

[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 and requiring persons with an annual payroll expense of over \$1,000,000 to enter into a Community Benefits Agreement with the Office of Economic and Welfare Development .

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;

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

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

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

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

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

13 **SEC. 906.3. CENTRAL MARKET STREET AND TENDERLOIN AREA PAYROLL**
14 **EXPENSE TAX EXCLUSION.**

15 (a) ~~The amount of~~ An exclusion from the payroll expense tax due under this Section
16 shall be:

17 (1) ~~For any~~ allowed for each person maintaining who maintains a fixed place of
18 business in within the Central Market Street and Tenderloin Area on the effective date of this
19 ordinance, such person for payroll expense attributable to that fixed location; provided,
20 however, that in no event shall owe the lesser of that tax exclusion reduce a person's payroll
21 expense tax liability for 2010 or that to less than the person's Base Year payroll expense tax
22 liability for the year they are claiming the exclusion, including zero; liability.

23 (2) ~~For any person who commences to maintain a fixed place of business in~~
24 ~~the Central Market Street and Tenderloin Area after the effective date of this legislation, such~~
25 ~~person shall owe the lesser of that person's payroll expense tax liability for the tax year prior~~

1 ~~to the date the person commenced to maintain a fixed place of business in the Central Market~~
2 ~~Street and Tenderloin Area or that person's payroll expense tax liability for the year they are~~
3 ~~claiming the exclusion, including zero; or~~

4 (3) ~~For any person who commences to maintain a fixed place of business in~~
5 ~~the Central Market Street and Tenderloin Area after relocating to San Francisco, such person~~
6 ~~shall owe the lesser of the amount that person paid in payroll expense tax for that person's~~
7 ~~initial year in San Francisco and that person's payroll expense tax liability for the year they are~~
8 ~~claiming the exclusion, including zero.~~

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

11 (1) "Central Market Street and Tenderloin Area" means the area located in
12 downtown San Francisco, generally including: parcels fronting the south side of Market Street from
13 Eleventh Street to Sixth Street; a portion of the parcels fronting the south side of Market Street from
14 Sixth Street to Fifth Street (odd numbered addresses from 999 to 933 Market Street); parcels fronting
15 the north side of Market Street from Van Ness Avenue to Eighth Street; 875 Stevenson Street; and
16 parcels in the area bordered by: Geary Street, from Polk Street to Taylor Street (south side only);
17 Taylor Street, from Geary Street to Ellis Street (west side only); Ellis Street, from Taylor Street to
18 Mason Street (south side only); Mason Street, from Ellis Street to Market Street (west side only);
19 Market Street, from Mason Street to Charles J. Brenham Place (north side only); Charles J. Brenham
20 Place, from Market Street to McAllister Street (east side only); McAllister Street, from Charles J.
21 Brenham Place to Larkin Street (north side only); Larkin Street, from McAllister Street to Eddy Street
22 (east side only); Eddy Street, from Larkin Street to Polk Street (north side only); and Polk Street, from
23 Eddy Street to Geary Street (east side only). The exclusion applies exclusively to the following
24 Assessor's Lots: the entirety of Blocks 0317, 0318, 0319, 0320, 0321, 0322, 0322A, 0323, 0324, 0331,
25 0332, 0333, 0334, 0335, 0336, 0337, 0338, 0339, 0340, 0342, 0343, 0344, 0345, 0346, 0347, 0348,

0349, 0350, 0716, 0717, ~~and 0740, and 0835~~; Block 0813, Lots 7, 8, 9 and 10; Block 0835, Lots 1, 2 and 3; Block 3701, Lots 50, ~~and 59 and 65~~; Block 3702, Lots 1, ~~44, 44A, 45, 46, 47, 48, 48A, and 53 and 54~~; Block 3703, Lots 1, 56, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 70, 74, 75, 76, 78 and 88; Block 3704, Lots 70, 69, 68, 67 and 78; Block 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; and Block 0351, Lots 1, 22, 39, 41, 46, 47, 49 and 51.

(2) ~~An employee is a "qualified employee"~~ "Base Year" means the 2010 tax year for purposes a person who maintains a fixed place of computing business in San Francisco on the effective date of this exclusion if the employee spends at least 90% of work time on activities directly related ~~ordinance. For a person who moves to the conduct of a trade or business located within the Central Market Street and Tenderloin Area and performs at least 90% of work time within~~ from another part of San Francisco, Base Year means that person's full tax year for the boundaries of year prior to entering into a lease agreement or buying real property in the Central Market Street and Tenderloin Area. For purposes a person who commences to maintain a fixed place of business in San Francisco after the effective date of this ~~Section, outside independent contractors shall not be considered employees of the business.~~ ordinance, Base Year means that person's first full tax year in the Area.

