

File No. 240036

Committee Item No. 1

Board Item No. 12

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Committee

Date February 28, 2024

Board of Supervisors Meeting

Date March 5, 2024

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Resolution |
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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form |
| <input checked="" type="checkbox"/> | <input checked="" 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 |
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| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
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Completed by: Brent Jalipa

Date February 22, 2024

Completed by: Brent Jalipa

Date February 29, 2024

1 [Business and Tax Regulations Code - Transient Occupancy Tax Returns]

2

3 **Ordinance amending the Business and Tax Regulations Code for tax periods beginning**
4 **on or after January 1, 2024, to require short-term rental hosts that do not operate**
5 **through a qualified website company to file transient occupancy tax returns annually,**
6 **wave the requirement for those hosts to obtain a certificate of authority from the Tax**
7 **Collector, change the period for filing transient occupancy tax returns from annually to**
8 **monthly for all hotel small operators other than short-term rental hosts, codify the Tax**
9 **Collector’s qualified website company program and the return and payment**
10 **requirements for Tourism Improvement District and Moscone Expansion District**
11 **assessments, and require qualified website companies to collect and remit Tourism**
12 **Improvement District assessments.**

13

14 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
15 **Additions to Codes** are in *single-underline italics Times New Roman font*.
16 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
17 **Board amendment additions** are in double-underlined Arial font.
18 **Board amendment deletions** are in ~~strikethrough Arial font~~.
19 **Asterisks (* * * *)** indicate the omission of unchanged Code
20 subsections or parts of tables.

18

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

20

21 Section 1. Article 6 of the Business and Tax Regulations Code is hereby amended by
22 revising Section 6.9-1, to read as follows:

23 **SEC. 6.9-1. RETURNS AND PAYMENTS.**

24 (a) **Returns Generally.** Except as otherwise provided in this Business and Tax
25 Regulations Code, on or before the due date, or in the event of cessation of business within

1 15 days of such cessation, each taxpayer shall file a return for the subject period on a form
2 provided by the Tax Collector, regardless of whether there is a tax liability owing. A taxpayer
3 who has not received a return form from the Tax Collector is responsible for obtaining such
4 form and filing a return, and the failure of the Tax Collector to furnish the taxpayer with a
5 return shall not relieve the taxpayer of any payment or filing obligation. Returns shall show
6 the amount of tax paid, collected, or otherwise due for the subject period and such other
7 information as the Tax Collector may require. Each taxpayer shall transmit the return,
8 together with the remittance of the tax due, to the Tax Collector at the Tax Collector's Office
9 on or before the due date specified in this Section 6.9-1. Filing a return that the Tax Collector
10 determines to be incomplete in any material respect may be deemed failure to file a return in
11 violation of this Section 6.9-1(a).

12 * * * *

13 (d) Transient Occupancy~~Hotel~~ Tax, Tourism Improvement District Assessment, Moscone
14 Expansion District Assessment, and Parking Tax.

15 (1) **Monthly Due Date.** Except for any extensions granted under Section 6.9-4
16 or as otherwise provided in this Business and Tax Regulations Code, returns and payments of
17 the Transient Occupancy~~Hotel~~ Tax (Article 7), Tourism Improvement District Assessment (referenced
18 in subsection (d)(2)), Moscone Expansion District Assessment (referenced in subsection (d)(3)), and
19 ~~the~~ Parking Tax (Article 9) shall be filed monthly and are due and payable, and shall be
20 delinquent if not submitted and paid to the Tax Collector, for each month, on or before the last
21 day of the following month.

22 (2) For purposes of this subsection (d), "Tourism Improvement District" and "Tourism
23 Improvement District Assessment" mean the business-based improvement district and the assessment
24 imposed under the district management plan, respectively, approved by the Board of Supervisors in
25 Resolution No. 381-22 (File No. 220784), as such district and plan may be modified from time to time.

1 (3) For purposes of this subsection (d), “Moscone Expansion District” and “Moscone
2 Expansion District Assessment” mean the business-based improvement district and the assessment
3 imposed under the district management plan, respectively, approved by the Board of Supervisors in
4 Resolution No. 427-13 (File No. 131128), as such district and plan may be modified from time to time.

5 (42) Deemed Small Operators of Parking Stations. For tax periods beginning on
6 or after January 1, 2024, a “Deemed Small Operator” is ~~either a hotel operator or~~ parking station
7 operator that has gross revenues from Rent that do not exceed \$40,000 annually attributed to
8 ~~either rent from hotel or parking operations but not a combination thereof. No hotel operator or~~
9 ~~parking station operator shall be a “Deemed Small Operator” if their total combined revenue from all~~
10 ~~parking and hotel operations within San Francisco is greater than \$250,000 per year.~~ Any valet
11 parking operator required to hold a permit under Police Code Section 1216 shall not be a
12 “Deemed Small Operator.” Notwithstanding any other provision of this Code, a Deemed
13 Small Operator shall be relieved of certain obligations, specified in subsection (A) below,
14 provided it meets all of the requirements of subsection (B) below, and is not disqualified for
15 such relief under subsection (C) below.

