

File No. 240698

Committee Item No. 3

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

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Committee: Budget and Finance Committee Date July 17, 2024

Board of Supervisors Meeting Date _____

Cmte Board

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OTHER (Use back side if additional space is needed)

- Presidential Action Memo – 30-Day Waiver 7/8/2024
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Completed by: Brent Jalipa Date July 11, 2024

Completed by: Brent Jalipa Date _____

1 [Business and Tax Regulations Code - Gross Receipts Tax Rates for NAICS Code 721
2 (Accommodation)]

3 **Ordinance amending the Business and Tax Regulations Code to lower the gross**
4 **receipts tax rates for business activities described in North American Industry**
5 **Classification System (NAICS), Code 721 (Accommodation), the classification generally**
6 **applicable (with some exceptions) to providing lodging or short-term accommodations**
7 **for travelers, vacationers, and others, applicable to taxable gross receipts between**
8 **\$2,500,000.01 and \$25,000,000 in tax years 2025 and 2026, from 0.253% to 0.201%; in**
9 **tax year 2027, from 0.264% to 0.209%; and in tax year 2028 and subsequent tax years,**
10 **from 0.271% to 0.215%, all conditioned on the passage of the ballot measure, entitled**
11 **the “Local Small Business Tax Cut Ordinance,” at the November 5, 2024, General**
12 **Election.**

13 NOTE: **Unchanged Code text proposed by the Local Small Business Tax Cut**
14 **Ordinance, and uncodified text, are in plain Arial font.**
15 **Additions to Code text proposed by the Local Small Business Tax Cut**
16 **Ordinance are in *single-underline italics Times New Roman font.***
17 **Deletions to Code text proposed by the Local Small Business Tax Cut**
18 **Ordinance are in *strikethrough italics Times New Roman font.***
19 **Board amendment additions are in double-underlined Arial font.**
20 **Board amendment deletions are in ~~strikethrough Arial font.~~**
21 **Asterisks (* * * *) indicate the omission of unchanged Code**
22 **subsections or parts of tables.**

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

21 Section 1. The Business and Tax Regulations Code is hereby amended by revising
22 Section 953.21, as proposed by the measure entitled the “Local Small Business Tax Cut
23 Ordinance” on the November 5, 2024 General Election ballot, to read as follows:
24
25

1 **SEC. 953.21. GROSS RECEIPTS TAX APPLICABLE TO CATEGORY 2 BUSINESS**
2 **ACTIVITIES.**

3 (a) The gross receipts tax rates applicable to Category 2 Business Activities are:

4 (1) For tax years 2025 and 2026:

- 5 0.185% for taxable gross receipts between \$0 and \$1,000,000
- 6 0.201% for taxable gross receipts between \$1,000,000.01 and \$2,500,000
- 7 0.20153% for taxable gross receipts between \$2,500,000.01 and \$25,000,000
- 8 0.331% for taxable gross receipts between \$25,000,000.01 and \$50,000,000
- 9 0.582% for taxable gross receipts between \$50,000,000.01 and \$75,000,000
- 10 0.582% for taxable gross receipts between \$75,000,000.01 and \$100,000,000
- 11 0.582% for taxable gross receipts between \$100,000,000.01 and \$150,000,000
- 12 0.582% for taxable gross receipts between \$150,000,000.01 and \$250,000,000
- 13 0.582% for taxable gross receipts between \$250,000,000.01 and \$500,000,000
- 14 0.582% for taxable gross receipts between \$500,000,000.01 and \$1,000,000,000
- 15 0.582% for taxable gross receipts over \$1,000,000,000

16 (2) For tax year 2027:

- 17 0.192% for taxable gross receipts between \$0 and \$1,000,000
- 18 0.209% for taxable gross receipts between \$1,000,000.01 and \$2,500,000
- 19 0.20964% for taxable gross receipts between \$2,500,000.01 and \$25,000,000
- 20 0.351% for taxable gross receipts between \$25,000,000.01 and \$50,000,000
- 21 0.617% for taxable gross receipts between \$50,000,000.01 and \$75,000,000
- 22 0.617% for taxable gross receipts between \$75,000,000.01 and \$100,000,000
- 23 0.617% for taxable gross receipts between \$100,000,000.01 and \$150,000,000
- 24 0.617% for taxable gross receipts between \$150,000,000.01 and \$250,000,000
- 25 0.617% for taxable gross receipts between \$250,000,000.01 and \$500,000,000

1 0.617% for taxable gross receipts between \$500,000,000.01 and \$1,000,000,000

2 0.617% for taxable gross receipts over \$1,000,000,000

3 (3) For tax years beginning on or after January 1, 2028:

