

BOARD of SUPERVISORS



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MEMORANDUM

TO: Ingrid Mezquita, Director, Office of Early Care and Education
Regina Dick-Endrizzi, Director, Office of Small Business
Marisa Rodriguez, Director, Office of Cannabis

FROM: Linda Wong, Assistant Clerk
Budget and Finance Committee

DATE: August 31, 2021

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Budget and Finance Committee has received the following proposed legislation, introduced by the Office of the Treasurer and Tax Collector:

File No. 210828

Ordinance amending the Business and Tax Regulations Code to revise its common administrative provisions and other provisions to implement Proposition F amending the gross receipts tax and repealing the payroll expense tax and Proposition L imposing the overpaid executive gross receipts tax, approved at the November 3, 2020, election, and make clarifying and other nonsubstantive changes.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: linda.wong@sfgov.org.

c: Maya Castleman, Office of Early Care and Education
Ray Law, Office of Cannabis

1 [Business and Tax Regulations Code - Administrative Provisions]

2

3 **Ordinance amending the Business and Tax Regulations Code to revise its common**
 4 **administrative provisions and other provisions to implement Proposition F amending**
 5 **the gross receipts tax and repealing the payroll expense tax and Proposition L**
 6 **imposing the overpaid executive gross receipts tax, approved at the November 3, 2020,**
 7 **election, and make clarifying and other nonsubstantive changes.**

8

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

13

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

15

16 Section 1. Article 6 of the Business and Tax Regulations Code is hereby amended by
 17 revising Sections 6.1-1, 6.2-1, 6.2-3, 6.2-8, 6.2-12, 6.2-17, 6.2-20, 6.2-21, 6.4-1, 6.5-1, 6.6-1,
 18 6.7-1, 6.8-1, 6.9-4, 6.9-6, 6.9-7, 6.10-1, 6.10-2, 6.10-3, 6.11-2, 6.11-3, 6.12-1, 6.12-2, 6.12-5,
 19 6.13-3, 6.13-4, 6.15-1, 6.15-2, 6.15-3, 6.16-1, 6.17-1, 6.17-1.1, 6.17-2, 6.18-1, 6.18-2, 6.18-6,
 20 6.18-8, 6.19-1, 6.19-2, 6.19-3, 6.19-7, 6.19-8, 6.19-10, 6.19-11, 6.21-1, 6.22-1, and 6.23-1,
 21 deleting Sections 6.2-14, 6.7-2, 6.9-1, 6.9-2, 6.9-3, and 6.9-5, and adding Section 6.8-2 and
 22 new Section 6.9-1, to read as follows:

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

24 (a) These common administrative provisions shall apply to Articles 6, 7, 8, 9, 10, 10B,
 25 11, 12, ~~12-A~~, 12-A-1, ~~12-B~~, 21, 28, 29, 30, ~~and 32~~, and 33 of this Code and to Chapter 105 of

1 the Administrative Code, unless the specific language of either Code otherwise requires. Any
2 provision of this Article 6 that references or applies to Article 10 shall be deemed to also
3 reference or apply to Article 10B. Any provision of this Article 6 that references or applies to a
4 tax shall be deemed to also reference or apply to a fee administered pursuant to this Article,
5 and shall be deemed to also reference or apply to an assessment levied pursuant to the
6 Property and Business Improvement District Law of 1994 (California Streets and Highways
7 Code sections 36600 *et seq.*) or Article 15 of this Code. A fee administered pursuant to
8 Article 6 or an assessment levied pursuant to the Property and Business Improvement District
9 Law of 1994 or Article 15 of this Code shall for purposes of this Article be deemed to be
10 imposed pursuant to the provisions of the Business and Tax Regulations Code.

11 * * * *

12 (d) The common administrative provisions in this Article 6 that were in effect as of
13 December 31, 2020, shall apply to the payroll expense tax in former Article 12-A.

14
15 **SEC. 6.2-1. COMMON DEFINITIONS.**

16 Except where the context otherwise requires, the terms used in this Article 6 shall have
17 the meaning given to them herein. Definitions used in other City codes shall not govern the
18 interpretation of this Article.

19
20 **SEC. 6.2-3. ARTICLE.**

21 The term "Article" followed by a number means such Article of ~~this~~^{the} Business and Tax
22 Regulations Code ~~of the City and County of San Francisco Municipal Code.~~

1 **SEC. 6.2-8. DAY.**

2 The term “day” means a calendar day. If the last day for performance of any act
3 provided for or required by the Business and Tax Regulations Code is a holiday, as defined in
4 Chapter 7 (commencing with Section 6700) of Division 7 of Title 1 of the California
5 Government Code, or a Saturday or Sunday, the act may be performed upon the next
6 business day with the same effect as if it had been performed upon the day appointed. For
7 purposes of this Section 6.2-8, the Friday in November immediately after Thanksgiving Day is
8 considered a holiday.

9
10 **SEC. 6.2-12. NEXUS: “ENGAGING IN BUSINESS WITHIN THE CITY.”**

11 The taxes imposed by ~~Article 12 A (Payroll Expense Tax Ordinance)~~, Article 12-A-1 (Gross
12 Receipts Tax Ordinance), Article 21 (Early Care and Education Commercial Rents Tax
13 Ordinance), Article 28 (Homelessness Gross Receipts Tax Ordinance), Article 30 (Cannabis
14 Business Tax Ordinance), ~~and~~ Article 32 (Traffic Congestion Mitigation Tax Ordinance), and
15 Article 33 (Overpaid Executive Gross Receipts Tax), and the registration fee imposed by Article 12
16 (Business Registration Ordinance) shall apply to any person engaging in business within the
17 City unless exempted therefrom under said Articles. A person is “engaging in business within
18 the City,” within the meaning of this Article 6, if that person meets one or more of the following
19 conditions:

20 (a) The person maintains a fixed place of business within the City; or

21 (b) An employee, representative, or agent of the person maintains a fixed place of
22 business within the City for the benefit or partial benefit of the person; or

23 (c) The person or one or more of the person’s employees, representatives, or agents
24 owns, rents, leases, or hires real or personal property within the City for business purposes for
25 the benefit or partial benefit of the person; or

1 (d) The person or one or more of the person's employees, representatives, or agents
2 regularly maintains a stock of tangible personal property within the City, for sale in the
3 ordinary course of the person's business; or

4 (e) The person or one or more of the person's employees, representatives, or agents
5 employs or loans capital on property within the City for the benefit or partial benefit of the
6 person; or

7 (f) The person or one or more of the person's employees, representatives, or agents
8 solicits business within the City for all or part of any seven days during a tax year; or

9 (g) The person or one or more of the person's employees, representatives, or agents
10 performs work or renders services within the City for all or part of any seven days during a tax
11 year; or

12 (h) The person or one or more of the person's employees, representatives, or agents
13 utilizes the streets within the City in connection with the operation of motor vehicles for
14 business purposes for all or part of any seven days during a tax year; or

15 (i) The person or one or more of the person's employees, representatives, or agents
16 exercises corporate or franchise powers within the City for the benefit or partial benefit of the
17 person; or

18 (j) The person or one or more of the person's employees, representatives, or agents
19 liquidates a business when the liquidators thereof hold themselves out to the public as
20 conducting such business; or

21 (k) The person has more than \$500,000 in total gross receipts, as the term "gross
22 receipts" is used in Article 12-A-1 of the Business and Tax Regulations Code, in the City
23 during the tax year, using the rules for assigning gross receipts under Section 956.1 of
24 Article 12-A-1.

1 ~~SEC. 6.2-14. PAYROLL EXPENSE TAX ORDINANCE; PAYROLL EXPENSE TAX.~~

2 ~~“Payroll Expense Tax Ordinance” means Article 12-A; “Payroll Expense Tax” means the tax~~
3 ~~imposed thereunder.~~

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 33, or under laws applicable to a
8 fee administered pursuant to Article 6, or under laws applicable to an assessment levied
9 pursuant to the Property and Business Improvement District Law of 1994 (California Streets
10 and Highways Code sections 36600 *et seq.*) or Article 15 of this Code.

11
12 **SEC. 6.2-20. TAX YEAR.**

13 The term “tax year” means the year commencing on January 1~~st~~ of each calendar year
14 and ending on December 31~~st~~ of the same calendar year.

15
16 **SEC. 6.2-21. THIRD-PARTY TAXES.**

17 The term “third-party taxes” means the transient hotel occupancy tax (Article 7), the
18 parking space occupancy tax (Article 9), the utility users tax (Article 10), and the access line
19 tax (Article 10B).

20
21 **SEC. 6.4-1. RECORDS; INVESTIGATION; SUBPOENAS.**

22 (a) Every taxpayer shall keep and preserve business records as may be necessary to
23 determine the amount of tax for which the person may be liable or that the person was required
24 to collect, including all local, state, and federal tax returns of any kind, for a period of five ~~5~~
25 years from the date the tax is due or paid, whichever is later.

1 * * * *

2 (c) The Tax Collector may order any person or persons, whether taxpayers, alleged
3 taxpayers, witnesses, or custodians of records, to produce all books, papers, and records
4 ~~which~~that the Tax Collector believes may have relevance to enforcing compliance with the
5 provisions of the Business and Tax Regulations Code for inspection, examination, and
6 copying at the Tax Collector's Office during normal business hours. As an alternative to
7 production at the Tax Collector's Office, the Tax Collector may agree to inspect, examine, and
8 copy the requested books, papers, and records at the person's place of business or some
9 other mutually acceptable location, and may require the person to reimburse the City for the
10 Tax Collector's ordinary and reasonable expenses incurred in the inspection, examination,
11 and copying of such books, papers, and records, including food, lodging, transportation, and
12 other related items, as appropriate.

13 * * * *

14
15 **SEC. 6.5-1. REQUEST FOR FINANCIAL INFORMATION.**

16 (a) In addition to a subpoena issued pursuant to Section 6.4-1, the Tax Collector may,
17 at ~~his or her~~ the Tax Collector's discretion, send any person, whether as taxpayer, alleged
18 taxpayer, witness, or custodian of records, a written request for financial information relevant
19 to verifying, determining or redetermining any person's tax liability or tax-exempt status.
20 "Financial information" shall include, but not be limited to, bank records, journals, ledgers, and
21 local, ~~S~~state, and federal tax returns, and shall include information regarding subsidiary,
22 related, affiliated, controlled, or controlling persons in possession of information relevant to the
23 Tax Collector's inquiry. The request shall be mailed to the person's last known address as
24 indicated in the Tax Collector's records.

25 * * * *

1 **SEC. 6.6-1. CERTIFICATE OF AUTHORITY FOR THIRD-PARTY TAXES.**

2 (a) These additional provisions shall apply to operators under the Tax on Transient
3 Occupancy of Hotel Rooms (hereinafter, "Hotel Tax") (Article 7), the Tax on Occupancy of
4 Parking Space in Parking Stations (hereinafter "Parking Tax") (Article 9), the Utility Users Tax
5 (Article 10), and the Access Line Tax (Article 10B).

6 (b) Every operator who is required to collect or remit any third-party tax must possess
7 a valid certificate of authority issued by the Tax Collector.

8 (c) The application for a certificate of authority shall be on a form provided by the Tax
9 Collector and shall set forth the name under which the person transacts or intends to transact
10 business, the location of each of the person's places of business in the City, and such other
11 information as the Tax Collector may require. The application shall be signed by the owner if
12 a sole proprietor, by a member or partner, in the case of an association, or by an executive
13 officer or some person specifically authorized by the corporation to sign the application in the
14 case of a corporation. No person shall operate a business for which a certificate of authority
15 is required under subsection (b) unless and until the Tax Collector has issued that person a
16 certificate of authority. The holder of a certificate of authority must promptly notify the Tax
17 Collector of any changes to the information stated in the certificate of authority application.

18 (d) Except as provided in subsections (f), (g), (h), (l), and (m) below, the Tax Collector,
19 within 45 days after the application is complete, shall issue a separate certificate of authority
20 to the operator to collect third-party taxes from customers for each location at which the
21 operator is required to collect such taxes. The certificate for the Parking Tax will expire on a
22 date certain set by the Tax Collector, and the certificate for the other taxes subject to this Section
23 6.6-1 may expire on a date certain set by the Tax Collector. The operator must apply for renewal of
24 the certificate, before it expires, if the operator intends to continue to engage in business in
25 the City. Except as provided in subsections (f), (g), (h), (j), (l), and (m), the Tax Collector may

1 issue successive, one-year renewals of an operator's certificate for the Parking Tax, and, in the
2 Tax Collector's sole discretion, may issue successive certificates for periods longer than one year or
3 perpetual certificates for the other taxes subject to this Section. Each certificate shall state the
4 location of the place of business to which it applies and shall be prominently displayed at such
5 location in plain view of all customers. Certificates of authority may not be assigned or
6 transferred. The operator shall immediately surrender to the Tax Collector the certificate for
7 that location upon the operator's cessation of business at that location or upon the sale or
8 transfer of the business.

9 (e) The holder of a certificate of authority to collect the Parking Tax~~parking taxes under~~
10 ~~Article 9~~ shall remain presumptively liable for the collection of Parking Taxes at the location
11 named in the certificate, and for the reporting and remittance of such taxes to the Tax
12 Collector, unless and until the holder of the certificate both:

13 (1) notifies the Tax Collector in writing that the holder has ceased to conduct a
14 parking business at such location; and

15 (2) surrenders the certificate for that location to the Tax Collector.

16 (f) (1) The Tax Collector may refuse to issue the certificate where, within the
17 45-day period referred to in subsection (d) above, the Tax Collector determines that the
18 operator, or any signatory to the application, or any person holding a 10% percent or greater
19 legal or beneficial interest in said operator ("10% owner") is not in compliance with any
20 provision of the Business and Tax Regulations Code, including but not limited to any failure to
21 timely collect, report, pay, or remit any tax imposed by this Code, or where any such person is
22 not in compliance with any provision of Sections 1215 through 1223, inclusive, of Article 17 of
23 the Police Code.

24 (2) Solely for purposes of determining under this Section 6.6-1 whether any
25 such operator, signatory, or 10% owner is not in compliance with the provisions described in

1 ~~subsection (f)(1) such Articles,~~ the Tax Collector may disregard any corporation or association
2 owned or controlled, directly or indirectly, by any such operator, signatory, or 10% owner and
3 consider such corporation or association's operations and liabilities as conducted by or as
4 owned by any one or more of such corporation or association's officers, directors, partners,
5 members, or owners. For purposes of this Section, (A) the term "owned" means ownership of
6 ~~50% percent~~ or more of the outstanding ownership interests in such corporation or association,
7 and (B) the term "controlled" includes any kind of control, whether direct or indirect, whether
8 legally enforceable, and however exercisable or exercised over such corporation or
9 association. A presumption of control arises if the operator, signatory, or 10% owner is (or
10 was) an officer, director, partner, or member of such corporation or association.

11 (g) ~~Further, if~~ any person subject to this Section 6.6-1 violates any provision of the
12 Business and Tax Regulations Code, or a rule or regulation promulgated by the Tax Collector,
13 including but not limited to any failure to timely collect, report, pay, or remit any tax imposed
14 by this Code, failure to maintain accurate registration information, failure to sign any return or
15 pay any tax when due, ~~or~~ failure to timely respond to any request for information, order for
16 records, or subpoena, ~~or for~~ failure to comply with the requirements of Article 22 of the
17 Business and Tax Regulations Code or any provision of Sections 1215 through 1223,
18 inclusive, of Article 17 of the Police Code, the Tax Collector may, after serving the person with
19 written notice of ~~his or her~~ the Tax Collector's determination in the manner provided in Section
20 6.11-2 and an opportunity to be heard pursuant to the notice and review provisions of Section
21 6.13-1 *et seq.*, refuse to issue that person a new certificate of authority or may revoke or
22 suspend that person's certificate of authority. The Tax Collector may refuse to issue that
23 person a new certificate of authority or to withdraw the suspension of an existing certificate
24 until the person, signatory to the application for the certificate revoked or suspended,
25 signatory to the application for a new certificate or withdrawal of the suspension, and all 10%

1 owners have complied with the provisions of the Business and Tax Regulations Code and
2 corrected the original violation to the satisfaction of the Tax Collector. For any person
3 applying for or holding a certificate of authority to collect ~~P~~parking ~~T~~axes, the Tax Collector
4 shall promptly notify the Chief of Police in writing that it has revoked a person's certificate of
5 authority, refused to issue a new certificate of authority, suspended an existing certificate of
6 authority, or determined that the person is not in compliance with the Business and Tax
7 Regulations Code. The Tax Collector shall in writing request that the Chief of Police refuse to
8 issue a commercial parking permit to the person or suspend or revoke the person's existing
9 commercial parking permit and immediately close the business, pursuant to Sec. 1215.3(b) of
10 the Police Code.

