

[Payroll Expense Tax.]

Ordinance amending (1) Section 903.1 to reduce the Payroll Expense Tax rate from 1.5% to 1.0%, for business whose taxable payroll expense exceeds \$300,000, but is less than or equal to \$400,000, beginning with the 2010 tax year; and (2) Section 905-A to increase the Small Business Tax Exemption to include all taxpayers whose taxable payroll expense is \$300,000 or less, beginning with the 2010 tax year.

Note: Additions are single-underline italics Times New Roman;
Deletions are ~~strikethrough italics Times New Roman~~.
Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

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

Section 1. Pursuant to Article XIIC of the Constitution of the State of California, this ordinance shall be submitted to the qualified electors of the City and County of San Francisco, at the June 2, 2009 special municipal election and shall become operative only if approved by the qualified electors at such election.

Section 2. The San Francisco Business and Tax Regulations Code is hereby amended by amending Sections 903.1 and 905-A to read as follows:

SEC. 903.1. RATE OF PAYROLL EXPENSE TAX.

The rate of the payroll expense tax shall be ~~1-1/2 percent~~ 1.5%. Effective January 1, 2010, for the 2010 tax year and following years, for persons whose taxable payroll expense exceeds \$300,000 but is less than or equal to \$400,000, the rate of the Payroll Expense Tax shall be 1.0 %. The amount of a person's liability for the payroll expense tax shall be the product of such person's taxable payroll expense multiplied by ~~0.015~~ the applicable tax rate for that person. The amount of such tax for Associations shall be ~~1-1/2 percent~~ the product of the applicable tax rate for that Association

1 ~~and of the~~ its payroll expense ~~of such Association~~, plus ~~1 1/2 percent of the product of the applicable~~
2 ~~tax rate for that Association and its~~ the total distributions ~~made by such Association~~ by way of salary
3 to those having an ownership interest in such Association. Amounts paid or credited to those
4 having an ownership interest in such Association prior and in addition to the distribution of
5 ownership profit or loss shall be presumed to be distributions "by way of salary" and for
6 personal services rendered, unless the taxpayer proves otherwise by clear and convincing
7 evidence.

8 SEC. 905-A. SMALL BUSINESS TAX EXEMPTION.

9 (a) Notwithstanding any other provisions of this Article, "small business enterprises"
10 as hereinafter defined, shall be exempt from payment of the Payroll Expense Tax; provided,
11 however, that small business enterprises shall pay the annual registration fee pursuant to
12 Section 855 of Article 12.

13 (b) The term "small business enterprise" shall mean and include any taxpayer:

14 (1) Whose tax liability-under this Article, but for this exemption provision, would
15 not exceed \$2,500.00 or, effective January 1, 2009 whose taxable payroll expense does not
16 exceed \$250,000.00 or, effective January 1, 2010, whose taxable payroll does not exceed \$300,000
17 and:

18 (2) Who has filed a tax return by the last date of February for the preceding tax
19 year. If the taxpayer fails to file a return by that date, the taxpayer shall be subject to a penalty
20 as specified in subsection (d).

21 (c) For the ~~2011~~ 2012 tax year, and each second succeeding tax year the Tax
22 Collector shall increase the ceiling for the Small Business Tax Exemption (rounded to the
23 nearest \$10,000.00 increment) to reflect increases in the United States Department of Labor's
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1 Bureau of Labor Statistics consumer price index for all urban customers for the San
2 Francisco-Oakland-San Jose area for each of the preceding two tax years.

3 (d) In lieu of the penalty specified in Section 6.17-3 of this Article for failing to file a
4 return, any person who otherwise qualifies for the small business exemption set forth in this
5 Section who fails to file a return by the last date of February shall pay a penalty as follows:

6 (1) If the person's Payroll Expense Tax liability under this Article, but for the
7 small business exemption under this section, would be less than \$1,000.00, the penalty shall
8 be \$100.00 plus 10% of the amount of such liability, for each month, or fraction thereof, that
9 the return is delinquent, up to a maximum amount equal to the person's liability for such tax
10 but for the small business exemption;

11 (2) If the person's Payroll Expense Tax liability under this Article, but for the
12 small business exemption under this section, would be \$1,000.00 or more, then the penalty
13 shall be \$250.00 plus 10% of the amount of such liability, for each month, or fraction thereof,
14 that the return is delinquent, up to a maximum amount equal to the person's liability for such
15 tax but for the small business exemption.

16 (e) The Tax Collector may, in his or her discretion, reduce the penalty set forth in
17 subsection (c) to not less than \$100.00 upon a showing that the late filing of the return was
18 due to reasonable cause and not due to willful neglect.

19 APPROVED AS TO FORM:

20 DENNIS J. HERRERA, City Attorney

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22 By:

23 Michael Slattery
24 Deputy City Attorney
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