4 0.198% for taxable gross receipts between \$0 and \$1,000,000

5 0.215% for taxable gross receipts between \$1,000,000.01 and \$2,500,000

6 0.21571% for taxable gross receipts between \$2,500,000.01 and \$25,000,000

7 0.366% for taxable gross receipts between \$25,000,000.01 and \$50,000,000

8 0.644% for taxable gross receipts between \$50,000,000.01 and \$75,000,000

9 0.644% for taxable gross receipts between \$75,000,000.01 and \$100,000,000

10 0.644% for taxable gross receipts between \$100,000,000.01 and \$150,000,000

11 0.644% for taxable gross receipts between \$150,000,000.01 and \$250,000,000

12 0.644% for taxable gross receipts between \$250,000,000.01 and \$500,000,000

13 0.644% for taxable gross receipts between \$500,000,000.01 and \$1,000,000,000

14 0.644% for taxable gross receipts over \$1,000,000,000

15 (b) "Category 2 Business Activities" means the business activities described in NAICS
16 code 721 (Accommodation).

17 (c) The amount of taxable gross receipts from Category 2 Business Activities subject
18 to the gross receipts tax shall be the total amount of gross receipts derived from or related to
19 real properties located within the City.

20

21 Section 2. Effective and Operative Dates.

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

1 (b) This ordinance shall become operative on the effective date of the measure entitled
2 the “Local Small Business Tax Cut Ordinance” on the November 5, 2024 General Election
3 ballot. If that measure does not pass at the November 5, 2024 General Election, or if it
4 passes but the Mayor terminates that measure by January 1, 2025 in accordance with
5 Section 15 of that measure, then this ordinance shall be null and void; but if the Board of
6 Supervisors reinstates that measure in accordance with Section 15, this ordinance shall be
7 reinstated by operation of law.

8
9 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
10 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
11 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
12 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
13 additions, and Board amendment deletions in accordance with the “Note” that appears under
14 the official title of the ordinance.

15
16 APPROVED AS TO FORM:
17 DAVID CHIU, City Attorney

18 By: /s/ Scott M. Reiber
19 SCOTT M. REIBER
Chief Tax Attorney

20 n:\legana\as2024\2300249\01766371.docx

LEGISLATIVE DIGEST

[Business and Tax Regulations Code - Gross Receipts Tax Rates for NAICS Code 721 (Accommodation)]

Ordinance amending the Business and Tax Regulations Code to lower the gross receipts tax rates for business activities described in North American Industry Classification System (NAICS), Code 721 (Accommodation), the classification generally applicable (with some exceptions) to providing lodging or short-term accommodations for travelers, vacationers, and others, applicable to taxable gross receipts between \$2,500,000.01 and \$25,000,000 in tax years 2025 and 2026, from 0.253% to 0.201%; in tax year 2027, from 0.264% to 0.209%; and in tax year 2028 and subsequent tax years, from 0.271% to 0.215%, all conditioned on the passage of the ballot measure, entitled the “Local Small Business Tax Cut Ordinance,” at the November 5, 2024, General Election.

Existing Law and Background Information

San Francisco currently imposes a gross receipts tax under San Francisco Business and Tax Regulations Code Article 12-A-1 on most businesses engaged in business in the City. A citizen’s initiative measure entitled the “Local Small Business Tax Cut Ordinance” (the “Measure”) is currently in circulation collecting signatures for the November 5, 2024 ballot. The Measure would, among other things, amend the gross receipts tax to apply the following tax rates for business activities described in North American Industry Classification System code 721 (Accommodation), applicable to taxable gross receipts between \$2,500,000.01 and \$25,000,000:

- Tax Years 2025 and 2026: 0.253%
- Tax Year 2027: 0.264%
- Tax Years 2028 and Subsequent Years: 0.271%

Amendments to Proposed Measure

This ordinance would, contingent upon the Measure passing, reduce the tax rates for business activities described in North American Industry Classification System code 721 (Accommodation) to the following rates, applicable to taxable gross receipts between \$2,500,000.01 and \$25,000,000:

- Tax Years 2025 and 2026: 0.201%
- Tax Year 2027: 0.209%
- Tax Years 2028 and Subsequent Years: 0.215%

Item 3 File 24-0698	Department: Controller
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EXECUTIVE SUMMARY

Legislative Objectives

- The proposed ordinance would revise the Gross Receipts Tax rates for the accommodations sector should voters approve the Local Small Business Tax Cut Ordinance ballot measure in November of 2024. The revisions would result in a 12% tax cut for the accommodations sector in 2025 on taxable gross receipts between \$2.5 million and \$25 million, rather than the 11% cut included in the ballot measure for this tax bracket.
- If the ballot measure does not pass, the proposed ordinance would not take effect.