11 * * * *

12 (i) Upon application by the operator, the Tax Collector may, in the Tax Collector's~~his or~~
13 ~~her~~ discretion, set the bond amount for a parking station at the following levels, provided the
14 operator meets the following qualifications: (1) the operator has maintained a valid certificate
15 of authority, including a bond for all locations, for the three~~3~~ years immediately preceding the
16 date of the application; (2) the Tax Collector has not issued a deficiency determination against
17 the operator for any business location for the three~~3~~ years immediately preceding the date of
18 the application; and, further, (3) the Tax Collector determines that ~~the reduced bond amount~~ is
19 in the best interest of the City. The reduced bond amount is applicable during the calendar
20 year that it is approved. The Tax Collector may, in the Tax Collector's~~his or her~~ discretion,
21 approve renewal of the bond at the lower amount from year to year. If, after approving an
22 application for a reduced bond amount, the Tax Collector issues a deficiency determination
23 against the operator for any business location, or the operator fails to obtain a Certificate of
24 Authority for any business location, the approval may be rescinded and the higher bond
25 amount provided under subsection (h) may be required.

1 * * * *

2 (j) Such bond shall be executed by the applicant as principal, and by a corporation or
3 association which is licensed by the Insurance Commissioner of this State to transact the
4 business of fidelity and surety insurance, as surety. The applicant shall keep the bond in full
5 force and effect for the duration of the certificate of authority and all renewals thereof issued to
6 such applicant. If the bond provides that the term thereof shall be continuous until cancelled,
7 the applicant shall provide the Tax Collector with certification from the surety of the renewal or
8 continuation of the bond:

9 (1) when applying for renewal of an existing certificate of authority;

10 (2) when requesting the withdrawal of a suspension of an existing certificate of
11 authority;

12 (3) when applying for a reduced bond amount pursuant to subsection (i); or

13 (4) upon written request of the Tax Collector.

14 (k) The bond shall contain conditions that require the applicant to comply fully with all
15 the provisions of the Business and Tax Regulations Code concerning the collection of
16 third-party taxes from occupants of parking stations and the remittance of such taxes to the
17 Tax Collector. The bond shall be payable to the City in the amount of all unpaid Parking
18 Taxes on amounts of taxable rents collected by the applicant, together with all administrative
19 collection costs, interest, penalties, and other costs and charges applicable thereto; provided,
20 however, that the aggregate liability of the surety for any and all claims which may arise under
21 such bond shall in no event exceed the face amount of such bond regardless of the amount
22 due and owing to the City. The City may bring an action upon the bond for the recovery of
23 any unpaid Parking Taxes, administrative collection costs, interest, penalties, and other
24 costs and charges at any time prior to the expiration of the period of limitations applicable to
25 the collection of such unpaid taxes by the Tax Collector.

1 * * * *

2 **SEC. 6.7-1. COLLECTION OF THIRD-PARTY TAXES.**

3 (a) (1) Every operator receiving payment of charges from a customer shall collect
4 the amount of the third-party tax from the customer. All amounts of third-party tax so collected
5 shall be considered to be a special fund in trust for the City. For purposes of this
6 Section 6.7-1, a person who otherwise qualifies as an operator under Section 6.2-13 shall not,
7 by reason of the fact that the person is exempt from the tax, be exempted from the other
8 obligations of an operator, including without limitation the obligation to collect and remit to the
9 City all third-party taxes collected from non-exempt customers. An exemption from a
10 third-party tax is enjoyed by the customer, not by the operator responsible for collecting and
11 remitting such taxes. The operator may not exclude from taxation charges claimed to be
12 exempt unless the operator has records of each transaction, which demonstrate:

13 (A) the basis for the claim of exemption, and

14 (B) that an amount was not in fact collected from the exempt customer

15 as a tax.

16 * * * *

17
18 ~~**SEC. 6.7-2. REPORTING AND REMITTING THIRD-PARTY TAXES AND STADIUM**~~
19 ~~**OPERATOR ADMISSION TAX.**~~

20 ~~*(a) All amounts of utility users taxes under Article 10 are due and payable to the Tax Collector*~~
21 ~~*for each month on or before the last day of the month immediately following each respective monthly*~~
22 ~~*period. All amounts of stadium operator admission taxes under Article 11 are due and payable to the*~~
23 ~~*Tax Collector within 5 days after the event, subject to the provisions of Section 804 of Article 11. All*~~
24 ~~*amounts of third party taxes other than the utility users taxes are due and payable to the Tax Collector*~~

1 ~~for each calendar quarter on or before the last day of the month immediately following each respective~~
2 ~~quarterly period.~~

3 ~~(b) On or before the last day of the month immediately following each respective period, every~~
4 ~~operator except the stadium operator shall file a return for the preceding period with the Tax Collector,~~
5 ~~on such forms as the Tax Collector may prescribe. Stadium Operators shall file a return within the~~
6 ~~time periods set forth in Section 804 of Article 11. Filing a return that the Tax Collector determines to~~
7 ~~be incomplete in any material respect may be deemed failure to file a return in violation of this Section.~~

8 ~~(c) Returns shall show the amount of tax required to be collected for the subject period,~~
9 ~~separately, for each location at which the operator conducts business, and such other information as~~
10 ~~the Tax Collector requires. The Tax Collector may require returns to show the total number of~~
11 ~~transactions upon which tax was required to be collected and the amount of tax due on each such~~
12 ~~transaction, and for each location at which the operator conducts business. The Tax Collector may~~
13 ~~inspect, examine, and copy records for each such location separately, and may issue deficiency and~~
14 ~~jeopardy determinations pursuant to this Article for each such location separately, or in combination~~
15 ~~with one or more other locations at which the operator conducts business. The operator shall file the~~
16 ~~return, together with remittance of the amount of tax due, with the Tax Collector, at the Tax Collector's~~
17 ~~Office, on or before the date provided in this Section. Returns and remittances are due immediately~~
18 ~~upon cessation of business for any reason.~~

19 ~~(d) When a return is filed without full remittance of the amount reported to be due, the amount~~
20 ~~remaining unpaid, together with any nonpayment penalties, is immediately due and payable and may~~
21 ~~be collected by the Tax Collector forthwith.~~

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

23 (a) Nothing in Articles 6, 7, 8, 9, 10, 10B, 11, 12, ~~12-A~~, 12-A-1, 21, 28, 29, 30, ~~or 32~~, or
24 33 shall be construed as imposing a tax upon:
25

1 (1) The City, except for the Vacancy Tax (Article 29);

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

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

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

9 * * * *

10
11 **SEC. 6.8-2. CREDITS AND EXEMPTIONS.**

12 The credits and exemptions set forth in Articles 6, 7, 8, 9, 10, 10B, 11, 12, 12-A-1, 12-C, 21, 28,
13 29, 30, 32, and 33, in laws applicable to fees administered pursuant to Article 6, and in laws applicable
14 to assessments levied pursuant to the Property and Business Improvement District Law of 1994
15 (California Streets and Highways Code sections 36600 et seq.) or Article 15 of this Code, are provided
16 on the assumption that the City has the power to offer such credits and exemptions. If a credit or
17 exemption is invalidated by a court of competent jurisdiction, the taxpayer must pay any additional
18 amount that the taxpayer would have owed but for such invalid credit or exemption. Amounts owed as
19 a result of the invalidation of a credit or exemption that are paid within three years after the decision of
20 the court becomes final shall not be subject to interest or penalties.

21
22 **SEC. 6.9-1. RETURNS AND PAYMENTS.**

23 (a) Returns Generally. Except as otherwise provided in this Business and Tax Regulations
24 Code, on or before the due date, or in the event of cessation of business within 15 days of such
25 cessation, each taxpayer shall file a return for the subject period on a form provided by the Tax

1 Collector, regardless of whether there is a tax liability owing. A taxpayer who has not received a
2 return form from the Tax Collector is responsible for obtaining such form and filing a return, and the
3 failure of the Tax Collector to furnish the taxpayer with a return shall not relieve the taxpayer of any
4 payment or filing obligation. Returns shall show the amount of tax paid, collected, or otherwise due for
5 the subject period and such other information as the Tax Collector may require. Each taxpayer shall
6 transmit the return, together with the remittance of the tax due, to the Tax Collector at the Tax
7 Collector's Office on or before the due date specified in this Section 6.9-1. Filing a return that the Tax
8 Collector determines to be incomplete in any material respect may be deemed failure to file a return in
9 violation of this Section 6.9-1(a).

10 **(b) Special Rules for Third-Party Taxes and the Stadium Operator Admission Tax.**

11 (1) Returns shall show the amount of tax required to be collected for the subject period,
12 separately, for each location at which the operator conducts business, and such other information as
13 the Tax Collector requires. The Tax Collector may require returns to show the total number of
14 transactions upon which tax was required to be collected and the amount of tax due on each such
15 transaction, and for each location at which the operator conducts business. The Tax Collector may
16 inspect, examine, and copy records for each such location separately, and may issue deficiency and
17 jeopardy determinations pursuant to this Article 6 for each such location separately, or in combination
18 with one or more other locations at which the operator conducts business.

19 (2) When a return is filed without full remittance of the amount reported to be due, the
20 amount remaining unpaid, together with any nonpayment penalties, is immediately due and payable
21 and may be collected by the Tax Collector forthwith.

22 **(c) Gross Receipts Tax, Early Care and Education Commercial Rents Tax, Homelessness**
23 **Gross Receipts Tax, Cannabis Business Tax, and Overpaid Executive Gross Receipts Tax.**

24 (1) Annual Due Date. Except for any extensions granted under Section 6.9-4 or as
25 otherwise provided in this Business and Tax Regulations Code, returns and payments of the Gross

1 Receipts Tax (Article 12-A-1) (including the tax on administrative office business activities imposed
2 under Section 953.8 of Article 12-A-1), the Early Care and Education Commercial Rents Tax (Article
3 21), the Homelessness Gross Receipts Tax (Article 28) (including the homelessness administrative
4 office tax imposed under Section 2804(d) of Article 28), the Cannabis Business Tax (Article 30), and
5 the Overpaid Executive Gross Receipts Tax (Article 33) (including the overpaid executive
6 administrative office tax imposed under Section 3303(d) of Article 33) are due and payable, and shall
7 be delinquent if not submitted and paid to the Tax Collector, on or before the last day of February of
8 the succeeding year.

9 (2) **Small Business Exemption.** A person or combined group that qualifies for the
10 small business exemption in Section 954.1 of Article 12-A-1 shall be exempt from filing a Gross
11 Receipts Tax return, an Early Care and Education Commercial Rents Tax return, and, except for a
12 person or combined group subject to the overpaid executive administrative office tax imposed under
13 Section 3303(d) of Article 33, an Overpaid Executive Gross Receipts Tax return. Notwithstanding the
14 preceding sentence, any person taking the Payroll Expense Tax Exclusion Credit in Section 960 of
15 Article 12-A-1 must file a Gross Receipts Tax return, and any person taking the credit for child care
16 facilities in Section 2106.1 of Article 21 must file an Early Care and Education Commercial Rents Tax
17 return, regardless of whether such person qualifies for the small business exemption from the Gross
18 Receipts Tax.

19 (3) **Estimated Tax Payments.** Except as provided in Section 6.9-1(c)(3)(D) with respect
20 to estimated tax payments of the Gross Receipts Tax, every person or combined group liable for
21 payment of the Gross Receipts Tax (Article 12-A-1) (including the tax on administrative office business
22 activities imposed under Section 953.8 of Article 12-A-1), the Early Care and Education Commercial
23 Rents Tax (Article 21), the Homelessness Gross Receipts Tax (Article 28) (including the homelessness
24 administrative office tax imposed under Section 2804(d) of Article 28), the Cannabis Business Tax
25 (Article 30), or the Overpaid Executive Gross Receipts Tax (Article 33) (including the overpaid

1 executive administrative office tax imposed under Section 3303(d) of Article 33) shall make three
2 estimated tax payments, in addition to the annual payments in Section 6.9-1(c)(1), as follows:

3 (A) **Due Dates.** The first, second, and third estimated tax payments for a tax
4 year shall be due and payable, and shall be delinquent if not paid on or before, April 30, July 31, and
5 October 31, respectively, of that tax year. Estimated tax payments shall be a credit against the person
6 or combined group's total annual liability, as applicable, for the Gross Receipts Tax (including the tax
7 on administrative office business activities imposed under Section 953.8 of Article 12-A-1), Early Care
8 and Education Commercial Rents Tax, Homelessness Gross Receipts Tax (including the homelessness
9 administrative office tax imposed under Section 2804(d) of Article 28), Cannabis Business Tax, or
10 Overpaid Executive Gross Receipts Tax (including the overpaid executive administrative office tax
11 imposed under Section 3303(d) of Article 33), for the tax year in which such estimated tax payments
12 are due.

13 (B) **Gross Receipts Tax Estimated Tax Payments.** A person or combined
14 group's estimated tax payments of Gross Receipts Tax, including the tax on administrative office
15 business activities imposed under Section 953.8 of Article 12-A-1, shall each equal the lesser of:

16 (i) 25% of the Gross Receipts Tax liability (including any liability for the
17 tax on administrative office business activities imposed under Section 953.8 of Article 12-A-1) shown
18 on the person or combined group's return for the tax year (or, if no return is filed, 25% of the person or
19 combined group's actual Gross Receipts Tax liability for the tax year); or

20 (ii) 25% of the Gross Receipts Tax liability (including any liability for
21 the tax on administrative office business activities imposed under Section 953.8 of Article 12-A-1) as
22 determined by applying the applicable Gross Receipts Tax rates and small business exemption in
23 Section 954.1 of Article 12-A-1 for the current tax year to the taxable gross receipts shown on the
24 person or combined group's return for the preceding tax year (or, if subject to the tax on administrative
25 office business activities imposed under Section 953.8 of Article 12-A-1 for the preceding tax year, by

1 applying the applicable administrative office tax rate for the current tax year to the total payroll
2 expense attributable to the City shown on the person or combined group's return for the preceding tax
3 year). If the person or combined group did not file a return for the preceding tax year, the person or
4 combined group shall owe no estimated tax payments of Gross Receipts Taxes (or estimated tax
5 payments of the tax on administrative office business activities imposed under Section 953.8 of
6 Article 12-A-1) for the current tax year. For purposes of this Section 6.9-1(c)(3)(B)(ii), "taxable gross
7 receipts" means a person or combined group's gross receipts, not excluded under Section 954 of
8 Article 12-A-1, attributable to the City.

9 (C) **Estimated Tax Payments for Early Care and Education Commercial Rents**
10 **Tax, Homelessness Gross Receipts Tax, Cannabis Business Tax, and Overpaid Executive Gross**
11 **Receipts Tax.** A person or combined group's estimated tax payments of the Early Care and Education
12 Commercial Rents Tax, Homelessness Gross Receipts Tax (including the homelessness administrative
13 office tax imposed under Section 2804(d) of Article 28), Cannabis Business Tax, and Overpaid
14 Executive Gross Receipts Tax (including the overpaid executive administrative office tax imposed
15 under Section 3303(d) of Article 33), shall each equal the lesser of:

16 (i) 25% of the applicable tax liability shown on the person or combined
17 group's return for the tax year (or, if no return is filed, 25% of the person or combined group's actual
18 tax liability for the tax year); or

19 (ii) 25% of the applicable tax liability shown on the person or combined
20 group's return for the preceding tax year. If the person or combined group did not file a return for the
21 preceding tax year, the person or combined group shall be deemed to have filed a return showing no
22 liability for purposes of this Section 6.9-1(c)(3)(C)(ii), and no estimated tax payments of that tax shall
23 be due for the current tax year.