16 (A) A Deemed Small Operator shall be relieved of the following
17 obligations:

18 (i) To obtain a certificate of authority from the Tax Collector under
19 Section 6.6-1(a) or execute a bond under Section 6.6-1(h).

20 (ii) To make monthly tax remittances pursuant to
21 Section 6.9-1(d)(1), provided that its gross revenues from rent do not exceed \$40,000
22 annually. At any time that the gross revenues from rent exceed \$40,000 annually, the
23 operator must report and file monthly tax returns as required by Section 6.9-1(d)(1) beginning
24 with the following month.

1 (iii) For a Deemed Small Operator of a ~~P~~parking ~~S~~station, to pay
2 the Revenue Control Equipment Compliance Fee in Article 22, Section 2219.5 of this
3 Business and Tax Regulations Code for that parking station, and to hold a commercial parking
4 permit under Section 1215(b) of the Police Code.

5 (B) To be eligible for relief under this Section 6.9-1(d)(~~24~~), a Deemed
6 Small Operator must meet all of the following requirements:

7 (i) Register for relief using the form prescribed by the Tax
8 Collector for that purpose, and provide the information required by the Tax Collector. The
9 operator shall demonstrate to the satisfaction of the Tax Collector that it meets all of the
10 requirements of this Section 6.9-1(d)(~~24~~).

11 (ii) Maintain documents and records of all parking transactions in
12 a manner acceptable to the Tax Collector. Such documents and records must objectively
13 substantiate any relief claimed under this Section 6.9-1(d)(~~24~~) and be provided to the Tax
14 Collector upon request.

15 (iii) Timely file with the Tax Collector annually a Parking Tax ~~or a~~
16 ~~Hotel Tax~~ return, regardless of the amount of tax liability shown on the return. All returns shall
17 be filed on or before January 31 of each year.

18 (C) Any operator that makes a material misrepresentation in a return,
19 fails to amend a return within seven days of a material change, or fails to comply in a timely
20 manner with a rule or regulation promulgated by the Tax Collector shall, in addition to any
21 other liability that may be imposed under the provisions of this Article 6, be ineligible to claim
22 relief under this Section 6.9-1(d)(~~24~~).

23 **(5) Short-Term Rental Hosts.**

24 (A) For tax periods beginning on or after January 1, 2024, a Short-Term Rental
25 Host (as defined in subsection (d)(5)(C)) shall timely file a Transient Occupancy Tax return and

1 Tourism Improvement District Assessment return with the Tax Collector and remit Transient
2 Occupancy Taxes and Tourism Improvement District Assessments annually in lieu of the monthly
3 returns and remittances required under Section 6.9-1(d)(1), regardless of the amount of tax liability
4 shown on the returns. All returns shall be filed and payments remitted on or before January 31 of each
5 year. A Short-Term Rental Host shall not be required to obtain a certificate of authority from the Tax
6 Collector under Section 6.6-1.

7 (B) Notwithstanding subsection (d)(5)(A), a Qualified Website Company (as
8 defined in subsection (d)(5)(D)) shall collect and remit all Transient Occupancy Taxes and Tourism
9 Improvement District Assessments, and file monthly Transient Occupancy Tax returns and Tourism
10 Improvement District Assessment returns in the form required by the Tax Collector, on behalf of all
11 Short-Term Rental Hosts that rent out their residences through the Qualified Website Company's
12 platform. Short-Term Rental Hosts that do business only through one or more Qualified Website
13 Companies shall be relieved of their annual filing obligations under subsection (d)(5)(A). Short-Term
14 Rental Hosts that do business both through one or more Qualified Website Companies and otherwise
15 must file annual returns under subsection (d)(5)(A) for the portion of their tax and assessment liability
16 not reported by a Qualified Website Company.

17 (C) For purposes of this subsection (d)(5), a "Short-Term Rental Host" is a
18 person who rents out any portion of their residence, the rents from which are subject to the Transient
19 Occupancy Tax (Article 7).

20 (D) For purposes of this subsection (d)(5), a "Qualified Website Company" is a
21 person that agrees to act as the agent of all Short-Term Rental Hosts that rent their residences through
22 the person's platform for purposes of collecting and remitting the Transient Occupancy Tax and filing
23 Transient Occupancy Tax returns. To qualify as a Qualified Website Company the person must meet
24 both of the following requirements, and may not begin collecting, remitting, and reporting as a
25

1 Qualified Website Company until the Tax Collector has confirmed that these requirements have been
2 met:

3 (i) Apply for and receive a certificate of authority under Section 6.6-1;
4 and

5 (ii) Submit a declaration to the Tax Collector, in the form required by the
6 Tax Collector, that attests that the person has complied with the requirements of this subsection
7 (d)(5)(D) and will comply with the requirements of subsection (d)(5)(B) either retroactively to
8 January 1, 2024, or from any later date specified in the declaration, but in no case no later
9 than the first day of the second month following the month in which the person submits the
10 declaration.

