

REVISED LEGISLATIVE DIGEST
(Amended in Committee, 6/28/2023)

[Business and Tax Regulations Code - Gross Receipts Tax Rate Increase Postponement and Credits for Opening City Location]

Ordinance amending the Business and Tax Regulations Code to extend through December 31, 2024 the Gross Receipts Tax rates in effect on January 1, 2022 for the business activities of retail trade, certain services, manufacturing, food services, accommodations, and arts, entertainment and recreation, and postpone to January 1, 2025 the imposition of the Gross Receipts Tax rates otherwise set to go into effect beginning January 1, 2023 for those business activities; and to provide for businesses that open a physical location in certain zip codes in the City on or after January 1, 2023 through December 31, 2027, and that did not have a physical location in the City for at least three years prior to that opening, an annual Gross Receipts Tax credit equal to 0.45% of the business's San Francisco taxable gross receipts from one or more of the business activities of information, administrative and support services, financial services, insurance, and professional, scientific and technical services, for businesses not engaged in business in the City as an administrative office, or 0.7% of the taxable payroll expense of a business that engages in business in the City as an administrative office, for each of up to three tax years immediately following the tax year in which the business opened the physical location, but no later than the 2028 tax year, and not to exceed \$1,000,000 per tax year.

Existing Law

The City currently imposes a Gross Receipts Tax on businesses to fund general municipal purposes. For 2022, the rates ranged from 0.053% to 0.975% of taxable gross receipts, depending on the business's type of business activities and amount of taxable gross receipts. For qualifying businesses that pay the alternative Administrative Office Tax, the 2022 rate was 1.47% of San Francisco payroll expense. Proposition F, approved by voters in November 2020, increased the 2023 Gross Receipts Tax rates for the business activities of retail trade, certain services, manufacturing, food services, accommodations, and arts, entertainment and recreation, with additional rate increases beginning in 2024. For certain other business activities, the Gross Receipts Tax rates were scheduled to increase beginning in 2023, if total taxable gross receipts reported by all taxpayers for 2021 equaled or exceeded 90 percent of 2019 total taxable gross receipts. Proposition F also increased the administrative office tax rate to 1.54% for 2023, if the above 2021 gross receipts threshold was met. The Controller certified that the 90 percent threshold was not met, so the scheduled rate increases for administrative offices and those other business activities will not take effect in 2023.

The City currently does not provide tax credits against the Gross Receipts Tax.

Amendments to Current Law

This ordinance would postpone by two years the Gross Receipts Tax rate increases for 2023 and subsequent years applicable to the business activities of retail trade, certain services, manufacturing, food services, accommodations, and arts, entertainment and recreation.

This ordinance also would provide a non-refundable credit against the Gross Receipts Tax for each person or combined group (“taxpayer”) that opens a physical location in zip code 94102, 94103, 94104, 94105, 94107, 94108, 94109, 94111, 94133, or 94158 in the City on or after January 1, 2023 through December 31, 2027, provided the taxpayer did not have a physical location in the City for at least three years prior to that opening. To qualify for the credit, the taxpayer must open a location, by acquisition of real property or through an agreement for at least six months, that is available for the taxpayer’s use and can accommodate one or more employees. In determining whether a taxpayer had a physical location in the City prior to opening a physical location, any physical location in the City of the taxpayer’s predecessor in interest would be considered a physical location in the City of that taxpayer. The acquisition of an existing business would not be considered the opening of a physical location. For purposes of determining whether a taxpayer had a prior physical location in the City and whether a taxpayer has opened a physical location: (1) a physical location would not include a home or residential location, or a location for short-term residential use, and (2) real property that a taxpayer has leased or subleased to a third party would not be considered a physical location of that taxpayer for the period of such lease or sublease.

The credit would be 0.45% of the taxpayer’s total San Francisco taxable gross receipts from one or more of the business activities of information, administrative and support services, financial services, insurance, and professional, scientific and technical services, or 0.7% of the taxable payroll expense of a taxpayer that engages in business in the City as an administrative office. Taxpayers may take the credit for each of up to three tax years immediately following the tax year in which the taxpayer opened the physical location in the City, provided the taxpayer maintains a physical location in one of the designated zip codes in the year that the taxpayer takes the credit. The credit must be claimed for each tax year on an original gross receipts tax return filed with the Tax Collector. Taxpayers may not carry forward the credit to a subsequent tax year and may not take the credit in the 2029 and subsequent tax years.

Background Information

This legislative digest reflects amendments made in committee on June 28, 2023 to: (1) limit the credit to taxpayers that open a physical location in certain zip codes in the City, (2) exclude residential locations from the definition of “physical location,” and (3) require that the taxpayer take the credit on an original tax return and maintain a physical location in a designated zip code for each year that it takes the credit.

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