24 (D) **Lessor of Residential Real Estate Exemption.** Notwithstanding any other
25 provision in this Section 6.9-1(c)(3), a lessor of residential real estate, as defined in Section 954.1 of

1 Article 12-A-1, shall not be required to make estimated tax payments under this Section 6.9-1(c)(3), but
2 shall pay its full Gross Receipts Tax liability, Homelessness Gross Receipts Tax liability, and Overpaid
3 Executive Gross Receipts Tax liability on or before the last day of February of the succeeding year, if
4 the lessor's gross receipts within the City shown on the lessor's return for either the current tax year or
5 the preceding tax year did not exceed the threshold in Section 954.1(b) of Article 12-A-1.

6 **(d) Hotel Tax and Parking Tax.**

7 **(1) Monthly Due Date.** Except for any extensions granted under Section 6.9-4 or as
8 otherwise provided in this Business and Tax Regulations Code, returns and payments of the Hotel Tax
9 (Article 7) and the Parking Tax (Article 9) shall be filed monthly and are due and payable, and shall be
10 delinquent if not submitted and paid to the Tax Collector, for each month, on or before the last day of
11 the following month.

12 **(2) Deemed Small Operators.** A "Deemed Small Operator" is either a hotel operator
13 or parking station operator that has gross revenues from Rent that do not exceed \$40,000 annually
14 attributed to either rent from hotel or parking operations but not a combination thereof. No hotel
15 operator or parking station operator shall be a "Deemed Small Operator" if their total combined
16 revenue from all parking and hotel operations within San Francisco is greater than \$250,000 per year.
17 Any valet parking operator required to hold a permit under Police Code Section 1216 shall not be a
18 "Deemed Small Operator." Notwithstanding any other provision of this Code, a Deemed Small
19 Operator shall be relieved of certain obligations, specified in subsection (A) below, provided it meets
20 all of the requirements of subsection (B) below, and is not disqualified for such relief under subsection
21 (C) below.

22 **(A) A Deemed Small Operator shall be relieved of the following obligations:**

23 **(i) To obtain a certificate of authority from the Tax Collector under**
24 **Section 6.6-1(a) or execute a bond under Section 6.6-1(h).**

1 (ii) To make monthly tax remittances pursuant to Section 6.9-1(d)(1),
2 provided that its gross revenues from rent do not exceed \$40,000 annually. At any time that the gross
3 revenues from rent exceed \$40,000 annually, the operator must report and file monthly tax returns as
4 required by Section 6.9-1(d)(1) beginning with the following month.

5 (iii) For a Deemed Small Operator of a Parking Station, to pay the
6 Revenue Control Equipment Compliance Fee in Article 22, Section 2219.5 of this Business and Tax
7 Regulations Code for that parking station, and to hold a commercial parking permit under
8 Section 1215(b) of the Police Code.

9 (B) To be eligible for relief under this Section 6.9-1(d)(2), a Deemed Small
10 Operator must meet all of the following requirements:

11 (i) Register for relief using the form prescribed by the Tax Collector for
12 that purpose, and provide the information required by the Tax Collector. The operator shall
13 demonstrate to the satisfaction of the Tax Collector that it meets all of the requirements of this
14 Section 6.9-1(d)(2).

15 (ii) Maintain documents and records of all parking transactions in a
16 manner acceptable to the Tax Collector. Such documents and records must objectively substantiate any
17 relief claimed under this Section 6.9-1(d)(2) and be provided to the Tax Collector upon request.

18 (iii) Timely file with the Tax Collector annually a Parking Tax or a Hotel
19 Tax return, regardless of the amount of tax liability shown on the return. All returns shall be filed on or
20 before January 31 of each year.

21 (C) Any operator that makes a material misrepresentation in a return, fails to
22 amend a return within seven days of a material change, or fails to comply in a timely manner with a rule
23 or regulation promulgated by the Tax Collector shall, in addition to any other liability that may be
24 imposed under the provisions of this Article 6, be ineligible to claim relief under this Section 6.9-1(d)(2).

1 (e) Utility Users Tax and Access Line Tax; Monthly Due Date. Except for any extensions
2 granted under Section 6.9-4 or as otherwise provided in this Business and Tax Regulations Code,
3 returns and payments of the Utility Users Tax (Article 10) and the Access Line Tax (Article 10B) shall
4 be filed monthly and are due and payable, and shall be delinquent if not submitted and paid to the Tax
5 Collector, for each month, on or before the last day of the following month.

6 (f) Stadium Operator Admission Tax; Due Dates. Except for any extensions granted under
7 Section 6.9-4 or as otherwise provided in this Business and Tax Regulations Code, returns and
8 payments of the Stadium Operator Admission Tax (Article 11) shall be filed as provided in Section 804
9 of Article 11, and are due and payable, and shall be delinquent if not submitted and paid to the Tax
10 Collector, by the date provided in Section 804.

11 (g) Business Registration Certificate; Annual Due Date. Except for any extensions granted
12 under Section 6.9-4 or as otherwise provided in this Business and Tax Regulations Code, returns and
13 payments of the Business Registration Fee (Article 12) shall be filed annually and are due and payable,
14 and shall be delinquent if not submitted and paid to the Tax Collector, on or before the last day of May
15 preceding the registration year commencing July 1 of that year.

16 (h) Sugary Drinks Distributor Tax; Quarterly Due Date. Except for any extensions granted
17 under Section 6.9-4 or as otherwise provided in this Business and Tax Regulations Code, returns and
18 payments of the Sugary Drinks Distributor Tax (Article 8) shall be filed quarterly and are due and
19 payable, and shall be delinquent if not submitted and paid to the Tax Collector, for each calendar
20 quarter, on or before the last day of the month immediately following each calendar quarter.

21 (i) Traffic Congestion Mitigation Tax; Monthly Due Date. Except for any extensions granted
22 under Section 6.9-4 or as otherwise provided in this Business and Tax Regulations Code, returns and
23 payments of the Traffic Congestion Mitigation Tax (Article 32) shall be filed monthly and are due and
24 payable, and shall be delinquent if not submitted and paid to the Tax Collector, for each month, on or
25 before the last day of the following month.

1 (j) Vacancy Tax.

2 (1) Annual Due Date. Except as otherwise provided in this Business and Tax
3 Regulations Code, returns and payments of the Vacancy Tax (Article 29) shall be filed annually and are
4 due and payable, and shall be delinquent if not submitted and paid to the Tax Collector, on or before
5 the last day of February of the succeeding year.

6 (2) Additional Filing Requirements. In addition to the filing requirements in
7 Section 6.9-1(j)(1), anyone that is an owner, lessee, or sublessee of Taxable Commercial Space, as that
8 term is defined in Article 29 of the Business and Tax Regulations Code, at any time during a calendar
9 year shall file a Vacancy Tax return, in the form and manner prescribed by the Tax Collector, on or
10 before the last day of February of the succeeding year.

11
12 **~~SEC. 6.9-1. DETERMINATIONS, RETURNS, AND PAYMENTS; DUE DATE OF TAXES.~~**

13 ~~Except for jeopardy determinations under Section 6.12-2, and subject to remittances required~~
14 ~~under Sections 6.9-2 and 6.9-3, all amounts of taxes and fees imposed by Articles 6, 7, 8, 9, 10, 10B,~~
15 ~~11, 12, 12 A, 12 A-1, 21, 28, 29, 30, and 32 are due and payable, and shall be delinquent if not paid to~~
16 ~~the Tax Collector on or before the following dates:~~

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

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

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

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

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

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

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

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

12
13 **~~SEC. 6.9-2. DETERMINATIONS, RETURNS, AND PAYMENTS; RETURNS.~~**

14 ~~(a) **Returns.** Except as provided in subsection (b) below, on or before the due date, or in the~~
15 ~~event of a cessation of business within 15 days of such cessation, each taxpayer shall file a return for~~
16 ~~the subject period on a form provided by the Tax Collector, regardless of whether there is a tax liability~~
17 ~~owing. A person subject to any tax or required to remit any third party tax who has not received a~~
18 ~~return form or forms from the Tax Collector is responsible for obtaining such form(s) and filing a~~
19 ~~return or returns on or before the due date, or upon the cessation of business. Returns shall show the~~
20 ~~amount of tax and any third party tax paid or otherwise due for the related period and such other~~
21 ~~information as the Tax Collector may require. Each person subject to any tax or required to remit any~~
22 ~~third party tax and required to file the return shall transmit the return, together with the remittance of~~
23 ~~the amount of tax or third party tax due, to the Tax Collector at the Tax Collector's Office on or before~~
24 ~~the due date specified in Section 6.9-1.~~

1 ~~(b) **Exemption From Filing.** Commencing with tax years beginning on or after January 1,~~
2 ~~2017, a person who qualifies for the small business tax exemption in Section 905-A of Article 12-A~~
3 ~~shall be exempt from filing a payroll expense tax return, and a person or combined group who qualifies~~
4 ~~for the small business exemption in Section 954.1 of Article 12-A-1 shall be exempt from filing a gross~~
5 ~~receipts tax return and an Early Care and Education Commercial Rents Tax return. Notwithstanding~~
6 ~~the preceding sentence, any person taking any of the following exclusions must file a payroll expense~~
7 ~~tax return, a gross receipts tax return, and an Early Care and Education Commercial Rents Tax return,~~
8 ~~regardless of whether such person qualifies for the small business tax exemption from the payroll~~
9 ~~expense tax or the small business exemption from the gross receipts tax after claiming the exclusion:~~

10 ~~(1) the Biotechnology Exclusion in Section 906.1; or~~

11 ~~(2) the Clean Technology Business Exclusion in Section 906.2; or~~

12 ~~(3) the Central Market Street and Tenderloin Area Payroll Expense Tax Exclusion in Section~~
13 ~~906.3.~~

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

19
20 ~~**SEC. 6.9-3. DETERMINATIONS, RETURNS, AND PAYMENTS; REMITTANCES.**~~

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

23 ~~(1) **Hotel and Parking Taxes.** Except as provided in subsection (2) below, the hotel tax~~
24 ~~(Article 7) and the parking tax (Article 9) returns shall be filed monthly and taxes shall be remitted~~

1 ~~monthly. Such monthly remittances shall be due and payable to the Tax Collector on or before the last~~
2 ~~day of the month immediately following the month for which such remittance is due.~~

3 ~~(2) **Deemed Small Operators.** A “Deemed Small Operator” is either a Hotel Operator~~
4 ~~or Parking Station Operator that has gross revenues from Rent that do not exceed \$40,000 annually~~
5 ~~attributed to either Rent from hotel or parking operations but not a combination thereof. No Hotel~~
6 ~~Operator or Parking Station Operator shall be a “Deemed Small Operator” if their total combined~~
7 ~~revenue from all parking and hotel operations within San Francisco is greater than \$250,000 per year.~~
8 ~~Any valet parking operator required to hold a permit under Police Code Section 1216 shall not be a~~
9 ~~“Deemed Small Operator.” Notwithstanding any other provision of this Code, a Deemed Small~~
10 ~~Operator shall be relieved of certain obligations, specified in subsection (A) below, provided it meets~~
11 ~~all of the requirements of subsection (B) below.~~

12 ~~(A) The Deemed Small Operator shall be relieved of the obligation to do the~~
13 ~~following:~~

14 ~~(i) Obtain a certificate of authority from the Tax Collector under~~
15 ~~Section 6.6 1(a) or to execute a bond under Section 6.6 1(h).~~

16 ~~(ii) Make monthly tax remittances pursuant to Section 6.9 3(a)(1),~~
17 ~~provided that its gross revenues from Rent do not exceed \$40,000 annually. At any time that the gross~~
18 ~~revenues from Rent exceed \$40,000 annually, the operator must report and file monthly tax returns as~~
19 ~~required by Section 6.9 3(a)(1) beginning with the following month.~~

20 ~~(iii) A Deemed Small Operator of a Parking Station shall not be required~~
21 ~~to pay the Revenue Control Equipment Compliance Fee in Article 22, Section 2219.5 for that Parking~~
22 ~~Station and shall not be required to hold a commercial parking permit under Section 1215(b) of the~~
23 ~~Police Code.~~

24 ~~(B) To be eligible for relief under this Section 6.9 3(a)(2), a Deemed Small~~
25 ~~Operator must meet all of the following requirements:~~

1 ~~(i) Register for relief using the form prescribed by the Tax Collector for~~
2 ~~that purpose, and provide information required by the Tax Collector. The operator shall demonstrate~~
3 ~~to the satisfaction of the Tax Collector that it meets all of the requirements of this Section 6.9-3(a)(2).~~

4 ~~(ii) Maintain documents and records of all parking transactions in a~~
5 ~~manner acceptable to the Tax Collector. Such documents and records must objectively substantiate~~
6 ~~any relief claimed under subsection (a) of this Section 6.9-3 and be provided to the Tax Collector upon~~
7 ~~request.~~

8 ~~(iii) Timely file with the Tax Collector annually a parking space~~
9 ~~occupancy tax or a hotel tax return, regardless of the amount of tax liability shown on the return. All~~
10 ~~returns shall be filed on or before January 31 of each year.~~

11 ~~(iv) Any operator who makes a material misrepresentation in a return or~~
12 ~~fails to amend a return within seven days of a material change or who fails to comply in a timely~~
13 ~~manner with a rule or regulation promulgated by the Tax Collector shall, in addition to any other~~
14 ~~liability that may be imposed under the provisions of this Article 6, be ineligible to claim relief under~~
15 ~~this Section 6.9-3.~~

16 ~~(3) Payroll Expense Tax, Gross Receipts Tax, Early Care and Education Commercial~~
17 ~~Rents Tax, Homelessness Gross Receipts Tax, and Cannabis Business Tax: Estimated Tax~~
18 ~~Payments. Except as provided in Section 6.9-3(a)(3)(G) with respect to estimated tax payments of the~~
19 ~~gross receipts tax, every person or combined group liable for payment of the payroll expense tax~~
20 ~~(Article 12-A), the gross receipts tax (Article 12-A-1) (including the tax on administrative office~~
21 ~~business activities imposed under Section 953.8 of Article 12-A-1), the Early Care and Education~~
22 ~~Commercial Rents Tax (Article 21), the Homelessness Gross Receipts Tax (Article 28) (including the~~
23 ~~homelessness administrative office tax imposed under Section 2804(d) of Article 28), or the Cannabis~~
24 ~~Business Tax (Article 30) shall make three estimated tax payments, in addition to the annual payments~~
25 ~~in Section 6.9-3(a)(4), as follows:~~

1 ~~**(A) Due Dates.** The first, second, and third estimated tax payments for a tax~~
2 ~~year shall be due and payable, and shall be delinquent if not paid on or before, April 30, July 31, and~~
3 ~~October 31, respectively, of that tax year. Estimated tax payments shall be a credit against the person~~
4 ~~or combined group's total annual payroll expense tax, gross receipts tax (including the tax on~~
5 ~~administrative office business activities imposed under Section 953.8 of Article 12 A 1), Early Care~~
6 ~~and Education Commercial Rents Tax, Homelessness Gross Receipts Tax (including the homelessness~~
7 ~~administrative office tax imposed under Section 2804(d) of Article 28), or Cannabis Business Tax~~
8 ~~liability, as applicable, for the tax year in which such estimated tax payments are due.~~

9 ~~**(B) Payroll Expense Tax Estimated Tax Payments.** For purposes of this~~
10 ~~Section 6.9-3, a person's estimated tax payments of payroll expense tax for any tax year shall each~~
11 ~~equal the lesser of:~~

12 ~~(i) 25% of the payroll expense tax liability shown on the person's return~~
13 ~~for the tax year (or, if no return is filed, 25% of the person's actual payroll expense tax liability for the~~
14 ~~tax year); or~~

15 ~~(ii) 25% of the payroll expense tax liability shown on the person's return~~
16 ~~for the preceding tax year. If the person did not file a return for the preceding tax year, the person~~
17 ~~shall be deemed to have filed a return showing no liability for purposes of this~~
18 ~~Section 6.9-3(a)(3)(B)(ii), and no estimated tax payments of payroll expense taxes shall be due for the~~
19 ~~current tax year.~~

