

File No. 210161

Committee Item No. 5

Board Item No. 5

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Rules Committee

Date June 7, 2021

Board of Supervisors Meeting

Date June 22, 2021

Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- Memorandum of Understanding (MOU)
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Form 126 - Ethics Commission
- Award Letter
- Application
- Form 700
- Vacancy Notice
- Information Sheet
- Public Correspondence

OTHER (Use back side if additional space is needed)

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Completed by: Victor Young Date June 3, 2021

Completed by: _____ Date _____

1 [Business and Tax Regulations Code - Administration of Vacancy Tax]

2

3 **Ordinance amending the Business and Tax Regulations Code to add provisions to**
 4 **administer the Vacancy 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~~.
 Asterisks (* * * *) indicate the omission of unchanged Code
 subsections or parts of tables.

9

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

11

12 Section 1. Article 6 of the Business and Tax Regulations Code is hereby amended by
 13 revising Sections 6.1-1, 6.2-17, 6.8-1, 6.9-1, 6.9-2, 6.9-3, 6.9-4, and 6.9-5, to read as follows:

14

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, 12-B, 21, 28, 29, 30, and 32 of this Code and to Chapter 105 of the
 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 also
 20 reference or apply to Article 10B. Any provision of this Article 6 that references or applies to a
 21 tax shall be deemed to also reference or apply to a fee administered pursuant to this Article,
 22 and shall be deemed to also reference or apply to an assessment levied pursuant to the
 23 Property and Business Improvement District Law of 1994 (California Streets and Highways
 24 Code sections 36600 *et seq.*) or Article 15 of this Code. A fee administered pursuant to
 25 Article 6 or an assessment levied pursuant to the Property and Business Improvement District

1 Law of 1994 or Article 15 of this Code shall for purposes of this Article be deemed to be
2 imposed pursuant to the provisions of the Business and Tax Regulations Code.

3 * * * *

4
5 **SEC. 6.2-17. RETURN.**

6 The term "return" means any written statement required to be filed under Articles 6, 7,
7 8, 9, 10, 10B, 11, 12, 12-A, 12-A-1, 21, 28, 29, 30, or 32, or under laws applicable to a fee
8 administered pursuant to Article 6, or under laws applicable to an assessment levied pursuant
9 to the Property and Business Improvement District Law of 1994 (California Streets and
10 Highways Code sections 36600 *et seq.*) or Article 15 of this Code.

11
12 **SEC. 6.8-1. CITY, PUBLIC ENTITY, AND CONSTITUTIONAL EXEMPTIONS.**

13 (a) Nothing in Articles 6, 7, 8, 9, 10, 10B, 11, 12, 12-A, 12-A-1, 21, 28, 29, 30, or 32
14 shall be construed as imposing a tax upon:

- 15 (1) The City, except for the Vacancy Tax (Article 29);
- 16 (2) The State of California, or any county, municipal corporation, district, or
17 other political subdivision of the State, except where any constitutional or statutory immunity
18 from taxation is waived or is not applicable;
- 19 (3) The United States of America, or any of its agencies or subdivisions, except
20 where any constitutional or statutory immunity from taxation is waived or is not applicable; or
- 21 (4) Any person exempted from the particular tax by the Constitution or statutes
22 of the United States or the Constitution or statutes of the State of California.

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

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

2 Except for jeopardy determinations under Section 6.12-2, and subject to remittances
3 required under Sections 6.9-2 and 6.9-3, all amounts of taxes and fees imposed by Articles 6,
4 7, 8, 9, 10, 10B, 11, 12, 12-A, 12-A-1, 21, 28, 29, 30, and 32 are due and payable, and shall
5 be delinquent if not paid to the Tax Collector on or before the following dates:

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

8 (b) For the payroll expense tax (Article 12-A), the gross receipts tax (Article 12-A-1)
9 (including the tax on administrative office business activities imposed under Section 953.8 of
10 Article 12-A-1), the Early Care and Education Commercial Rents Tax (Article 21), the
11 Homelessness Gross Receipts Tax (Article 28) (including the homelessness administrative
12 office tax imposed under Section 2804(d) of Article 28), and the Cannabis Business Tax
13 (Article 30), on or before the last day of February of each year;

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

16 (d) For the stadium operator admission tax (Article 11), within five days after the event,
17 subject to the provisions of Section 804 of Article 11;

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

20 (f) For the sugary drinks distributor tax (Article 8), for each quarterly period, on or
21 before the last day of the month immediately following each calendar quarter; ~~and~~

22 (g) For the Traffic Congestion Mitigation Tax (Article 32), for each month, on or before
23 the last day of the following month; and

24

(h) For the Vacancy Tax (Article 29), on or before the last day of February of each year.

1 **SEC. 6.9-2. DETERMINATIONS, RETURNS, AND PAYMENTS; RETURNS.**

2 (a) **Returns.** Except as provided in subsection (b) below, on or before the due date, or
3 in the event of a cessation of business within 15 days of such cessation, each taxpayer shall
4 file a return for the subject period on a form provided by the Tax Collector, regardless of
5 whether there is a tax liability owing. A person subject to any tax or required to remit any
6 third-party tax who has not received a return form or forms from the Tax Collector is
7 responsible for obtaining such form(s) and filing a return or returns on or before the due date,
8 or upon the cessation of business. Returns shall show the amount of tax and any third-party
9 tax paid or otherwise due for the related period and such other information as the Tax
10 Collector may require. Each person subject to any tax or required to remit any third-party tax
11 and required to file the return shall transmit the return, together with the remittance of the
12 amount of tax or third-party tax due, to the Tax Collector at the Tax Collector's Office on or
13 before the due date specified in Section 6.9-1.