Key Points

- In 2023, Mayor Breed, Board President Peskin, and Supervisor Mandelman requested that the Offices of the Controller and the Office of the Treasurer & Tax Collector recommend tax code changes to address economic risks brought by Covid-19.
- On February 5, 2024, a project team presented recommendations to address tax revenue risks, diversify the tax base, clarify tax obligations, and lift burdens on small businesses.
- The project team was asked by the legislative sponsors to address concerns in the business community about the proposal and develop a ballot measure for the November ballot.
- According to City Economist Ted Egan, the intent of the legislative sponsors was to provide a 12% tax cut for the accommodations sector in 2025 on taxable gross receipts. However, due to a calculation error, the proposed tax cut came instead to 11% for the tax bracket comprising gross receipts of \$2.5 million to \$25 million.
- On May 6, 2024, a business coalition submitted to the Department of Elections a proposed November 2024 ballot measure based on the project team’s recommendations. The measure thus included accommodations tax rates creating a 11% tax cut for 2025 gross receipts of \$2.5 million to \$25 million, rather than the 12% intended by the project team.

Fiscal Impact

- The proposed ordinance would reduce gross receipt tax revenues by approximately \$0.4 million per year, based on 2022 filings data, according to the City Economist.
- The business tax changes in the ballot measure would continue to have a “slightly” revenue-positive impact over time, according to the Controller’s Office. The Controller’s Office will publish its determination of the revenue and economic impacts later this summer.

Recommendation

- Approval of the proposed ordinance is a policy matter for the Board of Supervisors.

MANDATE STATEMENT

City Charter Section 2.105 states that all legislative acts shall be by ordinance, approved by a majority of the members of the Board of Supervisors.

BACKGROUND

In 2023, Mayor Breed, Board President Peskin, and Supervisor Mandelman requested that the Offices of the Controller and the Office of the Treasurer & Tax Collector recommend tax code changes to address economic risks brought by Covid-19 and associated societal changes, such as the increase in remote work. In response to their requests, a team from the Office of the Controller, the Office of the Treasurer and Tax Collector, and the Office of Economic and Workforce Development led months of deliberation, input-gathering from stakeholders and negotiations.

On February 5, 2024, the project team presented its final recommendations, which sought to address tax revenue risks, diversify the tax base, clarify tax obligations, and lift burdens on small businesses. The project team was asked by the legislative sponsors to address concerns in the business community about the proposal, and develop a ballot measure for the November ballot. Among these recommendations was a reduction in Gross Receipts Tax rates for the accommodations sector (i.e., hotels). The project team proposed draft language for a ballot measure that would carry out its recommendations.

According to City Economist Ted Egan, the intent of the sponsors was to provide a 12% tax cut for the accommodations sector in 2025 on taxable gross receipts. However, due to a calculation error, the proposed tax cut came instead to 11% for the tax bracket comprising gross receipts of \$2.5 million to \$25 million.

On May 6, 2024, a coalition of businesses and business groups submitted to the Department of Elections a proposed November 2024 ballot measure titled the Local Small Business Tax Cut Ordinance. The ordinance was based on the recommendations of the City’s project team, which were publicly announced the next day, and it mirrored the accommodations sector business tax rates in the draft language prepared by the project team. The ordinance thus included accommodations tax rates amounting to a 11% tax cut in 2025 for the tax bracket comprising gross receipts of \$2.5 million to \$25 million, rather than the 12% intended by the City’s project team. The measure has since qualified for the November ballot.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would revise the Gross Receipts Tax rates for the accommodations sector taxable gross receipts between \$2.5 million and \$25 million should voters approve the Local Small Business Tax Cut Ordinance ballot measure in November of 2024. The revisions would result in a 12% tax cut for the accommodations sector in 2025 on taxable gross receipts between

\$2.5 million and \$25, rather than the 11% cut included in the ballot measure for this tax bracket. If the ballot measure does not pass, the proposed ordinance would not take effect.

Exhibit 1 below shows proposed Gross Receipts Tax rate changes for taxable gross receipts between \$2.5 million and \$25 million.

Exhibit 1: Proposed Tax Rate Changes for Accommodations, Gross Receipts Between \$2.5M - \$25M

	Currently Scheduled	Ballot Measure	Proposed Ordinance
2024	0.228%	n/a	n/a
2025	0.341%	0.253%	0.201%
2026	0.455%	0.253%	0.201%
2027	0.455%	0.264%	0.209%
2028	0.455%	0.271%	0.215%

Source: San Francisco Business and Tax Regulations Code, Section 953.3; Local Small Business Tax Cut Ordinance; Proposed Ordinance.