20 ~~**(C) Gross Receipts Tax Estimated Tax Payments.** For purposes of this~~
21 ~~Section 6.9-3, a person or combined group's estimated tax payments of gross receipts tax, including the~~
22 ~~tax on administrative office business activities imposed under Section 953.8 of Article 12 A 1, for tax~~
23 ~~years commencing on or after January 1, 2021 shall each equal the lesser of:~~

24 ~~(i) 25% of the gross receipts tax liability (including any liability for the~~
25 ~~tax on administrative office business activities imposed under Section 953.8 of Article 12 A 1) shown~~

1 ~~on the person or combined group's return for the tax year (or, if no return is filed, 25% of the person or~~
2 ~~combined group's actual gross receipts tax liability for the tax year); or~~

3 ~~(ii) 25% of the gross receipts tax liability (including any liability for the~~
4 ~~tax on administrative office business activities imposed under Section 953.8 of Article 12 A 1) as~~
5 ~~determined by applying the applicable gross receipts tax rates and small business exemption in~~
6 ~~Section 954.1 of Article 12 A 1 for the current tax year to the taxable gross receipts shown on the~~
7 ~~person or combined group's return for the preceding tax year (or, if subject to the tax on administrative~~
8 ~~office business activities imposed under Section 953.8 of Article 12 A 1 for the preceding tax year, by~~
9 ~~applying the applicable administrative office tax rate for the current tax year to the total payroll~~
10 ~~expense attributable to the City shown on the person or combined group's return for the preceding tax~~
11 ~~year). If the person or combined group did not file a return for the preceding tax year, the person or~~
12 ~~combined group shall owe no estimated tax payments of gross receipts taxes (or estimated tax payments~~
13 ~~of the tax on administrative office business activities imposed under Section 953.8 of Article 12 A 1) for~~
14 ~~the current tax year. For purposes of this Section 6.9 3(a)(3)(C)(ii), "taxable gross receipts" means a~~
15 ~~person or combined group's gross receipts, not excluded under Section 954 of Article 12 A 1,~~
16 ~~attributable to the City.~~

17 ~~(D) **Early Care and Education Commercial Rents Tax Estimated Tax**~~
18 ~~**Payments For Tax Years Commencing On or After January 1, 2020.** For purposes of this~~
19 ~~Section 6.9 3, a person or combined group's estimated tax payments of Early Care and Education~~
20 ~~Commercial Rents Tax for any tax year beginning on or after January 1, 2020, shall each equal the~~
21 ~~lesser of:~~

22 ~~(i) 25% of the Early Care and Education Commercial Rents Tax liability~~
23 ~~shown on the person or combined group's return for the tax year (or, if no return is filed, 25% of the~~
24 ~~person or combined group's actual Early Care and Education Commercial Rents Tax liability for the~~
25 ~~tax year); or~~

1 ~~have filed a return showing no liability for purposes of this Section 6.9-3(a)(3)(F)(ii), and no estimated~~
2 ~~tax payments of Homelessness Gross Receipts Taxes shall be due for the current tax year.~~

3 ~~(G) Lessor of Residential Real Estate; Exemption. Notwithstanding anything~~
4 ~~else in this Section 6.9-3(a)(3), a lessor of residential real estate, as defined in Section 954.1 of~~
5 ~~Article 12 A 1, shall not be required to make estimated tax payments of gross receipts tax, but shall pay~~
6 ~~its full gross receipts tax liability and Homelessness Gross Receipts Tax liability on or before the last~~
7 ~~day of February following the tax year, if the lessor's gross receipts within the City shown on the~~
8 ~~lessor's return for either the current tax year or the preceding tax year did not exceed the threshold in~~
9 ~~Section 954.1(b) of Article 12 A 1.~~

10 ~~(H) Cannabis Business Tax Estimated Tax Payments. For purposes of this~~
11 ~~Section 6.9-3, a person or combined group's estimated tax payments of Cannabis Business Tax for any~~
12 ~~tax year shall each equal the lesser of:~~

13 ~~(i) 25% of the Cannabis Business Tax liability shown on the person or~~
14 ~~combined group's return for the tax year (or, if no return is filed, 25% of the person or combined~~
15 ~~group's actual Cannabis Business Tax liability for the tax year); or~~

16 ~~(ii) 25% of the Cannabis Business Tax liability shown on the person or~~
17 ~~combined group's return for the preceding tax year. If the person or combined group did not file a~~
18 ~~return for the preceding tax year, the person or combined group shall be deemed to have filed a return~~
19 ~~showing no liability for purposes of this Section 6.9-3(a)(3)(H)(ii), and no estimated tax payments of~~
20 ~~Cannabis Business Taxes shall be due for the current tax year.~~

21 ~~(4) Payroll Expense Tax, Gross Receipts Tax, Early Care and Education Commercial~~
22 ~~Rents Tax, Homelessness Gross Receipts Tax, and Cannabis Business Tax: Computation of Annual~~
23 ~~Liability; Payments.~~

24 ~~(A) The total payroll expense tax liability of a person shall be computed using~~
25 ~~the rate for that tax year computed, certified, and published by the Controller under Section 903.1 of~~

1 ~~Article 12 A or as otherwise provided in Article 12 A. The total gross receipts tax liability of a person~~
2 ~~or combined group, other than a person or combined group subject to tax under Section 953.8 of~~
3 ~~Article 12 A 1, shall be computed using the rate for that tax year computed, certified, and published by~~
4 ~~the Controller under Section 959 of Article 12 A 1, or as otherwise provided in Article 12 A 1. The~~
5 ~~total liability for the tax on administrative office business activities of a person or combined group~~
6 ~~subject to tax under Section 953.8 of Article 12 A 1 shall be computed as provided in Section 953.8, or~~
7 ~~as otherwise provided in Article 12 A 1. The total Early Care and Education Commercial Rents Tax~~
8 ~~liability of a person or combined group shall be computed as provided in Section 2104, or as otherwise~~
9 ~~provided in Article 21. The total Homelessness Gross Receipts Tax liability, including liability for the~~
10 ~~homelessness administrative office tax imposed under Section 2804(d) of Article 28, of a person or~~
11 ~~combined group shall be computed as provided in Section 2804, or as otherwise provided in Article 28.~~
12 ~~The total Cannabis Business Tax liability of a person or combined group shall be computed as~~
13 ~~provided in Section 3003, or as otherwise provided in Article 30. Except as otherwise provided, the~~
14 ~~total payroll expense tax, gross receipts tax (including the tax on administrative office business~~
15 ~~activities under Section 953.8 of Article 12 A 1, Early Care and Education Commercial Rents Tax,~~
16 ~~Homelessness Gross Receipts Tax (including the homelessness administrative office tax imposed under~~
17 ~~Section 2804(d) of Article 28), and Cannabis Business Tax liabilities, less any estimated tax payments~~
18 ~~for the tax year, shall be reported and paid on or before the last day of February of the year~~
19 ~~immediately following the tax year.~~

20 ~~(B) Any amounts paid on a person's payroll expense tax liability for a tax year~~
21 ~~that are in excess of that person's actual payroll expense tax liability for that year shall be credited to~~
22 ~~that person's gross receipts tax, Early Care and Education Commercial Rents Tax, or Homelessness~~
23 ~~Gross Receipts Tax liability for that year, if any. Any amounts paid on a person's gross receipts tax~~
24 ~~liability for a tax year that are in excess of that person's actual gross receipts tax liability for that year~~
25 ~~shall be credited to that person's payroll expense tax, Early Care and Education Commercial Rents~~

1 ~~Tax, or Homelessness Gross Receipts Tax liability for that year, if any. Any amounts paid on a~~
2 ~~person's Early Care and Education Commercial Rents Tax liability for a tax year that are in excess of~~
3 ~~that person's actual Early Care and Education Commercial Rents Tax liability for that year shall be~~
4 ~~credited to that person's payroll expense tax, gross receipts tax, or Homelessness Gross Receipts Tax~~
5 ~~liability for that year, if any. Any amounts paid on a person's Homelessness Gross Receipts Tax~~
6 ~~liability for a tax year that are in excess of that person's actual Homelessness Gross Receipts Tax~~
7 ~~liability for that year shall be credited to that person's payroll expense tax, gross receipts tax, or Early~~
8 ~~Care and Education Commercial Rents Tax liability for that year, if any. This Section 6.9 3(a)(4)(B)~~
9 ~~shall apply to tax years ending on or before December 31, 2019.~~

10 ~~(5) **Traffic Congestion Mitigation Tax.** The Traffic Congestion Mitigation Tax~~
11 ~~(Article 32) returns shall be filed monthly and taxes shall be remitted monthly. Such monthly~~
12 ~~remittances shall be due and payable to the Tax Collector on or before the last day of the month~~
13 ~~immediately following the month for which such remittance is due.~~

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

17 ~~(b) **Hotel and Parking Taxes.** Unless otherwise provided, an operator subject to the hotel tax~~
18 ~~(Article 7) or the parking tax (Article 9) shall make monthly remittances in the amount of the actual tax~~
19 ~~owed.~~

20 ~~(c) **Forms and Adjustments.** Tax remittances required under this Section 6.9 3 shall be~~
21 ~~accompanied by a tax remittance form prepared by the Tax Collector, but failure of the Tax Collector~~
22 ~~to furnish the taxpayer with a tax remittance form shall not relieve the taxpayer from any tax payment~~
23 ~~obligation.~~

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~~ the Tax Collector's discretion, may
4 extend, for a period not to exceed 60 days, the time for filing any return, other than a Vacancy
5 Tax (Article 29) return, pursuant to this Article 6 or regulations prescribed by the Tax
6 Collector. For taxes required to be deposited monthly, or for the Sugary Drinks Distributor
7 Tax (Article 8), the Tax Collector may only extend the time for filing a return for a period not to
8 exceed 30 days. As a condition of such extension, the person seeking the extension shall
9 make a payment of not less than 100% of such person's liability for such period.

10 * * * *

11
12 **~~SEC. 6.9-5. DETERMINATIONS, RETURNS, AND PAYMENTS; CREDITS AND~~**
13 **~~EXEMPTIONS.~~**

14 *The credits and exemptions set forth in Articles 6, 7, 8, 9, 10, 10B, 11, 12, 12 A, 12 A 1, 12 C,*
15 *21, 28, 29, 30, and 32, in laws applicable to fees administered pursuant to Article 6, and in laws*
16 *applicable to assessments levied pursuant to the Property and Business Improvement District Law of*
17 *1994 (California Streets and Highways Code sections 36600 et seq.) or Article 15 of this Code, are*
18 *provided on the assumption that the City has the power to offer such credits and exemptions. If a credit*
19 *or exemption is invalidated by a court of competent jurisdiction, the taxpayer must pay any additional*
20 *amount that the taxpayer would have owed but for such invalid credit or exemption. Amounts owed as*
21 *a result of the invalidation of a credit or exemption that are paid within three years after the decision of*
22 *the court becomes final shall not be subject to interest or penalties.*

1 **SEC. 6.9-6. FILING AND PAYING BY MAIL.**

2 (a) **Filing by Mail.** Except as otherwise provided in this Section 6.9-6, taxpayers may
3 file any return or other document with or make any payment to the Tax Collector by United
4 States mail.

5 * * * *

6 (e) **Private Delivery Services.** References in this Section 6.9-6 to the United States
7 mail and a postmark of the United States Postal Service shall include any designated delivery
8 service and any date recorded or marked as described herein by any designated delivery
9 service.

10 * * * *

11 (2) The Tax Collector may provide a rule similar to the rule of ~~s~~Subsection (e)(1)
12 with respect to any service provided by a designated delivery service which is substantially
13 equivalent to the United States registered or certified mail.

14
15 **SEC. 6.9-7. PARTIAL PAYMENTS.**

16 * * * *

17 (b) Unless the taxpayer specifies otherwise, the partial payments shall be applied to
18 the oldest year's deficiency, first to administrative collection costs, interest, penalties, and
19 other costs and charges for that year, and the balance, if any, shall be applied to the taxes
20 due for that year. Any remaining portion of the payment shall then be applied to the next
21 oldest year's deficiency in the same manner and order.

22 * * * *

23
24
25

1 **SEC. 6.10-1. COLLECTION OF TAX; SECURITY.**

2 ~~The Tax Collector, or~~ Whenever ~~he or she~~ the Tax Collector deems it necessary to ensure
3 compliance with the Business and Tax Regulations Code, the Tax Collector may require any
4 person subject thereto to deposit with the Tax Collector such security as the Tax Collector
5 may determine. The amount of the security shall be fixed by the Tax Collector, but shall not
6 be greater than twice the person’s estimated average liability for the period for which said
7 person files returns, determined in such manner as the Tax Collector deems proper. The
8 amount of the security may be increased or decreased by the Tax Collector subject to the
9 limitations herein provided. The Tax Collector may sell the security at public auction if it
10 becomes necessary to do so in order to recover any tax or any amount required to be
11 collected and remitted to the City, including any interest or penalty due. Notice of the sale
12 shall be served upon the person who deposited the security and upon the taxpayer, if
13 different, personally or by mail; if by mail, service shall be made in the manner prescribed for
14 service of a notice of a deficiency determination as set out in Section 6.11-2-~~herein~~, and shall
15 be addressed to the person at said person’s address as it appears in the records of the Tax
16 Collector. Upon any sale, any surplus above the amounts due shall be returned to the person
17 who deposited the security. The return of a cash security shall include interest at a rate equal
18 to the annual fiscal year interest rate earned by the City and County of San Francisco’s
19 “Pooled Interest Account” invested and managed by the Treasurer.

20
21 **SEC. 6.10-2. COLLECTION OF TAX FROM THIRD PARTY.**

22 If any person is delinquent in the payment of the amount required to be paid by said
23 person, or in the event a determination has been made against any person which remains
24 unpaid, the Tax Collector may, not later than three~~3~~ years after the payment became
25 delinquent, give notice thereof by mail or by personal service to any persons in the State of

1 California having in their possession or under their control any credits or other personal
2 property belonging to the delinquent person, or owing any debts to the delinquent person.
3 After receiving such notice, the persons so notified shall, within ~~5~~five days of the receipt of the
4 notice, advise the Tax Collector by sworn writing of all such credits, personal property, or
5 debts. Further, the persons so notified shall neither transfer nor make any other disposition of
6 the credits, other personal property, or debts in their possession or under their control at the
7 time they receive the notice until the Tax Collector consents to a transfer or disposition or until
8 30 days elapse after the person has advised the Tax Collector in a sworn writing of all such
9 credits, personal property, or debts. Unless otherwise required by law, if persons so notified
10 transfer such assets in violation of the provisions of this Section 6.10-2, they shall become
11 indebted to the Tax Collector for the value of the property transferred, or the amount owed to
12 the City by the delinquent, whichever is less.

13

14 **SEC. 6.10-3. COLLECTION OF TAX; LEGAL ACTIONS.**

15 (a) (1) The Tax Collector may bring an action in the courts of this State, or any
16 other state, or of the District of Columbia, or of the United States and its territories or
17 possessions, or any other forum where permitted by law to recover in the name of the City
18 any amount of taxes due and payable under the Business and Tax Regulations Code and
19 remaining unpaid, together with penalties, interest, and costs, including reasonable attorneys'
20 fees.

21 * * * *

22 (3) In prosecuting such actions, the Tax Collector shall be entitled to all of the
23 provisional remedies provided by law. Any such action shall be commenced within ~~3~~three
24 years from the date any amount of taxes became due and payable, or from the date the return
25 is required to be filed or actually filed, whichever period expires later; except in the case of

1 any deficiency determination pursuant to Sections 6.11-1 *et seq.* or 6.11-1.1 *et seq.*, as
2 applicable, 6.12-1 *et seq.*, or 6.13-1 *et seq.*, in which case any such action shall be
3 commenced within three years after such determination became final. However, there shall
4 be no limitation on the time in which such actions may be commenced in cases of fraud, intent
5 to evade the Business and Tax Regulations Code, or failure to file a return.

