

1 [Business and Tax Regulations Code - Sugary Drinks Distributor Tax Administration]

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3 **Ordinance amending the Business and Tax Regulations Code to administer the Sugary**  
4 **Drinks Distributor Tax.**

5 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
6 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
7 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.  
8 **Board amendment additions** are in double-underlined Arial font.  
9 **Board amendment deletions** are in ~~strikethrough Arial font~~.  
10 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
11 subsections or parts of tables.

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

13 Section 1. The Business and Tax Regulations Code is hereby amended by revising  
14 Sections 6.1-1, 6.2-17, 6.8-1, 6.9-1, 6.9-5, 6.15-1, and 6.15-2, to read as follows:

15 **SEC. 6.1-1. COMMON ADMINISTRATIVE PROVISIONS.**

16 (a) These common administrative provisions shall apply to Articles 6, 7, 8, 9, 10, 10B,  
17 11, 12, 12-A, 12-A-1, and 12-B of this Code and to Chapter 105 of the *San Francisco*  
18 Administrative Code, unless the specific language of either Code otherwise requires. Any  
19 provision of this Article 6 that references or applies to Article 10 shall be deemed to reference  
20 or apply to Article 10B. Any provision of this Article 6 that references or applies to a tax shall  
21 be deemed to also reference or apply to a fee administered pursuant to this Article, and shall  
22 be deemed to also reference or apply to an assessment levied pursuant to the Property and  
23 Business Improvement District Law of 1994 (California Streets and Highways Code sections  
24 36600 *et seq.*) or Article 15 of this Code. A fee administered pursuant to Article 6 or an  
25 assessment levied pursuant to the Property and Business Improvement District Law of 1994

1 or Article 15 of this Code shall for purposes of this Article be deemed to be imposed pursuant  
2 to the provisions of the Business and Tax Regulations Code.

3 (b) Unless expressly provided otherwise, all statutory references in this Article 6 and  
4 the Articles set forth in subsection (a) shall refer to such statutes as amended from time to  
5 time and shall include successor provisions.

6 (c) For purposes of this Article 6, a domestic partnership established pursuant to  
7 Chapter 62 of the *San Francisco* Administrative Code shall be treated the same as a married  
8 couple.

9  
10 **SEC. 6.2-17. RETURN.**

11 The term "return" means any written statement required to be filed ~~pursuant to~~under  
12 Articles 6, 7, 8, 9, 10, 10B, 11, 12, 12-A, or 12-A-1, or ~~pursuant to~~under laws applicable to a fee  
13 administered pursuant to Article 6, or ~~pursuant to~~under laws applicable to an assessment levied  
14 pursuant to the Property and Business Improvement District Law of 1994 (California Streets  
15 and Highways Code sections 36600 *et seq.*) or Article 15 of this Code.

16  
17 **SEC. 6.8-1. CITY, PUBLIC ENTITY AND CONSTITUTIONAL EXEMPTIONS.**

18 (a) Nothing in Articles 6, 7, 8, 9, 10, 10B, 11, 12, 12-A, or 12-A-1 shall be construed as  
19 imposing a tax upon:

20 (1) The City;

21 (2) The State of California, or any county, municipal corporation, district or other  
22 political subdivision of the State, except where any constitutional or statutory immunity from  
23 taxation is waived or is not applicable;

24 (3) The United States of America, or any of its agencies or subdivisions, except  
25 where any constitutional or statutory immunity from taxation is waived or is not applicable; or

1 (4) Any person exempted from the particular tax by the Constitution or statutes  
2 of the United States or the Constitution or statutes of the State of California.

3 (b) The foregoing exemption from taxation does not relieve an exempt party from its  
4 duty to collect, report, and remit third-party taxes.

