion applies exclusively to the following
19 Assessor's Lots: the entirety of Blocks 0317, 0318, 0319, 0320, 0321, 0322, 0322A, 0323, 0324, 0331,
20 0332, 0333, 0334, 0335, 0336, 0337, 0338, 0339, 0340, 0342, 0343, 0344, 0345, 0346, 0347, 0348,
21 0349, 0350, 0716, 0717, 0740, and 0835; Block 0813, Lots 7, 8, 9 and 10; Block 3701, Lots 50, 59 and
22 65; Block 3702, Lots 1, 44, 44A, 45, 46, 47, 48, 48A, 53 and 54; Block 3703, Lots 1, 56, 58, 59, 60, 61,
23 62, 63, 64, 65, 66, 67, 68, 70, 74, 75, 76, 78 and 88; Block 3704, Lots 70, 69, 68, 67 and 78; Block
24 3507, Lots 39, 40 and 41; Block 3508, Lots 1 and 39; Block 0355, Lots 3, 4, 5, 6, 7, 8, 9, 10 and 15;
25 and Block 0351, Lots 1, 22, 39, 41, 46, 47, 49 and 51.

1 (2) An employee is a "qualified employee" for purposes of computing this exclusion
2 if the employee spends at least 90% of work time on activities directly related to the conduct of a trade
3 or business located within the Central Market Street and Tenderloin Area and performs at least 90% of
4 work time within the boundaries of the Central Market Street and Tenderloin Area. For purposes of
5 this Section, outside independent contractors shall not be considered employees of the business.

6 (c) In order to be eligible for the payroll expense tax exclusion authorized under this
7 Section, persons wishing to claim the exclusion must:

8 (1) Complete and submit an initial application to the Office of Economic and
9 Workforce Development for review and evaluation. The Office of Economic and Workforce
10 Development will use this application to verify that applicants claiming the payroll expense tax
11 exclusion under this Section meet the eligibility requirements outlined in subsections (b)(1) and (b)(2)
12 of this Section. The Office of Economic and Workforce Development shall have the authority to
13 prescribe the form of the application and, consistent with this ordinance, the rules and regulations
14 regarding eligibility for the Central Market Street and Tenderloin Area payroll expense tax exclusion,
15 which shall include participation in the City's First Source Hiring Program as defined in Section 83.4
16 of the Administrative Code.

17 (2) File an annual affidavit with the Office of Economic and Workforce Development
18 affirming that they continue to meet the eligibility criteria as determined by the Office of Economic and
19 Workforce Development. The affidavit must be filed with the Office of Economic and Workforce
20 Development on or before January 31 of each year subsequent to the Office of Economic and
21 Workforce Development's initial approval of the application.

22 (3) Maintain a reasonable method of documentation that the Tax Collector can
23 review or verify objectively that tracks employees whose compensation qualifies for the Central Market
24 Street and Tenderloin Area exclusion, and provide such documentation to the Tax Collector upon
25 request.

1 (4) File an annual Payroll Expense Tax Return with the Tax Collector regardless of
2 the amount of tax liability, if any, shown on the return after claiming the exclusion provided for in this
3 Section.

4 (d) The Office of Economic and Workforce Development shall:

5 (1) No later than the effective date of this ordinance, adopt rules, regulations and
6 forms regarding eligibility and the application process for the Central Market Street and Tenderloin
7 Area payroll expense tax exclusion. The Office of Economic and Workforce Development may amend
8 such rules, regulations and forms from time to time as necessary.

9 (2) Review all applications for completeness and upon approval, issue a certificate
10 of eligibility to the applicant. The decision of the Office of Economic and Workforce Development
11 regarding eligibility for the exclusion shall be final.

12 (3) Provide the Tax Collector with a list of persons eligible to claim the tax
13 exclusion authorized under this Section for the preceding tax year by March 1 of each year.

14 (e) The Central Market Street and Tenderloin Area exclusion authorized under this Section
15 shall be available to and may be taken by each person for each tax year that person holds a valid
16 certificate of eligibility for a period not to exceed six years from the effective date of this ordinance or
17 the commencement of the person's business in the Central Market Street and Tenderloin Area,
18 whichever is later. The date the Tax Collector first received the person's application for a business
19 registration certificate for the person's Central Market Street and Tenderloin Area business shall be
20 presumed to be the date of commencement of such business unless the person establishes a different
21 commencement date to the satisfaction of the Tax Collector.

22 (f) The Central Market Street and Tenderloin Area exclusion authorized under this Section
23 shall expire on the eighth anniversary date of the effective date of this Section. A person may not use or
24 claim any unused portion of the Central Market Street and Tenderloin Area exclusion after the
25 expiration date of this Section. Unless exempted under Sections 906 of this Article, every person

1 engaging in a business in the Central Market Street and Tenderloin Area in the City shall pay the tax
2 imposed under this Article on the full amount of the person's payroll expense attributable to the City
3 from and after the expiration of this Section.

4 (g) If a person's calculated liability for the Payroll Expense Tax does not exceed the ceiling
5 specified in Section 905-A for the tax year after applying the Central Market Street and Tenderloin
6 Area exclusion under this Section, the person shall be exempt from payment of the Payroll Expense Tax
7 for that tax year as provided in Section 905-A.

8 (h) The Tax Collector shall submit an annual report to the Board of Supervisors for each
9 year for which the Central Market Street and Tenderloin Area exclusion authorized under this Section
10 is available that sets forth aggregate information on the dollar value of the Central Market Street and
11 Tenderloin Area exclusions taken each year, the number of businesses taking the exclusion and the
12 change in the number of businesses located in the Central Market Street and Tenderloin Area of the
13 City.

14 (i) The Assessor-Recorder shall submit an annual report to the Board of Supervisors for
15 each year for which the Central Market Street and Tenderloin Area exclusion authorized under this
16 Section is available that sets forth any identifiable increases in property value resulting from
17 businesses' location, relocation or expansion to or within the Central Market Street and Tenderloin
18 Area.

19 (j) The Controller, not later than after three years after the effective date of this ordinance,
20 shall perform an assessment and review of the effect of the Central Market Street and Tenderloin Area
21 payroll expense tax exclusion on the Central Market Street and Tenderloin Area. Based on such
22 assessment and review the Controller shall prepare and submit an analysis to the Board of Supervisors.
23 The analysis shall be based on factors that the Controller deems relevant, and may include, but shall
24 not be limited to, data contained in the annual reports to the Board of Supervisors as required by
25 subsections (h) and (i) of this Section.

1 (k) The Central Market Street and Tenderloin Area payroll expense tax exclusion set forth
2 in this Section may not be claimed concurrently with any other payroll expense tax exclusion.

3 (l) A misrepresentation or misstatement by any person regarding eligibility for the Central
4 Market Street and Tenderloin Area payroll expense tax exclusion authorized by this Section that results
5 in the underpayment or underreporting of the payroll expense tax shall be subject to penalties as
6 provided in Section 6.17-2 of Article 6 of the San Francisco Business and Tax Regulations Code.

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8 APPROVED AS TO FORM:
9 DENNIS J. HERRERA, City Attorney

10 By: _____
11 STEPHANIE PROFITT
12 Deputy City Attorney