6 * * * *

7
8 **SEC. 6.11-2. DEFICIENCY DETERMINATIONS; REVOCATION DETERMINATIONS;**
9 **NOTICE AND SERVICE.**

10 (a) Upon making a determination pursuant to Section 6.11-1 or Section 6.11-1.1, as
11 applicable, or upon making a determination pursuant to Section 6.6-1 that a certificate shall
12 not be issued or to revoke a registration, the Tax Collector shall give to the taxpayer or other
13 person affected written notice of the Tax Collector's determination. Except in the case of
14 fraud, intent to evade the Business and Tax Regulations Code or rules and regulations issued
15 ~~or promulgated~~ by the Tax Collector, or failure to file a return, in all of which cases there is no
16 statute of limitations, every notice of a deficiency determination shall be served within three
17 years after the date that a return was due for a tax for the reporting period or three years after
18 the return was actually filed for that reporting period, whichever is later. The taxpayer may
19 agree in writing to extend ~~the said~~ period for service of a notice of a deficiency determination
20 ~~otherwise provided in this subsection (a).~~

21 (b) The notice of any determination under this Section 6.11-2 may be served upon the
22 taxpayer or other affected person personally or by mail; if by mail, service shall be

23 (1) to the last known address that appears ~~or is shown~~ in the Tax Collector's
24 records, provided there is such an address in the Tax Collector's records, or

1 (2) to an address that the Tax Collector concludes, in ~~his~~the Tax Collector's
2 discretion, is the last known address of the person(s).

3 (c) In case of service by mail of any notice required by this Article 6 to be served upon
4 the taxpayer or other person, the service is complete at the time of deposit with the United
5 States Postal Service.

6
7 **SEC. 6.11-3. DETERMINATION IF NO RETURN MADE; ESTIMATE OF LIABILITY,**
8 **PENALTIES, AND INTEREST.**

9 * * * *

10 (c) The Tax Collector shall serve the person or persons determined to be liable for the
11 tax as determined under this Section 6.11-3 with written notice of the determination and
12 penalty. The Tax Collector shall serve the notice upon such person(s) personally or by mail.
13 Service by mail shall be:

14 (1) to the last known address as indicated in the Tax Collector's records,
15 provided there is such an address in the Tax Collector's records, or

16 (2) to an address that the Tax Collector concludes, in ~~his~~the Tax Collector's
17 discretion, is the last known address of the person(s).

18 * * * *

19
20 **SEC. 6.12-1. JEOPARDY DETERMINATIONS; DUTY OF TAX COLLECTOR.**

21 If the Tax Collector believes that the collection of any tax or any amount of any
22 third-party tax required to be collected and paid to the City or of any determination will be
23 jeopardized, in whole or in part, by delay, the Tax Collector shall serve notice upon the
24 taxpayer or other person determined to be liable therefor of ~~his or her~~the Tax Collector's
25 determination of jeopardy and of the tax or amount of third-party tax required to be paid to the

1 City, and demanding immediate payment thereof, together with any interest and penalty
2 determined to be due. The Tax Collector may consider all facts and circumstances relevant to
3 determining whether the collection of any tax will be jeopardized by delay, including but not
4 limited to indications that the taxpayer intends or is taking action to discontinue business
5 activities in the City, dissipate or otherwise remove assets from the City, or sell, exchange,
6 assign, or otherwise dispose of personal or business income or property. The Tax Collector
7 also may consider whether the taxpayer is insolvent or likely to become insolvent after the
8 taxes at issue are assessed or collected; whether the taxpayer is or has been uncooperative
9 or unresponsive in connection with any investigation, examination, audit, deficiency
10 determination, assessment, or collection action or procedure undertaken by the Tax Collector;
11 what taxable years are at issue; how many taxable years are at issue; and whether the taxes
12 at issue are third-party taxes.

13

14 **SEC. 6.12-2. JEOPARDY DETERMINATIONS; WHEN DUE AND PAYABLE; STAY OF**
15 **COLLECTION; PETITION FOR REDETERMINATION; TIME OF HEARING.**

16 (a) A jeopardy determination of tax, interest, or penalty is immediately due and
17 payable upon the service of the notice of jeopardy determination on the taxpayer or other
18 person determined to be liable therefor. A lien for the amount due in the notice of jeopardy
19 determination may be recorded immediately notwithstanding the provisions of Section 6.10-1
20 *et seq.*, summary judgment pursuant to Section 6.18-1 *et seq.* may be sought at once, and
21 judicial proceedings for collection may be commenced at once. Prior to service of such
22 notice, the Tax Collector may, notwithstanding the provisions of Section 6.10-1 *et seq.*,
23 record a lien in the amount due as set forth in the notice of jeopardy determination.
24 Immediately upon service of such notice, the Tax Collector may, notwithstanding the

25

1 provisions of Section 6.10-1 et seq., seek summary judgment pursuant to Section 6.18 et
2 seq., and may commence a collection action in any court having jurisdiction over the matter.

3 * * * *

4 (d) Where collection of the whole or any amount of a jeopardy determination has been
5 stayed under this Section 6.12-2, the period of limitation on any action to collect from the
6 person on whose behalf the bond or other security has been provided shall be tolled during
7 the period of such stay.

8
9 **SEC. 6.12-5. JEOPARDY DETERMINATIONS; PETITION FOR REDETERMINATION.**

10 (a) Any person against whom a jeopardy determination is made may petition for the
11 redetermination thereof pursuant to Section 6.13-1 et seq. of this Article 6. The taxpayer
12 shall, however, file the petition for redetermination with the Tax Collector within 15 days after
13 the service of notice of determination. If a petition for redetermination of a jeopardy
14 determination is not filed within the foregoing 15-day period, the determination becomes final
15 at the expiration of that period.

16 (b) The filing of a petition for redetermination of a jeopardy determination shall not
17 operate to stay collection. Collection may be stayed only as provided in Section 6.12-2 ~~above~~.

18 * * * *

19
20 **SEC. 6.13-3. REDETERMINATIONS; ALTERATION OF DETERMINATION.**

21 The Tax Collector may decrease or increase the amount of the determination, including
22 the amount of the tax, penalties, or interest, before it becomes final. The amount may be
23 increased only if a claim for the increase is asserted by the Tax Collector, and the Tax
24 Collector provides written notice thereof to the person against whom the Tax Collector issued
25 the determination. If the Tax Collector increases the amount before the hearing described in

1 Section 6.13-2, such written notice shall be served at least 15 days before the hearing and the
2 person receiving such notice shall file a supplemental petition for redetermination addressing
3 the increased deficiency amount at least ~~five~~5 days before the hearing date. The Tax
4 Collector may reschedule the hearing for purposes of allowing the requisite notice of increase.
5 If the Tax Collector increases the amount after the hearing described in Section 6.13-2, the
6 Tax Collector shall serve notice of such increase before issuing a final decision. Within 15
7 days of service of such notice, the person against whom a claim for increase is asserted by
8 the Tax Collector may serve a supplemental petition for redetermination contesting the
9 increased deficiency amount. The Tax Collector shall hold an additional oral hearing on the
10 increased amount upon the request of the petitioner. A supplemental petition for
11 redetermination filed pursuant to this Section 6.13-3 shall state any additional specific grounds
12 for redetermination applicable to the increased deficiency amount. Any specific ground for
13 redetermination that is not specified in either the initial petition for redetermination or the
14 supplemental petition for redetermination shall be deemed waived by the petitioner in any
15 later judicial proceeding. Nothing in this Section shall preclude a new audit or determination
16 by the Tax Collector of a new or supplemental deficiency. The burden of proof in any
17 proceeding for redetermination or appeal thereof shall be on the taxpayer, who shall have the
18 burden of proving that the Tax Collector's determination is incorrect.

19

20 **SEC. 6.13-4. REDETERMINATIONS; FINALITY OF ORDER.**

21 (a) The order or decision of the Tax Collector upon a petition for redetermination
22 becomes final 15 days after service upon the petitioner of notice thereof. Service of the order
23 or decision of the Tax Collector shall be served in the manner prescribed in ~~Section~~ 6.11-2.

24 (b) All determinations made by the Tax Collector under Sections 6.13-1 and 6.13-2 of
25 this Article 6 are due and payable at the time they become final, except jeopardy

1 determinations made pursuant to Section 6.12-1 *et seq.*, which become due and payable
2 upon service of the jeopardy determination.

3
4 **SEC. 6.15-1. REFUNDS.**

5 (a) **Claims for Refund; Limitations.** Except as otherwise provided in subsections (f)
6 and (g) of this Section 6.15-1, the Controller shall refund or cause to be refunded the amount
7 of any tax, interest, or penalty that has been overpaid or paid more than once, or has been
8 erroneously or illegally collected or received by the City, provided the person that paid such
9 amount files a claim in writing with the Controller within the later of one year of: (1) payment of
10 such amount; (2) the date the return accompanying such payment was due, without regard to
11 any extensions under Section 6.9-4; or (3) the date on which such amount requested on a return,
12 amended return, or request for refund timely filed under subsection (g) of this Section 6.15-1
13 was denied under that subsection (g).

14 * * * *

15 (c) **Claims for Refund; Third-Party Taxes.** The customer who pays a third-party tax
16 to an operator is the proper party to seek the refund of a disputed third-party tax. No
17 operator or other person responsible for collecting or remitting a disputed third-party tax may
18 obtain a tax refund unless that operator or other person proves that the tax has not been
19 passed on to its customers or any other person.

20 (d) **Claims for Refund; Applicable Law.** Claims for refund shall be made according
21 to California Government Code, Title I, Division 3.6, Part 3. For purposes of subsections
22 (a)-(f) of this Section 6.15-1, a claim shall be deemed to accrue on the later of: (1) the date the
23 return was due, without regard to any extensions under Section 6.9-4; (2) the date the tax was
24 paid; or (3) the date the refund requested on a return, amended return, or request for refund

1 timely filed pursuant to subsection (g) of this Section 6.15-1 was denied under ~~that~~said
2 subsection (g). The Controller shall furnish a form to be used for claims.

3 * * * *

4 (g) **Requests for Refund; Refunds Permissible Without a Claim.** The Tax
5 Collector may authorize the Controller to refund tax, interest, or penalty payments, without a
6 refund claim having been filed and without review by the City Attorney, if the Tax Collector
7 determines that the amount paid exceeds the tax, penalties, and interest due. The person
8 that made the overpayment may request such a refund from the Tax Collector on a return,
9 amended return, or request for refund form that is issued by the Tax Collector and that is filed
10 with the Tax Collector within the later of one year of the payment of such amount or the date
11 the return accompanying such payment was due, without regard to any extensions under Section
12 6.9-4. The Tax Collector may also authorize the Controller to refund the overpaid tax, interest,
13 or penalty payments on its own initiative within this one-year period. A refund requested on a
14 return, amended return, or request for refund form under this subsection (g) shall
15 automatically be deemed denied for purposes of subsections (a), (b), and (d) of this
16 Section 6.15-1 if the Tax Collector does not grant or deny the refund request within one year
17 of the date it was filed. The Tax Collector may not grant a request for refund after this one-year
18 period, and aAny action by the Tax Collector after a refund request under this subsection (g)
19 has been deemed denied shall not constitute a denial and shall have no effect on the statute
20 of limitations for filing a claim for refund under subsections (a)-(f) of this Section 6.15-1. In
21 lieu of requesting a refund on a return, amended return, or request for refund form, a taxpayer
22 may elect to apply an overpayment of the business registration fee in Article 12, ~~the payroll~~
23 ~~expense tax in Article 12-A~~, the Gross Receipts Tax in Article 12-A-1 (including the tax on
24 administrative office business activities under Section 953.8 of Article 12-A-1), the Sugary
25 Drinks Distributor Tax in Article 8, the Early Care and Education Commercial Rents Tax in

1 Article 21, the Homelessness Gross Receipts Tax in Article 28 (including the homelessness
2 administrative office tax under Section 2804(d) of Article 28), ~~or~~ the Cannabis Business Tax in
3 Article 30, or the Overpaid Executive Gross Receipts Tax in Article 33 as a credit against the
4 taxpayer's immediately succeeding payment or payments due of the respective~~any of these~~
5 ~~several~~ tax types, for up to one year. Any election to apply an overpayment to the taxpayer's
6 future liability shall 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~~, the Gross Rceipts Tax in
12 Article 12-A-1 (including the tax on administrative office business activities under
13 Section 953.8 of Article 12-A-1), the Sugary Drinks Distributor Tax in Article 8, the Early
14 Care and Education Commercial Rents Tax in Article 21, the Homelessness Gross Receipts
15 Tax in Article 28 (including the homelessness administrative office tax under Section 2804(d)
16 of Article 28), ~~or~~ the Cannabis Business Tax in Article 30, or the Overpaid Executive Gross
17 Receipts Tax in Article 33 as a credit against the taxpayer's immediately succeeding payment or
18 payments due of the respective~~any of these several~~ tax types, the taxpayer will not be credited
19 with interest on the amount so applied.

20
21 **SEC. 6.15-3. EXHAUSTION OF ADMINISTRATIVE REMEDIES; PRESENTATION OF**
22 **CLAIM FOR REFUND AS PREREQUISITE TO SUIT; PAYMENT OF DISPUTED AMOUNT**
23 **AND PETITION FOR REFUND; LIMITATIONS.**

24 (a) Persons claiming they are aggrieved under the Business and Tax Regulations
25 Code must, prior to seeking judicial relief:

- 1 (1) pay the amount of the disputed tax, penalty, and interest;
- 2 (2) if the disputed tax was paid pursuant to the Tax Collector's jeopardy
- 3 determination or deficiency determination, file a petition for redetermination, pursuant to
- 4 Section 6.12-5 or Section 6.13-1; and
- 5 (3) present a claim for refund to the Controller and allow action to be taken on
- 6 such claim, pursuant to subsections (a)-(f) of Section 6.15-1.

7 * * * *

8

9 **SEC. 6.16-1. RULES AND REGULATIONS.**

10 The Tax Collector may ~~promulgate~~ issue rules and regulations ~~and issue rules, and issue~~

11 determinations, and interpretations consistent with the provisions of the Business and Tax

12 Regulations Code as may be necessary or appropriate for the purpose of carrying out and

13 enforcing the payment, collection, and remittance of taxes and to apply such Code and any

14 rules and regulations promulgated thereunder in a lawful manner. The Tax Collector shall

15 hold a public hearing and allow public comment on any proposed rule or regulation prior to

16 adoption thereof. The Tax Collector shall provide not less than 10 days' notice of such public

17 hearing. A copy of such rules and regulations shall be on file and available for public

18 examination in the Tax Collector's Office. Failure or refusal to comply with any rules and

19 regulations promulgated by the Tax Collector shall be deemed a violation of the Business and

20 Tax Regulations Code.

21

22 **SEC. 6.17-1. PENALTIES AND INTEREST FOR FAILURE TO PAY.**

23 (a) Any person who fails to pay any tax to the City, or any operator or other person

24 who fails to collect and remit any third-party taxes shall pay a penalty of 5% of the tax, if the

25 failure is for not more than one month after the tax became delinquent, plus an additional 5%

1 for each following month or fraction of a month during which such failure continues, up to 20%
2 in the aggregate, until the date of payment. Any taxes remaining unpaid for a period of
3 90 days after notification that the tax is delinquent shall be subject to an additional penalty of
4 20% of the amount of the tax. The penalty and interest provided under this Section 6.17-1
5 shall not apply with respect to the Payroll Expense Tax, the Gross Receipts Tax, the
6 Early Care and Education Commercial Rents Tax, and the Homelessness Gross Receipts Tax
7 if the sum of the Payroll Expense Tax payments, ~~Gross Receipts Tax payments~~, Early
8 Care and Education Commercial Rents Tax payments, and the Homelessness Gross Receipts
9 Tax payments is equal to or greater than the sum of the Payroll Expense Tax, Gross
10 Receipts Tax, Early Care and Education Commercial Rents Tax, and the Homelessness
11 Gross Receipts Tax liability for that tax year.

12 * * * *

13 (c) Unpaid taxes shall also accrue interest at the rate of 1% per month, or fraction of a
14 month, from the date the taxes become delinquent through the date the taxpayer or operator
15 pays the delinquent taxes, penalties, interest, and fees accrued to the date of payment in full.

16 * * * *

17
18 **SEC. 6.17-1.1. PENALTIES AND INTEREST FOR FAILURE TO PAY.**

19 * * * *

20 (c) No penalties or interest imposed by this Section 6.17-1.1 shall apply to the failure
21 to make any estimated tax payments of ~~payroll expense taxes, Gross Receipts Taxes~~, Early
22 Care and Education Commercial Rents Taxes, Homelessness Gross Receipts Taxes, ~~or~~
23 Cannabis Business Taxes, or Overpaid Executive Gross Receipts Taxes under
24 Section 6.9-1~~3~~2(3).

