

LEGISLATIVE DIGEST

[Business and Tax Regulations Code – Excluding Stock Compensation from Payroll Expense, Tax Years 2011 through 2017]

Ordinance amending Article 12-A of the San Francisco Business and Tax Regulations Code by adding Section 906.4 to establish a payroll expense tax exclusion for that portion of an Eligible Person's Payroll Expense that is attributable to Stock-Based Compensation.

Existing Law

San Francisco imposes a Payroll Expense Tax on business entities based on the compensation they pay to employees and others for work or services performed in San Francisco. (Business and Tax Regulations Code Section 901 et seq.) The tax rate is 1.5% of taxable Payroll Expense. This tax is determined each year based on the Payroll Expense of the entity. Stock compensation is subject to the Payroll Expense Tax.

Amendments to Current Law

The proposed amendment would amend Section 906 to establish an exclusion from the Payroll Expense Tax for Stock-Based Compensation of Eligible Persons for six years. Under the exclusion, an Eligible Person is a person who undertakes an initial public offering on a public stock exchange or experiences a change in control prior to any such public offering. The amount of Payroll Expense attributable to Stock-Based Compensation that an Eligible Person may exclude from its Payroll Expense is the excess of what that person paid in 2010 if that person paid more than \$750,000 in Payroll Expense Tax attributable to Stock-Based Compensation; however, if the Eligible Person did not pay more than \$750,000 in Payroll Expense Tax attributable to Stock-Based Compensation in 2010, that person may exclude Payroll Expense attributable to Stock-Based Compensation that is in excess of \$750,000. The exclusion cannot be claimed retroactively.

Background Information

Under Business and Tax Regulations Code Section 901 et seq., businesses pay a Payroll Expense Tax based on the compensation paid to employees and others for work or services rendered in San Francisco. (Section 901.1) This proposed amendment would amend Section 906 to establish a six year Payroll Expense Tax exclusion for the purpose of excluding stock compensation from the Payroll Expense Tax for companies that undergo an initial public offering or change in control prior to an initial public offering.