5  
6 **SEC. 6.9-1. DETERMINATIONS, RETURNS AND PAYMENTS; DUE DATE OF TAXES.**

7 Except for jeopardy determinations under Section 6.12-2, and subject to remittances  
8 required under Sections 6.9-2 and 6.9-3, all amounts of taxes and fees imposed by Articles 6,  
9 7, 8, 9, 10, 10B, 11, 12, 12-A, and 12-A-1 are due and payable, and shall be delinquent if not  
10 paid to the Tax Collector on or before the following dates:

11 (a) For the hotel tax (Article 7) and the parking tax (Article 9), for each month, on or  
12 before the last day of the following month;

13 (b) For the payroll expense tax (Article 12-A) and the gross receipts tax (Article 12-A-  
14 1) (including the tax on administrative office business activities imposed under Section 953.8  
15 of Article 12-A-1), on or before the last day of February of each year;

16 (c) For the utility users tax (Article 10) and the access line tax (Article 10B), for each  
17 monthly period, on or before the last day of the following month;

18 (d) For the stadium operator admission tax (Article 11), within 5 days after the event,  
19 subject to the provisions of Section 804 of Article 11; ~~and~~

20 (e) For the business registration certificate (Article 12), on or before the last day of  
21 May preceding the registration year commencing July 1 of that year; and

22 (f) For the sugary drinks distributor tax (Article 8), for each quarterly period, on or before the  
23 last day of the month immediately following each calendar quarter.

1     **SEC. 6.9-4. DETERMINATIONS, RETURNS AND PAYMENTS; EXTENSION OF TIME FOR**  
2     **FILING A RETURN AND PAYING TAX.**

3             (a) For good cause, the Tax Collector, in his or her discretion, may extend, for a  
4     period not to exceed 60 days, the time for filing any return pursuant to this Article 6 or  
5     regulations prescribed by the Tax Collector. For taxes required to be deposited monthly, or  
6     for the sugary drinks distributor tax (Article 8), the Tax Collector may only extend the time for  
7     filing a return for a period not to exceed 30 days. As a condition of such extension, the person  
8     seeking the extension shall make a payment of not less than 90% of such person's liability for  
9     such period.

10            (b) Failure to make the required 90% payment will result in the automatic denial of the  
11     person's extension and the person being subject to the standard due dates in this Article 6,  
12     including any penalties, interest, fees, and other consequences of failing to file and pay by  
13     those due dates.

14            (c) Notwithstanding subsection (a) of this Section 6.9-4, the Tax Collector may extend  
15     any time for filing any return or payment of tax or excuse penalties for any late filing or late  
16     payment by a period not to exceed 60 days if billing or other administrative duties of the Tax  
17     Collector cannot be performed in a timely manner.

18  
19     **SEC. 6.9-5. DETERMINATIONS, RETURNS AND PAYMENTS; CREDITS AND**  
20     **EXEMPTIONS.**

21            The credits and exemptions set forth in Articles 6, 7, 8, 9, 10, 10B, 11, 12, 12-A, 12-A-  
22     1, and 12-C, in laws applicable to fees administered pursuant to Article 6, and in laws  
23     applicable to assessments levied pursuant to the Property and Business Improvement District  
24     Law of 1994 (California Streets and Highways Code sections 36600 *et seq.*) or Article 15 of  
25     this Code, are provided on the assumption that the City has the power to offer such credits

1 and exemptions. If a credit or exemption is invalidated by a court of competent jurisdiction,  
2 the taxpayer must pay any additional amount that the taxpayer would have owed but for such  
3 invalid credit or exemption. Amounts owed as a result of the invalidation of a credit or  
4 exemption that are paid within three years after the decision of the court becomes final shall  
5 not be subject to interest or penalties.

6  
7 **SEC. 6.15-1. REFUNDS.**

8 \* \* \* \*

9 (g) **Requests for Refund; Refunds Permissible Without a Claim.** The Tax  
10 Collector may authorize the Controller to refund tax, interest, or penalty payments, without a  
11 refund claim having been filed and without review by the City Attorney, if the Tax Collector  
12 determines that the amount paid exceeds the tax, penalties, and interest due. The person  
13 that made the overpayment may request such a refund from the Tax Collector on a return,  
14 amended return, or request for refund form that is issued by the Tax Collector and that is filed  
15 with the Tax Collector within the later of one year of the payment of such amount or the date  
16 the return accompanying such payment was due. The Tax Collector may also authorize the  
17 Controller to refund the overpaid tax, interest, or penalty payments on its own initiative within  
18 this one-year period. A refund requested on a return, amended return, or request for refund  
19 form under this subsection (g) shall automatically be deemed denied for purposes of  
20 subsections (a), (b), and (d) of this Section 6.15-1 if the Tax Collector does not grant or deny  
21 the refund request within one year of the date it was filed. Any action by the Tax Collector  
22 after a refund request under this subsection (g) has been deemed denied shall not constitute  
23 a denial and shall have no effect on the statute of limitations for filing a claim for refund under  
24 subsections (a)-(f) of this Section 6.15-1. In lieu of requesting a refund on a return, amended  
25 return, or request for refund form, a taxpayer may elect to apply an overpayment of the