11
12 Section 2. Effective Date; Retroactivity.

13 (a) This ordinance shall become effective 30 days after enactment. Enactment occurs
14 when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not
15 sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the
16 Mayor's veto of the ordinance.

17 (b) Upon the effective date of this ordinance, this ordinance shall be retroactive to
18 January 1, 2024, with the qualification that, as specified in Section 6.9-1(d)(5)(D)(ii) of the
19 Business and Tax Regulations Code, a Qualified Website Company may comply with the
20 requirements of Section 6.9-1(d)(5)(B) by a date later than January 1, 2024.

21
22 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
23 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
24 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
25 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment

1 additions, and Board amendment deletions in accordance with the “Note” that appears under
2 the official title of the ordinance.

3 APPROVED AS TO FORM:
4 DAVID CHIU, City Attorney

5 By: /s/ Kerne H. O. Matsubara
6 KERNE H. O. MATSUBARA
Deputy City Attorney

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REVISED LEGISLATIVE DIGEST
(Amended in Committee, 2/28/2024)

[Business and Tax Regulations Code - Transient Occupancy Tax Returns]

Ordinance amending the Business and Tax Regulations Code for tax periods beginning on or after January 1, 2024, to require short-term rental hosts that do not operate through a qualified website company to file transient occupancy tax returns annually, waive the requirement for those hosts to obtain a certificate of authority from the Tax Collector, change the period for filing transient occupancy tax returns from annually to monthly for all hotel small operators other than short-term rental hosts, codify the Tax Collector’s qualified website company program and the return and payment requirements for Tourism Improvement District and Moscone Expansion District assessments, and require qualified website companies to collect and remit Tourism Improvement District assessments.

Existing Law

Operators of hotels and other short-term rentals collect the Transient Occupancy Tax (“TOT”) from guests and remit the collected taxes to the City. Operators also must obtain a certificate of authority from the Tax Collector. Operators generally file TOT returns with the Tax Collector and remit the taxes on a monthly basis. Operators that receive total rents from hotel rooms and short-term rentals that do not exceed \$40,000 or \$250,000 in combined hotel and parking revenue are “deemed small operators,” which file returns and remit taxes on an annual basis and do not need to obtain a certificate of authority. Similarly, parking station operators are deemed small operators if their rent from parking operations do not exceed \$40,000 and the above \$250,000 ceiling is not exceeded.

By contractual agreement with the Tax Collector, persons who rent out any portion of their residence entirely through one or more qualified website companies (“QWCs”) are relieved of their obligation to collect and remit TOT, file TOT returns, and obtain a certificate of authority. The QWCs are responsible for the hosts’ tax filing and collection obligations. In addition to the TOT, hotels may be subject to Tourism Improvement District (“TID”) and Moscone Expansion District (“MED”) assessments. Beginning on January 1, 2024, short-term rental hosts will be subject to the TID assessment.

Amendments to Current Law

This ordinance would require short-term rental hosts to file TOT returns and remit the tax on an annual basis and eliminate the requirement that hosts obtain a certificate of authority. Hotel operators that are not short-term rental hosts would be required to file TOT returns and remit the tax on a monthly basis and also obtain a certificate of authority. This ordinance would amend the above provisions to limit deemed small operators only to parking station operators and remove the \$250,000 ceiling.

This ordinance would codify the QWC program and require QWCs to collect and remit any applicable TID assessments on behalf of their hosts. This ordinance also would codify the payment and return filing requirements for the TID and MED assessments.

This ordinance would be retroactive to tax periods beginning on or after January 1, 2024. Because there currently are no hotel small operators that file TOT returns on an annual basis, the retroactive change to the TOT filing period should not accelerate any existing small operator's filing requirement from an annual to a monthly due date. And because there currently are no short-term rental hosts that file on a monthly basis, the retroactive change to the TOT filing period should not change any existing host's filing requirement from a monthly to an annual due date.

Background

The ordinance was amended in committee on February 28, 2024, to clarify that, to qualify as a QWC, QWCs must submit a declaration attesting that they will collect and remit TOT and TID assessments either retroactively to January 1, 2024, or from any later date not later than the first day of the second month following the month in which they submit the declaration.

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Treasurer & Tax Collector

CITY AND COUNTY OF SAN FRANCISCO

José Cisneros
TREASURER

January 12, 2024

Angela Calvillo, Clerk of the Board
Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689

Dear Ms. Calvillo:

Attached please find electronic copies of a proposed ordinance and legislative digest regarding Transient Occupancy Tax returns and short-term rental hosts for Board of Supervisors approval.

The following is a list of accompanying documents:

- ORD Transient Occupancy Tax Returns 01729211
- DIG Transient Occupancy Tax Returns 01719439

The following person may be contacted regarding this matter:

Eric Manke
Policy and Communications Manager
(415) 554-4509
Eric.manke@sfgov.org