14 * * * *

15 (c) **Additional Requirements for Vacancy Tax.** *In addition to the filing requirements in*
16 *Section 6.9-2(a), each person who at any time during a calendar year is an owner, lessee, or sublessee*
17 *of Taxable Commercial Space, as that term is defined in Article 29 of the Business and Tax Regulations*
18 *Code, shall file a Vacancy Tax return, in the form and manner prescribed by the Tax Collector, on or*
19 *before the last day of February of the succeeding year.*

20
21 **SEC. 6.9-3. DETERMINATIONS, RETURNS, AND PAYMENTS; REMITTANCES.**

22 (a) **Remittances.** Notwithstanding the due dates otherwise provided in Section 6.9-1,
23 taxpayers shall make remittances of taxes and third-party taxes to the Tax Collector as
24 follows:

25 * * * *

1 (6) Vacancy Tax. The Vacancy Tax (Article 29) returns shall be filed annually and
2 taxes shall be remitted annually. Such annual remittances shall be due and payable to the Tax
3 Collector on or before the last day of February as specified in Section 6.9-1(h).

4 * * * *

5
6 **SEC. 6.9-4. DETERMINATIONS, RETURNS, AND PAYMENTS; EXTENSION OF TIME**
7 **FOR FILING A RETURN AND PAYING TAX.**

8 (a) For good cause, the Tax Collector, in his or her discretion, may extend, for a period
9 not to exceed 60 days, the time for filing any return, other than a Vacancy Tax (Article 29) return,
10 pursuant to this Article 6 or regulations prescribed by the Tax Collector. For taxes required to
11 be deposited monthly, or for the sugary drinks distributor tax (Article 8), the Tax Collector may
12 only extend the time for filing a return for a period not to exceed 30 days. As a condition of
13 such extension, the person seeking the extension shall make a payment of not less than
14 100% of such person’s liability for such period.

15 (b) Failure to make the required 100% payment will result in the automatic denial of
16 the person’s extension and the person being subject to the standard due dates in this
17 Article 6, including any penalties, interest, fees, and other consequences of failing to file and
18 pay by those due dates.

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

1 **SEC. 6.9-5. DETERMINATIONS, RETURNS, AND PAYMENTS; CREDITS AND**
2 **EXEMPTIONS.**

3 The credits and exemptions set forth in Articles 6, 7, 8, 9, 10, 10B, 11, 12, 12-A,
4 12-A-1, 12-C, 21, 28, 29, 30, and 32, in laws applicable to fees administered pursuant to
5 Article 6, and in laws applicable to assessments levied pursuant to the Property and Business
6 Improvement District Law of 1994 (California Streets and Highways Code sections 36600 *et*
7 *seq.*) or Article 15 of this Code, are provided on the assumption that the City has the power to
8 offer such credits and exemptions. If a credit or exemption is invalidated by a court of
9 competent jurisdiction, the taxpayer must pay any additional amount that the taxpayer would
10 have owed but for such invalid credit or exemption. Amounts owed as a result of the
11 invalidation of a credit or exemption that are paid within three years after the decision of the
12 court becomes final shall not be subject to interest or penalties.

13
14 Section 2. Effective Date. This ordinance shall become effective 30 days after
15 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
16 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
17 of Supervisors overrides the Mayor’s veto of the ordinance.

18
19 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
20 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
21 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
22 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
23 additions, and Board amendment deletions in accordance with the “Note” that appears under
24 the official title of the ordinance.

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

9
10 APPROVED AS TO FORM:
11 DENNIS J. HERRERA, City Attorney

12 By: /s/
13 KERNE H. O. MATSUBARA
14 Deputy City Attorney

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LEGISLATIVE DIGEST

[Business and Tax Regulations Code - Administration of Vacancy Tax]

Ordinance amending the Business and Tax Regulations Code to add provisions to administer the Vacancy Tax.

Existing Law

Existing law provides for the administration of most of the City's taxes. These administrative provisions include definitions; the Tax Collector's audit and collection authority; filing and payment requirements; rules for refunds and lawsuits; penalty, interest, and citation provisions; and taxpayer confidentiality provisions, among others.

Amendments to Current Law

This ordinance would extend these provisions, as applicable, to the Vacancy Tax, passed by the voters at the March 3, 2020 election. In general, this ordinance would require persons subject to the Vacancy Tax to file annual tax returns and make annual tax remittances to the Tax Collector. In addition, each owner, lessee, and sublessee of ground floor, street-facing commercial space in those neighborhood commercial districts and neighborhood commercial transit districts to which the Vacancy Tax applies would be required to file annual informational returns with the Tax Collector. The annual tax and informational returns and tax remittances would be due on the last day of February following each calendar year for which the Vacancy Tax is imposed.

Background Information

The Vacancy Tax, which originally was effective January 1, 2021, was temporarily suspended through December 31, 2021.

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President, District 10
BOARD of SUPERVISORS



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Tel. No. 554-6516
Fax No. 554-7674
TDD/TTY No. 544-6546

Shamann Walton

PRESIDENTIAL ACTION

Date: 5/18/2021

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. _____

(Primary Sponsor)

Title. _____

Transferring (Board Rule No 3.3)

File No. _____

210161

Peskin

(Primary Sponsor)

Title. Business and Tax Regulations Code - Administration of Vacancy Tax

From: Budget and Finance

Committee

To: Rules

Committee

Assigning Temporary Committee Appointment (Board Rule No. 3.1)

Supervisor: _____

Replacing Supervisor: _____

For: _____

(Date)

(Committee)

Meeting

Start Time: _____

End Time: _____

Temporary Assignment: Partial Full Meeting



Shamann Walton, President
Board of Supervisors