1 business registration fee in Article 12, the payroll expense tax in Article 12-A, ~~or~~ the gross  
2 receipts tax in Article 12-A-1 (including the tax on administrative office business activities  
3 under Section 953.8 of Article 12-A-1), or the sugary drinks distributor tax in Article 8 as a credit  
4 against the taxpayer's immediately succeeding payment or payments due of any of these  
5 ~~three~~four tax types. Any election to apply an overpayment to the taxpayer's future liability shall  
6 be binding and may not later be changed by the taxpayer.

7  
8 **SEC. 6.15-2. REFUNDS; INTEREST.**

9 \* \* \* \*

10 (c) If a taxpayer elects to apply all or part of an overpayment of the business  
11 registration fee in Article 12, the payroll expense tax in Article 12-A, ~~or~~ the gross receipts tax  
12 in Article 12-A-1 (including the tax on administrative office business activities under  
13 Section 953.8 of Article 12-A-1), or the sugary drinks distributor tax in Article 8 as a credit against  
14 the taxpayer's immediately succeeding payment or payments due of any of these ~~three~~four tax  
15 types, the taxpayer will not be credited with interest on the amount so applied.

16  
17 Section 2. No Conflict with Federal or State Law. Nothing in this ordinance shall be  
18 interpreted or applied so as to create any requirement, power, or duty in conflict with any  
19 federal or state law.

20  
21 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
22 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
23 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
24 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
25

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

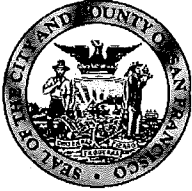
3  
4 Section 4. Severability. If any section, subsection, sentence, clause, phrase, or word of  
5 this ordinance, or any application thereof to any person or circumstance, is held to be invalid  
6 or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not  
7 affect the validity of the remaining portions or applications of the ordinance. The Board of  
8 Supervisors hereby declares that it would have passed this ordinance and each and every  
9 section, subsection, sentence, clause, phrase, and word not declared invalid or  
10 unconstitutional without regard to whether any other portion of this ordinance or application  
11 thereof would be subsequently declared invalid or unconstitutional.

12  
13 Section 5. Effective Date. This ordinance shall become effective 30 days after  
14 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
15 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
16 of Supervisors overrides the Mayor's veto of the ordinance.

17  
18 APPROVED AS TO FORM:  
19 DENNIS J. HERRERA, City Attorney

20 By:   
21 CAROLE F. RUWART  
22 Deputy City Attorney

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25  
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City and County of San Francisco

Tails  
Ordinance

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

File Number: 171155

Date Passed: January 23, 2018

Ordinance amending the Business and Tax Regulations Code to administer the Sugary Drinks Distributor Tax.

December 07, 2017 Budget and Finance Committee - RECOMMENDED

January 09, 2018 Board of Supervisors - PASSED ON FIRST READING

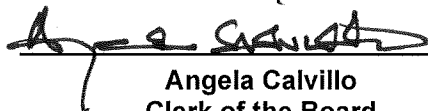
Ayes: 11 - Breed, Cohen, Farrell, Fewer, Kim, Peskin, Ronen, Safai, Sheehy, Tang and Yee

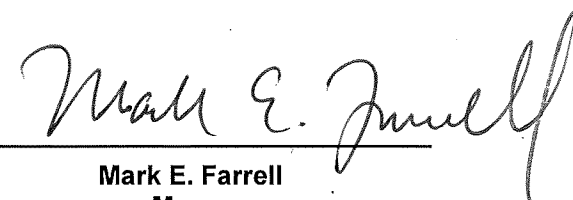
January 23, 2018 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Breed, Cohen, Farrell, Fewer, Kim, Peskin, Ronen, Safai, Sheehy, Tang and Yee

File No. 171155

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 1/23/2018 by the Board of Supervisors of the City and County of San Francisco.

  
Angela Calvillo  
Clerk of the Board

  
Mark E. Farrell  
Mayor

  
Date Approved