25 * * * *

1 **SEC. 6.17-2. PENALTIES FOR UNDERREPORTING OF TAX.**

2 (a) **Penalties for Negligence.** If the Tax Collector determines that all or part of any
3 tax required to be reported on any return was underreported and that such underreporting
4 was attributable to negligence, the Tax Collector may impose a penalty in the amount of 5%
5 ~~percent~~ of the amount of the underreported tax, in addition to the tax or amount of tax, if the
6 negligence is for not more than 1 month, with an additional 5% percent for each month or
7 fraction of a month during which such negligence continues, up to 20% percent in the
8 aggregate.

9 (b) **Penalties for Intentional Disregard of Rules, Fraud, or Intent to Evade Tax.**
10 When it is determined by the Tax Collector that all or part of any tax required to be reported
11 on any return was underreported and such underreporting was attributable to fraud or an
12 intent to evade the Business and Tax Regulations Code, the Tax Collector may impose a
13 penalty in the amount of 50% percent of the amount of the underreported tax. The taxpayer or
14 other person determined to be liable for penalties pursuant to this Section 6.17-2(b) is entitled
15 to a notice of deficiency determination or jeopardy determination and to the appeal rights as to
16 such determinations.

17 (c) **Additional Penalty for Substantial Underreporting.**

18 (1) For purposes of this ~~s~~Section 6.17-2(c), "substantial underreporting of tax"
19 means the tax finally determined by the Tax Collector exceeds the amount of tax reported on
20 a taxpayer's original or amended return for a taxable period by 25% percent or more, or if no
21 return is filed, the tax liability determined by the Tax Collector pursuant to Section 6.11-1
22 exceeds \$5,000.

23 (2) If the Tax Collector determines that a taxpayer has made a substantial
24 underreporting of tax for any taxable period, the Tax Collector may impose an additional
25 penalty in an amount equal to 50% percent of the tax attributable to the substantially

1 underreported amount. The penalty for substantial underreporting is in addition to any other
2 penalty imposed under this Article 6.

3 * * * *

4
5 **SEC. 6.18-1. SUMMARY JUDGMENT; NOTICE; CERTIFICATE.**

6 If any tax imposed pursuant to the Business and Tax Regulations Code is not paid by
7 the last day of the month after the delinquency date, or after any jeopardy determination or
8 deficiency determination of the Tax Collector becomes final pursuant to
9 Sections 6.12-1 *et seq.* or 6.13-1 *et seq.*, the Tax Collector may file, no sooner than 20 days
10 after the mailing of the notice required in subsection (b), in the office of the Clerk of the Court,
11 without fee, a certificate specifying as follows:

12 (a) ~~The fact is~~ That a notice of intent to file the certificate has been sent, by certified mail,
13 to the operator, taxpayer, or other person determined to be liable for the tax at the person's
14 last known address, not less than 20 days prior to the date of the certificate;

15 (b) ~~The fact is~~ That the notice required in subsection (a) set forth the following
16 information:

17 (1) The name of the operator, taxpayer, or other person determined to be liable
18 for the tax,

19 (2) The description of the operator's, taxpayer's, or other person's business
20 against which the tax has been assessed,

21 (3) The location and/or address of the business,

22 (4) ~~The fact is~~ That judgment will be sought in the amount of the tax, penalty, and
23 interest remaining unpaid at the time of the filing of the certificate, and costs as permitted by
24 law,
25

1 (5) ~~The fact is~~ That, upon issuance and recordation of the judgment, additional
2 interest will continue to accrue at the rate prescribed by the Enforcement of Judgments Law
3 (Title 9 of Part 2 of the Code of Civil Procedure), and that any bond premium posted or other
4 costs to enforce the judgment shall be an added charge, and

5 (6) ~~The fact is~~ That a recording fee in the amount set forth in Section 27361.3 of
6 the California Government Code will be required to be paid for the purpose of the recordation
7 of any release of the judgment lien;

8 (c) The name of the operator, taxpayer, or other person determined to be liable for the
9 tax;

10 (d) The amount for which judgment is to be entered;

11 (e) ~~The fact is~~ That the City has complied with all provisions of the Business and Tax
12 Regulations Code in the computation and the levy of the tax, penalty, or interest; and

13 (f) The fact is That a request is therein made for issuance and entry of judgment against
14 the operator, taxpayer, or other person determined to be liable for the tax.

15
16 **SEC. 6.18-2. SUMMARY JUDGMENT; FILING OF CERTIFICATE; ENTRY OF JUDGMENT.**

17 The Clerk of the Court, immediately upon the filing of the certificate shall enter a
18 judgment for the City and County against the operator, taxpayer, or other person determined
19 to be liable for the tax in the amount of the tax, penalty, and interest set forth in the certificate.
20 The Clerk of the Court may file the judgment in a loose-leaf book entitled "City and County
21 Summary Tax Judgments."
22

23 **SEC. 6.18-6. SUMMARY JUDGMENT; EXTENSION OF LIEN.**

24 Within 10 years from the date of the recording or within 10 years from the date of the
25 last extension of the lien in the manner provided for in this Section 6.18-6, the lien may be

1 extended by recording in the office of the Assessor-Recorder an abstract or copy of the
2 judgment. From the time of the recording the lien extends to the property for 10 years unless
3 sooner released or otherwise discharged.

4
5 **SEC. 6.18-8. SUMMARY JUDGMENT; SATISFACTION OF JUDGMENT; REMOVAL OF**
6 **LIEN.**

7 (a) The judgment is satisfied and the lien removed when, but not before, the certificate
8 of release or discharge from the judgment lien is filed with the Clerk of Court and recorded in
9 the office of the Assessor-Recorder. In addition to the judgment amount, and any additional
10 penalty, interest, cost, or other amount authorized by the Business and Tax Regulations
11 Code, the Tax Collector shall collect the recording fee in the amount required by
12 Section 27361.3 of the California Government Code and shall transmit the amount of the
13 recording fee to the Assessor-Recorder together with the documents for release or discharge.

14 * * * *

15
16 **SEC. 6.19-1. CIVIL ACTIONS.**

17 In addition to the actions provided for in Section 6.10-3, the Tax Collector may bring a
18 civil action to enjoin any violation of the Business and Tax Regulations Code. No person shall
19 conduct business without the certificate of authority required under Section 6.6-1 or without
20 the San Francisco business registration certificate required under Section 853 of Article 12.
21 The Tax Collector may seek an injunction to prohibit any such person from doing business in
22 San Francisco until such time as the violation is cured. Such injunction shall issue
23 notwithstanding that judicial review of the Tax Collector's action regarding such certificate of
24 authority or business registration certificate has not been completed. The Tax Collector shall
25

1 be entitled to its attorneys' fees and costs in any action brought pursuant to this Section 6.19-1
2 where the Tax Collector is the prevailing party.

3
4 **SEC. 6.19-2. REMEDIES CUMULATIVE.**

5 The remedies, penalties, and procedures provided under this Article 6 are cumulative
6 and are not intended to be exclusive of any other available remedies, penalties, and
7 procedures.

8
9 **SEC. 6.19-3. ADMINISTRATIVE PENALTIES AND CITATIONS.**

10 (a) **Administrative Penalties; Citations.** An administrative penalty may be assessed
11 for a violation of the provisions of this Business and Tax Regulations Code as specified below.
12 The penalty may be assessed by means of an administrative citation issued by any person
13 designated as an "enforcement officer" in subsection (c).

14 (b) (1) **Penalty Amounts.** In addition to all other civil penalties provided for by law,
15 the following violations shall be subject to administrative penalties in the amounts set forth
16 below:

17 * * * *

18 (2) Except in the case of failure to file a return, including filing a blank return or
19 a return that the Tax Collector determines to be incomplete, each day that an operator does
20 not comply with the provisions of this Article 6 shall be considered a separate violation. The
21 penalty amounts shall be increased cumulatively by 50% percent for each subsequent violation
22 of the same provision by the same person within a three-year period. The maximum penalty
23 amount that may be imposed by administrative citation in a calendar year for each type of
24 violation listed above shall be \$25,000. In addition to the penalty amounts listed above, the
25 Tax Collector may assess enforcement costs to cover the reasonable costs incurred in

1 enforcing the administrative penalty, including reasonable attorneys' fees. Enforcement costs
2 shall not count toward the \$25,000 annual maximum.

3 (c) **Persons Who May Issue Citations.** The following classes of employees within
4 the Office of the Treasurer and Tax Collector are designated "enforcement officers" and are
5 authorized to issue administrative citations pursuant to this Article 6:

6 * * * *

7
8 **SEC. 6.19-7. ADMINISTRATIVE CITATION; CONTENTS.**

9 The administrative citation shall include all the following:

- 10 (a) A description of the violation(s);
- 11 (b) The date and location of the violation(s) and the approximate time the violation(s)
12 was observed;
- 13 (c) A citation to the provisions of law violated;
- 14 (d) A description of corrective action required;
- 15 (e) A statement explaining that each day of a continuing violation may constitute a new
16 and separate violation;
- 17 (f) The amount of administrative penalty imposed for the violation(s);
- 18 (g) A statement informing the violator that the fine shall be paid to the City and County
19 of San Francisco within ~~thirty~~ (30) days from the date on the administrative citation, the
20 procedure for payment, and the consequences of failure to pay;
- 21 (h) A description of the process for appealing the citation, including the deadline for
22 filing such an appeal; and
- 23 (i) The name and signature of the enforcement officer.

1 **SEC. 6.19-8. ADMINISTRATIVE APPEAL.**

2 (a) Persons receiving an administrative citation may within ~~fifteen~~(15) days from the
3 date the citation is served, protest the citation by either (1) requesting a hearing by mail, or
4 (2) scheduling an in-person hearing. The hearing officer may not reduce the penalty amount
5 and will only decide whether the person is responsible for the disputed penalty.

6 * * * *

7 (c) **In-Person Administrative Hearing.** The person charged in the citation may
8 appeal the citation by paying the penalty and filing a petition for redetermination pursuant to
9 Section 6.13-1 ~~of this Article~~. A hearing on the petition for redetermination of a citation shall
10 proceed in the same manner as a petition for redetermination of tax. Any reference in
11 Sections 6.13-1 *et seq.* to taxes, penalties, or interest shall be deemed to also apply to the
12 hearing of an administrative citation. If the person charged fails to appear for the hearing, a
13 default judgment shall be entered against the person. The person will automatically be
14 deemed liable for the penalty, together with any additional fees and interest.

15 (d) For the hearings provided under subsections (b) and (c) of this Section 6.19-8, the
16 burden of proof shall be on the person protesting the citation.

17

18 **SEC. 6.19-10. JUDICIAL REVIEW.**

19 (a) **Procedures.** After receipt of the Tax Collector’s decision, the appellant may file an
20 appeal with the Superior Court pursuant to California Government Code Section 53069.4.
21 The appeal shall be submitted within ~~twenty~~(20) days of the date of mailing of the Tax
22 Collector’s decision, with the applicable filing fee. The appeal shall state the reasons the
23 appellant objects to the Tax Collector’s findings or decision.

24 * * * *

25

1 (c) **Filing Fee.** The Superior Court filing fee shall be ~~twenty five (\$25.00)~~. If the court
2 finds in favor of the appellant, the amount of the fee shall be reimbursed to the appellant by
3 the City and County of San Francisco. Any deposit of penalty shall be refunded by the City
4 and County of San Francisco in accordance with the judgment of the court.

5
6 **SEC. 6.19-11. OTHER REMEDIES NOT AFFECTED.**

7 The administrative citation procedures established in this Article 6 shall be in addition to
8 any other criminal, civil, or other remedy established by law which may be pursued to address
9 violations of the Business and Tax Regulations Code. An administrative citation issued
10 pursuant to this Article shall not prejudice or adversely affect any other action, civil or criminal,
11 that may be brought to abate a violation or to seek compensation for damages suffered.

12
13 **SEC. 6.21-1. TRANSFEREE AND SUCCESSOR LIABILITY.**

14 (a) No person shall purchase or acquire an interest in a business subject to any tax
15 imposed under the Business and Tax Regulations Code without first obtaining either a receipt
16 from the Tax Collector showing that all of the seller's taxes on the business have been paid,
17 or a certificate stating that no amount is due. For purposes of this Section 6.21-1, "purchase"
18 shall include any other voluntary transfer for consideration of a business, except for purchase
19 of stock of a publicly-traded company.

20 * * * *

21 (c) If the buyer purchases or acquires an interest in a business owing any taxes,
22 interest, or penalties, the buyer shall withhold from the purchase price and pay to the Tax
23 Collector a sufficient amount to satisfy said taxes, interest, and penalties.

1 (d) If the buyer purchases or acquires an interest in a business in violation of this
2 Section 6.21-1, the buyer shall become personally liable for the amount of taxes, interest, and
3 penalties owed on the business.

4 * * * *

5
6 **SEC. 6.22-1. CONFIDENTIALITY.**

7 (a) The information in a taxpayer's return is confidential, as is any information the Tax
8 Collector learns about a taxpayer's business from the taxpayer or in response to the Tax
9 Collector's request for information made under Sections 6.4-1 or 6.5-1. Information regarding
10 the Tax Collector's investigation of a particular taxpayer, including the fact that the Tax
11 Collector has sent a request for information to a particular taxpayer or is investigating a
12 particular taxpayer, is also confidential. Except as permitted by this Section 6.22-1 or as
13 otherwise required by law, neither the Tax Collector nor the Tax Collector's~~his or her~~ staff, nor
14 any other of the City's current or former employees or agents may disclose taxpayer
15 confidential information to any person.

16 * * * *

17 (f) The taxpayer, ~~his~~and the taxpayer's successors, receivers, trustees, executors,
18 administrators, assignees, and guarantors, and their duly authorized legal representatives if
19 directly interested, may be given information regarding the items included in the measure and
20 amount of any unpaid tax or amounts of tax required to be collected, interest, and penalties.

21 * * * *

22
23 **SEC. 6.23-1. SEVERABILITY.**

24 If any sentence, clause, or section or any part of the Business and Tax Regulations
25 Code is for any reason held to be unconstitutional, illegal, or invalid, such unconstitutionality,

1 illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences,
2 clauses, sections, or parts of the Business and Tax Regulations Code. It is hereby declared
3 to be the intent of the enacting body that the Business and Tax Regulations Code would have
4 been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part
5 thereof not been included therein.