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

(1) Complete and submit an initial application to the Office of Economic and Workforce Development for review and evaluation. The Office of Economic and Workforce Development will use this application to verify that applicants claiming the payroll expense tax exclusion under this Section meet the eligibility requirements outlined in subsections ~~subsection~~ (b)(1) and (b)(2) of this Section. The Office of Economic and Workforce Development and the Office of the Treasurer and Tax Collector shall have the authority to prescribe the form of the application and, consistent with this ordinance, the rules and regulations regarding eligibility for the

1 Central Market Street and Tenderloin Area payroll expense tax exclusion, which shall include
2 participation in the City's First Source Hiring Program as defined in Section 83.4 of the Administrative
3 Code.

4 (2) File an annual affidavit with the Office of Economic and Workforce Development
5 affirming that they continue to meet the eligibility criteria as determined by the Office of Economic and
6 Workforce Development. The annual affidavit should detail the total number of individuals hired
7 during the year, the number of individuals who were referred by the San Francisco Workforce
8 Development System during the year, and the duration of employment for each individual
9 hired during the year. The affidavit must be filed with the Office of Economic and Workforce
10 Development on or before January 31 of each year subsequent to the Office of Economic and
11 Workforce Development's initial approval of the application.

12 (3) Maintain records and documents in a reasonable method of
13 documentation that manner acceptable to the Tax Collector can review or verify. Such records
14 and documents must objectively that tracks employees whose compensation qualifies for the
15 Central Market Street and Tenderloin Areas substantiate any exclusion, and provide such
16 documentation claimed under this Section and be provided to the Tax Collector upon request.

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

20 (5) Any person whose annual payroll expense exceeds one million dollars
21 (\$1,000,000) shall enter into a binding Community Benefit Agreement with the Office of
22 Economic and Workforce Development in order to be eligible for the payroll expense tax
23 exclusion under this Section. Such Community Benefit Agreement may include commitments
24 to engage in community activities in the Central Market Street and Tenderloin Area as well as
25 participation in workforce development opportunities.

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

2 (1) Together with the Office of the Treasurer and Tax Collector, No later than
3 ~~the effective date of this ordinance,~~ adopt rules, regulations and forms regarding eligibility and the
4 application process for the Central Market Street and Tenderloin Area payroll expense tax exclusion.
5 ~~The Office of Economic and Workforce Development may amend such~~ rules, regulations and
6 forms may be amended from time to time as necessary.

7 (2) Review all applications for completeness and upon approval, issue a certificate
8 of eligibility to the applicant. The decision of the Office of Economic and Workforce Development
9 regarding eligibility for the exclusion shall may not be final appealed by an applicant.

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

12 (e) The Tax Collector shall verify that any exclusion claimed pursuant to this Section
13 is appropriate.

14 (ef) 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 (fg) 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 (gh) If a person's calculated liability for the P~~ayroll~~ E~~xpense~~ T~~ax~~ does not exceed the
5 ceiling specified in Section 905-A for the tax year after applying the Central Market Street and
6 Tenderloin Area exclusion under this Section, the person shall be exempt from payment of the P~~ayroll~~
7 E~~xpense~~ T~~ax~~ for that tax year as provided in Section 905-A.

8 (hi) 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 Office of Economic and Workforce Development shall submit an annual
15 report to the Board of Supervisors for each year for which the Central Market Street and
16 Tenderloin Area exclusion authorized under this Section is available that sets forth any and all
17 Community Benefit Agreements that have been entered into with the Office of Economic and
18 Workforce Development during that year.

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

24 (jl) The Controller, not later than ~~after~~ three years after the effective date of this ordinance,
25 shall perform an assessment and review of the effect of the Central Market Street and Tenderloin Area

1 payroll expense tax exclusion on the Central Market Street and Tenderloin Area. Based on such
2 assessment and review the Controller shall prepare and submit an analysis to the Board of Supervisors.
3 The analysis shall be based on factors that the Controller deems relevant, and may include, but shall
4 not be limited to, data contained in the annual reports to the Board of Supervisors as required by
5 subsections ~~(h) and (i)~~, ~~(j) and (k)~~ of this Section.

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

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

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

15
16 By: _____
STEPHANIE PROFITT
17 Deputy City Attorney