The proposed tax rates were calculated to represent a 12% tax cut for the accommodation sector in 2025 compared with 2024, mirroring the proposed tax cuts for taxable gross receipts up to \$2.5 million. The proposed tax rate stays the same in 2026 and then increases slightly in 2027 and 2028. For 2028 and future years, the tax rate for this tax bracket would be 0.27%. The tax rate increases in 2027 and 2028 were calculated to equal 4 and 3 percent increases, respectively, over the prior year (i.e., over 2026 and 2027, respectively). Those same percentage increases apply to every business activity in those two years in the Local Small Business Tax Cut Ordinance ballot measure.

The proposed ordinance would not affect the tax rate changes in the ballot measure for any other tax brackets or sectors. For the accommodations sector in 2025, the ballot measure’s tax proposed reductions come to 12% on taxable gross receipts up to \$2.5 million and 41% on taxable gross receipts of more than \$25 million.

FISCAL IMPACT

In total, the business tax changes proposed by the City’s project team – and reflected in the November 2024 ballot measure – are projected to decrease General Fund revenues in 2025, 2026, and 2027, but to be revenue-positive after proposed increases take effect in 2027 and 2028, according to City Economist Ted Egan. Although the proposed ordinance would reduce gross receipt tax revenues by approximately \$0.4 million per year, based on 2022 filings data, the business tax changes in the ballot measure would continue to have a “slightly” revenue-positive impact over time, according to a summary of the proposal from the Controller’s Office.¹ The

¹ “Business Tax Reform: Final Proposal” May 8, 2024. Controller’s Office

Controller's Office will publish its determination of the revenue and economic impacts later this summer.

RECOMMENDATION

Approval of the proposed ordinance is a policy matter for the Board of Supervisors.

President, District 3
BOARD of SUPERVISORS



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TDD/TTY No. 544-6546

Aaron Peskin

PRESIDENTIAL ACTION

Date: 7/8/2024

To: Angela Calvillo, Clerk of the Board of Supervisors

Madam Clerk,

Pursuant to Board Rules, I am hereby:

Waiving 30-Day Rule (Board Rule No. 3.23)

File No. 240698 Mayor
(Primary Sponsor)

Title. Business and Tax Regulations Code - Gross Receipts Tax Rates for
NAICS Code 721 (Accommodation)

Transferring (Board Rule No 3.3)

File No. _____
(Primary Sponsor)

Title. _____

From: _____ Committee

To: _____ Committee

Assigning Temporary Committee Appointment (Board Rule No. 3.1)

Supervisor: _____ Replacing Supervisor: _____

For: _____ Meeting
(Date) (Committee)

Start Time: _____ End Time: _____

Temporary Assignment: Partial Full Meeting



Aaron Peskin, President
Board of Supervisors

From: [Trejo, Sara \(MYR\)](#)
To: [BOS Legislation, \(BOS\)](#)
Cc: [Paulino, Tom \(MYR\)](#); [Angulo, Sunny \(BOS\)](#); [REIBER, SCOTT \(CAT\)](#); [Arvanitidis, Laurel \(ECN\)](#)
Subject: Mayor -- Ordinance -- Gross Receipts Tax Rates for NAICS Code 721 (Accommodation)
Date: Tuesday, June 18, 2024 2:47:37 PM
Attachments: [LEG DIGEST Overhaul Trailing Legislation.DOCX](#)
[ORD Overhaul Trailing Legislation FINAL 2.DOCX](#)
[RE Tax Overhaul Trailing Legislation -- ATTORNEY-CLIENT PRIVILEGED AND CONFIDENTIAL.msg](#)

Hello Clerks,

Attached is an Ordinance amending the Business and Tax Regulations Code to lower the gross receipts tax rates for business activities described in North American Industry Classification System code 721 (Accommodation), the classification generally applicable (with some exceptions) to providing lodging or short-term accommodations for travelers, vacationers, and others, applicable to taxable gross receipts between \$2,500,000.01 and \$25,000,000 in tax years 2025 and 2026, from 0.253% to 0.201%; in tax year 2027, from 0.264% to 0.209%; and in tax year 2028 and subsequent tax years, from 0.271% to 0.215%, all conditioned on the passage of the ballot measure entitled the "Local Small Business Tax Cut Ordinance" at the November 5, 2024 General Election.

Please note that President Peskin is a cosponsor of this item and has approved waiving the 30-day hold for this item. Copying Sunny Angulo to this email to confirm both.

Best regards,

Sara Trejo

Legislative Aide

Office of the Mayor

City and County of San Francisco

415.554.6141 | sara.trejo@sfgov.org