6
7 Section 2. Article 10 of the Business and Tax Regulations Code is hereby amended by
8 deleting Sections 709 and 713, as follows:

9
10 ~~**SEC. 709. REPORTING AND REMITTING.**~~

11 ~~*Each service supplier shall, on or before the last day of each month, make a return to the Tax*~~
12 ~~*Collector, on forms provided by the Tax Collector or in a form acceptable to the Tax Collector, stating*~~
13 ~~*the amount of taxes collected by the service supplier during the preceding month. At the time the return*~~
14 ~~*is filed, the full amount of the tax collected shall be remitted to the Tax Collector. The Tax Collector*~~
15 ~~*may require further information in the return. Returns and remittances are due immediately upon*~~
16 ~~*cessation of business for any reason.*~~

17
18 ~~**SEC. 713. RECORDS.**~~

19 ~~*It shall be the due of every service supplier required to collect and remit to the City and County*~~
20 ~~*any tax imposed by this Article to keep and preserve, for a period of 5 years, all records as may be*~~
21 ~~*necessary to determine the amount of such tax service supplier may have been required to collect and*~~
22 ~~*remit to the City and County, which records the Tax Collector shall have the right to inspect at all*~~
23 ~~*reasonable times.*~~

1 Section 3. Article 12-A-1 of the Business and Tax Regulations Code is hereby
2 amended by revising Sections 953.1, 953.2, 953.3, 953.4, 953.5, 953.6, 953.7, 953.8, and
3 960, to read as follows:

4
5 **SEC. 953.1. GROSS RECEIPTS TAX APPLICABLE TO RETAIL TRADE; WHOLESALE**
6 **TRADE; AND CERTAIN SERVICES.**

7 * * * *

8 ~~(g) If the final judicial decision in San Francisco Superior Court Case No. CGC 19-573230~~
9 ~~(City and County of San Francisco v. All persons interested in the matter of Proposition C on the~~
10 ~~November 6, 2018 San Francisco ballot, authorizing an increase in specified business taxes to fund~~
11 ~~specified homeless services in San Francisco, and all matters and proceedings related thereto) has the~~
12 ~~effect of invalidating the Homelessness Gross Receipts Tax in Article 28 of the Business and Tax~~
13 ~~Regulations Code, then for tax years beginning on or after January 1 of the tax year following the date~~
14 ~~on which such court decision becomes final, the phrase “over \$25,000,000” in Sections 953.1(a)(2)~~
15 ~~and (3), as applicable, shall be replaced with the phrase “between \$25,000,000.01 and \$50,000,000”~~
16 ~~and there shall be added to each of the rate tiers in each of those Sections an additional rate tier for~~
17 ~~taxable gross receipts over \$50,000,000 with a rate of 0.175% plus the applicable rate for taxable~~
18 ~~gross receipts between \$25,000,000.01 and \$50,000,000. These additional rate tiers shall continue in~~
19 ~~effect for 20 tax years, after which the rate tiers shall return to what the rate tiers would have been~~
20 ~~absent the increase in this Section 953.1(g).~~

21
22 **SEC. 953.2. GROSS RECEIPTS TAX APPLICABLE TO MANUFACTURING;**
23 **TRANSPORTATION AND WAREHOUSING; INFORMATION; BIOTECHNOLOGY; CLEAN**
24 **TECHNOLOGY; AND FOOD SERVICES.**

25 * * * *

1 ~~(h) If the final judicial decision in San Francisco Superior Court Case No. CGC 19-573230~~
2 ~~(City and County of San Francisco v. All persons interested in the matter of Proposition C on the~~
3 ~~November 6, 2018 San Francisco ballot, authorizing an increase in specified business taxes to fund~~
4 ~~specified homeless services in San Francisco, and all matters and proceedings related thereto) has the~~
5 ~~effect of invalidating the Homelessness Gross Receipts Tax in Article 28 of the Business and Tax~~
6 ~~Regulations Code, then for tax years beginning on or after January 1 of the tax year following the date~~
7 ~~on which such court decision becomes final, the phrase “over \$25,000,000” in Sections 953.2(a)(2)~~
8 ~~through (5), inclusive, as applicable, shall be replaced with the phrase “between \$25,000,000.01 and~~
9 ~~\$50,000,000” and there shall be added to each of the rate tiers in each of those Sections an additional~~
10 ~~rate tier for taxable gross receipts over \$50,000,000 with a rate of 0.5% plus the applicable rate for~~
11 ~~taxable gross receipts between \$25,000,000.01 and \$50,000,000. These additional rate tiers shall~~
12 ~~continue in effect for 20 tax years, after which the rate tiers shall return to what the rate tiers would~~
13 ~~have been absent the increase in this Section 953.2(h).~~

14
15 **SEC. 953.3. GROSS RECEIPTS TAX APPLICABLE TO ACCOMMODATIONS; UTILITIES;**
16 **AND ARTS, ENTERTAINMENT AND RECREATION.**

17 * * * *

18 ~~(h) If the final judicial decision in San Francisco Superior Court Case No. CGC 19-573230~~
19 ~~(City and County of San Francisco v. All persons interested in the matter of Proposition C on the~~
20 ~~November 6, 2018 San Francisco ballot, authorizing an increase in specified business taxes to fund~~
21 ~~specified homeless services in San Francisco, and all matters and proceedings related thereto) has the~~
22 ~~effect of invalidating the Homelessness Gross Receipts Tax in Article 28 of the Business and Tax~~
23 ~~Regulations Code, then for tax years beginning on or after January 1 of the tax year following the date~~
24 ~~on which such court decision becomes final, the phrase “over \$25,000,000” in Sections 953.3(a)(2)~~
25 ~~and (3), as applicable, shall be replaced with the phrase “between \$25,000,000.01 and \$50,000,000”~~

1 ~~and there shall be added to each of the rate tiers in each of those Sections an additional rate tier for~~
2 ~~taxable gross receipts over \$50,000,000 with a rate of 0.425% plus the applicable rate for taxable~~
3 ~~gross receipts between \$25,000,000.01 and \$50,000,000. These additional rate tiers shall continue in~~
4 ~~effect for 20 tax years, after which the rate tiers shall return to what the rate tiers would have been~~
5 ~~absent the increase in this Section 953.3(h).~~

6
7 **SEC. 953.4. GROSS RECEIPTS TAX APPLICABLE TO PRIVATE EDUCATION AND**
8 **HEALTH SERVICES; ADMINISTRATIVE AND SUPPORT SERVICES; AND**
9 **MISCELLANEOUS BUSINESS ACTIVITIES.**

10 * * * *

11 ~~(e) If the final judicial decision in San Francisco Superior Court Case No. CGC 19-573230~~
12 ~~(City and County of San Francisco v. All persons interested in the matter of Proposition C on the~~
13 ~~November 6, 2018 San Francisco ballot, authorizing an increase in specified business taxes to fund~~
14 ~~specified homeless services in San Francisco, and all matters and proceedings related thereto) has the~~
15 ~~effect of invalidating the Homelessness Gross Receipts Tax in Article 28 of the Business and Tax~~
16 ~~Regulations Code, then for tax years beginning on or after January 1 of the tax year following the date~~
17 ~~on which such court decision becomes final, the phrase “over \$25,000,000” in Sections 953.4(a)(2)~~
18 ~~and (3), as applicable, shall be replaced with the phrase “between \$25,000,000.01 and \$50,000,000”~~
19 ~~and there shall be added to each of the rate tiers in each of those Sections an additional rate tier for~~
20 ~~taxable gross receipts over \$50,000,000 with a rate of 0.69% plus the applicable rate for taxable gross~~
21 ~~receipts between \$25,000,000.01 and \$50,000,000. These additional rate tiers shall continue in effect~~
22 ~~for 20 tax years, after which the rate tiers shall return to what the rate tiers would have been absent the~~
23 ~~increase in this Section 953.4(e).~~

1 **SEC. 953.5. GROSS RECEIPTS TAX APPLICABLE TO CONSTRUCTION.**

2 * * * *

3 ~~(d) If the final judicial decision in San Francisco Superior Court Case No. CGC 19 573230~~
4 ~~(City and County of San Francisco v. All persons interested in the matter of Proposition C on the~~
5 ~~November 6, 2018 San Francisco ballot, authorizing an increase in specified business taxes to fund~~
6 ~~specified homeless services in San Francisco, and all matters and proceedings related thereto) has the~~
7 ~~effect of invalidating the Homelessness Gross Receipts Tax in Article 28 of the Business and Tax~~
8 ~~Regulations Code, then for tax years beginning on or after January 1 of the tax year following the date~~
9 ~~on which such court decision becomes final, the phrase “over \$25,000,000” in Section 953.5(a)(2)~~
10 ~~shall be replaced with the phrase “between \$25,000,000.01 and \$50,000,000” and there shall be added~~
11 ~~to the rate tiers in that Section an additional rate tier for taxable gross receipts over \$50,000,000 with~~
12 ~~a rate of 1.105%. This additional rate tier shall continue in effect for 20 tax years, after which the rate~~
13 ~~tiers shall return to what the rate tiers would have been absent the increase in this Section 953.5(d).~~

14
15 **SEC. 953.6. GROSS RECEIPTS TAX APPLICABLE TO FINANCIAL SERVICES;**
16 **INSURANCE; AND PROFESSIONAL, SCIENTIFIC AND TECHNICAL SERVICES.**

17 * * * *

18 ~~(f) If the final judicial decision in San Francisco Superior Court Case No. CGC 19 573230~~
19 ~~(City and County of San Francisco v. All persons interested in the matter of Proposition C on the~~
20 ~~November 6, 2018 San Francisco ballot, authorizing an increase in specified business taxes to fund~~
21 ~~specified homeless services in San Francisco, and all matters and proceedings related thereto) has the~~
22 ~~effect of invalidating the Homelessness Gross Receipts Tax in Article 28 of the Business and Tax~~
23 ~~Regulations Code, then for tax years beginning on or after January 1 of the tax year following the date~~
24 ~~on which such court decision becomes final, the phrase “over \$25,000,000” in Sections 953.6(a)(2)~~
25 ~~and (3), as applicable, shall be replaced with the phrase “between \$25,000,000.01 and \$50,000,000”~~

1 ~~and there shall be added to each of the rate tiers in each of those Sections an additional rate tier for~~
2 ~~taxable gross receipts over \$50,000,000 with a rate of 0.6% plus the applicable rate for taxable gross~~
3 ~~receipts between \$25,000,000.01 and \$50,000,000. These additional rate tiers shall continue in effect~~
4 ~~for 20 tax years, after which the rate tiers shall return to what the rate tiers would have been absent the~~
5 ~~increase in this Section 953.6(f).~~

6
7 **SEC. 953.7. GROSS RECEIPTS TAX APPLICABLE TO REAL ESTATE AND RENTAL**
8 **AND LEASING SERVICES.**

9 * * * *

10 ~~(d) If the final judicial decision in San Francisco Superior Court Case No. CGC 19-573230~~
11 ~~(City and County of San Francisco v. All persons interested in the matter of Proposition C on the~~
12 ~~November 6, 2018 San Francisco ballot, authorizing an increase in specified business taxes to fund~~
13 ~~specified homeless services in San Francisco, and all matters and proceedings related thereto) has the~~
14 ~~effect of invalidating the Homelessness Gross Receipts Tax in Article 28 of the Business and Tax~~
15 ~~Regulations Code, then for tax years beginning on or after January 1 of the tax year following the date~~
16 ~~on which such court decision becomes final, the phrase “over \$25,000,000” in Sections 953.7(a)(2)~~
17 ~~through (5), inclusive, as applicable, shall be replaced with the phrase “between \$25,000,000.01 and~~
18 ~~\$50,000,000” and there shall be added to the rate tiers in each of those Sections an additional rate tier~~
19 ~~for taxable gross receipts over \$50,000,000 with a rate of 0.325% plus the applicable rate for taxable~~
20 ~~gross receipts between \$25,000,000.01 and \$50,000,000. This additional rate tier shall continue in~~
21 ~~effect for 20 tax years, after which the rate tiers shall return to what the rate tiers would have been~~
22 ~~absent the increase in this Section 953.7(d).~~

23
24 **SEC. 953.8. TAX ON ADMINISTRATIVE OFFICE BUSINESS ACTIVITIES.**

25 * * * *

1 ~~(i) If the final judicial decision in San Francisco Superior Court Case No. CGC 19-573230~~
2 ~~(City and County of San Francisco v. All persons interested in the matter of Proposition C on the~~
3 ~~November 6, 2018 San Francisco ballot, authorizing an increase in specified business taxes to fund~~
4 ~~specified homeless services in San Francisco, and all matters and proceedings related thereto) has the~~
5 ~~effect of invalidating the Homelessness Gross Receipts Tax in Article 28 of the Business and Tax~~
6 ~~Regulations Code, then for tax years beginning on or after January 1 of the tax year following the date~~
7 ~~on which such court decision becomes final there shall be added to the rates in Sections 953.8(a)(1)~~
8 ~~through 953.8(a)(4), inclusive, an additional 1.5%. This increased rate shall continue in effect for~~
9 ~~20 tax years, after which the rate shall return to what the rate would have been absent the increase in~~
10 ~~this Section 953.8(i).~~

11
12 **SEC. 960. THE “PAYROLL EXPENSE TAX EXCLUSION” CREDIT.**

13 (a) “Payroll Expense Tax Exclusion Credit” means the dollar amount by which a
14 person would have been able to reduce its payroll expense tax liability pursuant to the
15 Enterprise Zone Tax Credit under Section 906A of former Article 12-A, and/or the
16 Biotechnology Exclusion under Section 906.1 of former Article 12-A, ~~and/or the Clean~~
17 ~~Technology Business Exclusion under Section 906.2 of former Article 12-A~~, as if the payroll expense
18 tax were in full force and effect and calculated at a rate of 1.5%.

19 (b) For so long as a particular payroll expense tax exclusion listed under
20 subsection (a) would have been in effect had the payroll expense tax not been repealed, a
21 person may credit against its gross receipts tax liability for a tax year the amount of a
22 particular payroll expense tax exclusion credit to which it would have been entitled under the
23 former payroll expense tax; however, in no event shall such credit reduce a person’s gross
24 receipts tax liability to less than zero. Any person who claims the credit under this
25 Section 960 must meet all of the eligibility requirements of the former payroll expense tax

1 exclusion(s) it claims. The credit may be claimed against the tax liability only of the person
2 who would have qualified for the former payroll expense tax exclusion and not against any
3 liability of related entities or other members of that person's combined group.

4
5 Section 4. The Business and Tax Regulations Code is hereby amended by deleting
6 Article 12-B, consisting of Sections 1021, 1022, 1023, and 1024, as follows:

7
8 **~~ARTICLE 12-B:~~**
9 **~~BUSINESS TAX REFUND~~**

10
11 **~~SEC. 1021. REFUND.~~**

12 ~~(a) Any person who paid any tax measured by gross receipts under former Article 12-B, at a~~
13 ~~rate specified in Sections 1004.01 through 1004.18, inclusive, as it read at the time payment was due~~
14 ~~for the tax year commencing on January 1, 2000 and ending on December 31, 2000 (the 2000 tax~~
15 ~~year), and who files within six months of the effective date of this Article a verified claim for refund~~
16 ~~thereof, on a form prescribed by the Tax Collector, shall be allowed a refund in an amount and in a~~
17 ~~manner determined under this Article.~~

18 ~~(b) The Tax Collector shall notify every person who paid a tax measured by gross receipts as~~
19 ~~described in Subsection (a) of this Section, at the person's last known address, that such tax has been~~
20 ~~repealed, and that such person may be entitled to a refund. The Tax Collector shall furnish such~~
21 ~~person with a form upon which to claim the refund specified in this Article.~~

22
23 **~~SEC. 1022. DETERMINATION OF REFUND.~~**

24 ~~(a) Amount of Refund. For the tax year commencing on January 1, 2000 and ending on~~
25 ~~December 31, 2000 (the 2000 tax year), the City shall refund an amount equal to the excess of a~~

1 ~~person's actual tax payments to the City under former Article 12 B as it read at the time payment was~~
2 ~~due for such tax year over the sum of the person's lesser liability under the Payroll Expense Tax~~
3 ~~Ordinance for such tax year and the person's outstanding tax obligations to the City, if any. A person's~~
4 ~~lesser liability under the Payroll Expense Tax Ordinance for the 2000 tax year shall be an amount~~
5 ~~equal to the liability that such person would have incurred under the Payroll Expense Tax Ordinance~~
6 ~~in such tax year but for the exemption set forth in Section 917.1 of the Business and Tax Regulations~~
7 ~~Code as that section read on December 31, 2000. If a person paid penalties for the 2000 tax year that~~
8 ~~were calculated as a percentage of the person's tax liability as measured by gross receipts for such tax~~
9 ~~year, then the City shall provide a refund for such penalties in an amount equal to the penalty actually~~
10 ~~paid, multiplied by a fraction, the numerator of which is the excess of the tax actually paid over the~~
11 ~~person's lesser liability under the Payroll Expense Tax Ordinance and the denominator of which is the~~
12 ~~amount of tax the person actually paid under former Article 12 B for such tax year. The amount of any~~
13 ~~refund required by this Article shall earn interest thereon at the rate specified in Section 6.15-2 of~~
14 ~~Article 6 of the San Francisco Business and Tax Regulations Code pursuant to Tax Collector ruling(s).~~
15 ~~The refund shall be paid to the person in accordance with the provisions of Subsection (b) of this~~
16 ~~Section.~~

17 ~~(b) **Payment of Refund.** The amount the City shall refund to each person pursuant to~~
18 ~~Subsection (a) of this Section shall be paid within six (6) months of receipt by the Tax Collector of a~~
19 ~~complete verified claim establishing the person's entitlement to the refund pursuant to this Article.~~

20 ~~(c) **Small Business Exemption.** For the 2000 tax year, persons may qualify for the Small~~
21 ~~Business Exemption set forth in Section 905A of Article 12 A of the Business and Tax Regulations Code~~
22 ~~as it read on December 31, 2000, as a result of the reduction of the person's liability for such tax year~~
23 ~~resulting from the retroactive repeal of former Article 12 B of the Business and Tax Regulations Code.~~

1 **~~SEC. 1023. AUTHORITY TO PROMULGATE REGULATIONS.~~**

2 ~~The Tax Collector may promulgate regulations and issue rules, determinations and~~
3 ~~interpretations consistent with the purposes of this Article and Article 6 of the Business and Tax~~
4 ~~Regulations Code as may be necessary and appropriate to apply such Articles in a lawful manner,~~
5 ~~including provisions for penalties due to fraud, underpayment of taxes, or any evasion of such Articles~~
6 ~~or the rules and regulations promulgated thereunder.~~

7
8 **~~SEC. 1024. SAVINGS CLAUSE.~~**

9 ~~No section, clause, part or provision of this Article shall be construed to require any act when~~
10 ~~such act would constitute an unlawful burden upon or an unlawful interference with interstate or~~
11 ~~foreign commerce, or in violation of the United States Constitution or a statute of the United States or~~
12 ~~of the California Constitution or a statute of the State of California. If any section, clause, part or~~
13 ~~provision of this Article, or the application thereof to any person or circumstance, is held invalid or~~
14 ~~unconstitutional, the remainder of this Article, including the application of such part or provision to~~
15 ~~other persons or circumstances, shall not be affected thereby and shall continue in full force and effect.~~
16 ~~To this end, the provisions of this Article are severable.~~

17
18 Section 5. The Business and Tax Regulations Code is hereby amended by deleting
19 Article 36, consisting of Sections 3601, 3602, 3603, 3604, 3605, 3606, 3607, 3608, 3609,
20 3610, 3611, 3612, 3613, 3614, 3615, and 3616, as follows:

21
22 **~~ARTICLE 36:~~**
23 **~~COMMERCIAL RENTS TAX~~**

1 ~~SEC. 3601. SHORT TITLE.~~

2 ~~This Article 36 shall be known as the “Commercial Rents Tax Ordinance,” and the tax it~~
3 ~~imposes shall be known as the “Commercial Rents Tax.”~~

4
5 ~~SEC. 3602. DEFINITIONS.~~

6 ~~(a) Unless otherwise defined in this Article 36, the terms used in this Article shall have the~~
7 ~~meanings given to them in Articles 6 and 12 A 1 of the Business and Tax Regulations Code, as~~
8 ~~amended from time to time. All references to Sections of the Planning Code are to the text of those~~
9 ~~Sections as of June 5, 2018.~~

10 ~~(b) For purposes of this Article 36, the following definitions shall apply:~~

11 ~~“Commercial Space” means any building or structure, or portion of a building or structure,~~
12 ~~that is not “residential real estate,” as that term is defined in Section 954.1(c) of Article 12 A 1 of the~~
13 ~~Business and Tax Regulations Code, as amended from time to time. Notwithstanding the preceding~~
14 ~~sentence, Commercial Space shall not include any building or structure, or portion of a building or~~
15 ~~structure, that is used for:~~

16 ~~(1) Industrial Use as defined in Section 102 of the Planning Code;~~

17 ~~(2) Arts Activities as defined in Section 102 of the Planning Code; or~~

18 ~~(3) Retail Sales or Service Activities or Retail Sales or Service Establishments, as~~
19 ~~defined in Section 303.1(c) of the Planning Code, that are not Formula Retail uses as defined in~~
20 ~~Section 303.1(b) of the Planning Code.~~

21 ~~“Warehouse Space” means Commercial Space that is used for Commercial Storage, for~~
22 ~~Volatile Materials Storage, for Wholesale Storage, or as a Storage Yard, as each of these capitalized~~
23 ~~terms is defined in Section 102 of the Planning Code.~~

1 **~~SEC. 3603. IMPOSITION OF TAX.~~**

2 ~~(a) Except as otherwise provided in this Article 36, for the privilege of engaging in the business~~
3 ~~of leasing Commercial Space in properties in the City, the City imposes an annual Commercial Rents~~
4 ~~Tax on each person engaged in business within the City that receives gross receipts from the lease of~~
5 ~~Commercial Space in properties in the City. For purposes of this Article 36, the term “lease” includes~~
6 ~~any “sublease.”~~

7 ~~(b) The Commercial Rents Tax shall be calculated by applying the following percentages to the~~
8 ~~person or combined group’s gross receipts from the lease of Commercial Space in properties in the~~
9 ~~City:~~

10 ~~(1) 1% to the person or combined group’s gross receipts from the lease of Warehouse~~
11 ~~Space in properties in the City; and~~

12 ~~(2) 3.5% to the person or combined group’s gross receipts from the lease of all other~~
13 ~~Commercial Space in properties in the City.~~

14
15 **~~SEC. 3604. OPERATIVE DATES OF TAX.~~**

16 ~~If the final judicial decision in San Francisco Superior Court Case No. CGC 18-568657~~
17 ~~(Howard Jarvis Taxpayers Association et al. v. City and County of San Francisco et al.) has the effect~~
18 ~~of invalidating the Early Care and Education Commercial Rents Tax in Article 21 of the Business and~~
19 ~~Tax Regulations Code, then the Commercial Rents Tax in this Article 36 shall become operative for tax~~
20 ~~years beginning on or after January 1 of the tax year following the date on which such court decision~~
21 ~~becomes final, and shall continue in effect for 20 tax years, after which it shall cease to apply and the~~
22 ~~City Attorney shall cause this Article 36 to be removed from the Business and Tax Regulations Code.~~

1 **~~SEC. 3605. EXEMPTIONS AND EXCLUSIONS.~~**

2 ~~(a) An organization that is exempt from income taxation by Chapter 4 (commencing with~~
3 ~~Section 23701) of Part 11 of Division 2 of the California Revenue and Taxation Code or Subchapter F~~
4 ~~(commencing with Section 501) of Chapter 1 of Subtitle A of the Internal Revenue Code of 1986, as~~
5 ~~amended, as qualified by Sections 502, 503, 504, and 508 of the Internal Revenue Code of 1986, as~~
6 ~~amended, shall be exempt from taxation under this Article 36, only so long as those exemptions~~
7 ~~continue to exist under state or federal law.~~

8 ~~(b) For purposes of this Article 36, gross receipts from the lease of Commercial Space shall not~~
9 ~~include receipts from the leasing of Commercial Space to: (1) organizations described in subsection (a)~~
10 ~~of this Section 3605; or (2) federal, state, or local governments.~~

11 ~~(c) For purposes of this Article 36, gross receipts from the lease of Commercial Space shall not~~
12 ~~include receipts from business activities if, and only so long as and to the extent that, the City is~~
13 ~~prohibited from taxing such receipts under the Constitution or laws of the United States or under the~~
14 ~~Constitution or laws of the State of California.~~

15 ~~(d) For only so long as and to the extent that the City is prohibited from imposing the~~
16 ~~Commercial Rents Tax, any person upon whom the City is prohibited under the Constitution or laws of~~
17 ~~the State of California or the Constitution or laws of the United States from imposing the Commercial~~
18 ~~Rents Tax shall be exempt from the Commercial Rents Tax.~~

19 ~~(e) For purposes of this Article 36, gross receipts from the lease of Commercial Space shall not~~
20 ~~include rent that is subject to the tax imposed under Articles 7 or 9 of the Business and Tax Regulations~~
21 ~~Code, and shall not include rent that would be subject to the tax imposed under Article 7 or Article 9~~
22 ~~but for the exemptions from that tax under Section 506 of Article 7 or Section 606 of Article 9.~~

1 **~~SEC. 3606. SMALL BUSINESS EXEMPTION.~~**

2 ~~Notwithstanding any other provision of this Article 36, a person or combined group exempt~~
3 ~~from payment of the gross receipts tax under Section 954.1 of Article 12 A 1, as amended from time to~~
4 ~~time, shall also be exempt from payment of the Commercial Rents Tax.~~

6 **~~SEC. 3607. CREDIT FOR CHILD CARE FACILITIES.~~**

7 ~~(a) Any person subject to the Commercial Rents Tax imposed under this Article 36 that leases~~
8 ~~or provides Commercial Space in a property in the City for a Qualifying Child Care Facility that~~
9 ~~operates for more than six months in a tax year shall be allowed a credit against the Commercial Rents~~
10 ~~Tax for that tax year. If a person entitled to the credit under this Section 3607 is required to file a~~
11 ~~Commercial Rents Tax return on a combined basis under Section 3608, the credit may be claimed~~
12 ~~against the Commercial Rents Tax liability required to be reflected on the combined return for that tax~~
13 ~~year. In no event shall the credit allowed under this Section 3607 reduce a person or combined group's~~
14 ~~Commercial Rents Tax liability for any tax year to less than zero, and no credit shall be allowed as a~~
15 ~~carryforward to a subsequent tax year.~~

16 ~~(b) For purposes of this Section 3607, the credit for a tax year shall be based on the total~~
17 ~~number of Infants, Toddlers, and Preschool Age Children for which the Qualifying Child Care Facility~~
18 ~~is licensed by the California Department of Social Services to provide care and shall be in the amount~~
19 ~~prescribed in the table below:~~

20

<i>Number of Infants, Toddlers, and Preschool Age Children</i>	<i>Amount of Credit</i>
<i>1 to 49</i>	<i>\$7,200</i>
<i>50 to 99</i>	<i>\$16,000</i>
<i>100 or more</i>	<i>\$36,000</i>

21
22
23

24 ~~(c) The following definitions shall apply for purposes of this Section 3607.~~

1 ~~(1) “Qualifying Child Care Facility” means a facility that is licensed by the California~~
2 ~~Department of Social Services, or any successor agency, to provide non-medical care to Infants,~~
3 ~~Toddlers, Preschool Age Children, or any combination thereof in need of personal services,~~
4 ~~supervision, or assistance essential for sustaining the activities of daily living or for the protection of~~
5 ~~the individual on less than a 24-hour basis in a group setting.~~

6 ~~(2) “Infants” means children under two years of age.~~

7 ~~(3) “Toddlers” means children between the ages of 18 months and 30 months.~~

8 ~~(4) “Preschool Age Children” means children who are enrolled in a child day care~~
9 ~~center licensed by the California Department of Social Services, or any successor agency, and who are~~
10 ~~not enrolled in a child care center or part of a child care center where less than 24-hour per day non-~~
11 ~~medical care and supervision are provided to Infants or School Age Children.~~

12 ~~(5) “School Age Child” means a child who has entered the first grade or above or who~~
13 ~~is in a child care program providing care and supervision exclusively to children enrolled in~~
14 ~~kindergarten and above.~~

15 ~~(d) To be eligible for the credit authorized under this Section 3607, persons wishing to claim~~
16 ~~the credit must:~~

17 ~~(1) Maintain a reasonable method of documentation that can be reviewed or verified~~
18 ~~objectively that demonstrates that the person is eligible for the credit provided for in this Section 3607,~~
19 ~~and provide such documentation to the Tax Collector upon request; and~~

20 ~~(2) File a timely annual Commercial Rents Tax return regardless of the amount of~~
21 ~~liability, if any, shown on the return after claiming the credit provided for in this Section 3607.~~

22 ~~(e) The Tax Collector shall verify that any credit claimed pursuant to this Section 3607 is~~
23 ~~correct. The Office of Early Care and Education, or any successor agency, shall provide to the Tax~~
24 ~~Collector upon request such information that the Tax Collector may require to verify that a Qualifying~~
25 ~~Child Care Facility for which the credit is claimed meets the eligibility requirements of this Section~~

1 ~~3607, and the Tax Collector may share taxpayer information with the Office of Early Care and~~
2 ~~Education, or any successor agency, for this purpose. To the extent permitted by law, the Office of~~
3 ~~Early Care and Education, or any successor agency, shall maintain the confidentiality of any such~~
4 ~~information that the Tax Collector provides, and shall be subject to Section 6.22-1 of Article 6 of the~~
5 ~~Business and Tax Regulations Code with respect to such information.~~

6 ~~(f) The Tax Collector shall submit an annual report to the Board of Supervisors for each year~~
7 ~~for which the credit authorized under this Section 3607 is available, that sets forth aggregate~~
8 ~~information on the dollar value of the credits taken each year and the number of persons taking the~~
9 ~~credit.~~

10 ~~(g) The credit provided by this Section 3607 shall expire by operation of law on~~
11 ~~December 31, 2023. No person may use or claim the credit provided for under this Section after the~~
12 ~~expiration date of this Section.~~

13
14 **~~SEC. 3608. FILING; COMBINED RETURNS.~~**

15 ~~(a) Persons subject to the Commercial Rents Tax shall file returns at the same time and in the~~
16 ~~same manner as returns filed for the gross receipts tax (Article 12-A-1), including the rules for~~
17 ~~combined returns under Section 956.3, as amended from time to time.~~

18 ~~(b) If a person is subject to the Commercial Rents Tax but is not required to file a gross~~
19 ~~receipts tax return, such person or combined group's Commercial Rents Tax return shall be filed at the~~
20 ~~same time and in the same manner as if such person or combined group were required to file a gross~~
21 ~~receipts tax return.~~

22 ~~(c) For purposes of this Article 36, a lessor of residential real estate is treated as a separate~~
23 ~~person with respect to each individual building in which it leases residential real estate units,~~
24 ~~notwithstanding Section 6.2-15 of Article 6, as amended from time to time, or subsection (a) of this~~
25 ~~Section 3608. This subsection (c) applies only to leasing residential real estate units within a building.~~

1 ~~and not to any business activity related to other space, either within the same building or other~~
2 ~~buildings, which is not residential real estate. The Tax Collector is authorized to determine what~~
3 ~~constitutes a separate building and the number of units in a building.~~

4
5 ~~**SEC. 3609. TAX COLLECTOR AUTHORIZED TO DETERMINE GROSS RECEIPTS.**~~

6 ~~The Tax Collector may, in his or her reasonable discretion, independently establish a person or~~
7 ~~combined group's gross receipts from the lease of Commercial Space in properties in the City and~~
8 ~~establish or reallocate gross receipts among related entities so as to fairly reflect the gross receipts~~
9 ~~from the lease of Commercial Space in properties in the City of all persons and combined groups.~~

10
11 ~~**SEC. 3610. CONSTRUCTION AND SCOPE OF THE COMMERCIAL RENTS TAX**~~
12 ~~**ORDINANCE.**~~

13 ~~(a) This Article 36 is intended to authorize application of the Commercial Rents Tax in the~~
14 ~~broadest manner consistent with its provisions and with the California Constitution, the United States~~
15 ~~Constitution, and any other applicable provision of federal or state law.~~

16 ~~(b) The Commercial Rents Tax imposed by this Article 36 is in addition to all other City taxes,~~
17 ~~including the gross receipts tax imposed by Article 12 A 1 of the Business and Tax Regulations Code,~~
18 ~~as amended from time to time. Accordingly, by way of example and not limitation, persons subject to~~
19 ~~both the Commercial Rents Tax and the gross receipts tax shall pay both taxes. Persons exempt from~~
20 ~~either the gross receipts tax or the Commercial Rents Tax, but not both, shall pay the tax from which~~
21 ~~they are not exempt.~~

1 ~~SEC. 3611. ADMINISTRATION OF THE COMMERCIAL RENTS TAX ORDINANCE.~~

2 ~~Except as otherwise provided under this Article 36, the Commercial Rents Tax Ordinance shall~~
3 ~~be administered pursuant to Article 6 of the Business and Tax Regulations Code, as amended from time~~
4 ~~to time.~~

5
6 ~~SEC. 3612. DEPOSIT OF PROCEEDS.~~

7 ~~The Commercial Rents Tax is a general tax. Proceeds of the Commercial Rents Tax are to be~~
8 ~~deposited in the City's general fund and can be spent for any City purposes.~~

9
10 ~~SEC. 3613. AMENDMENT OF ORDINANCE.~~

11 ~~The Board of Supervisors may amend or repeal this Article 36 by ordinance without a vote of~~
12 ~~the people except as limited by Article XIII C of the California Constitution.~~

13
14 ~~SEC. 3614. EFFECT OF STATE AND FEDERAL AUTHORIZATION.~~

15 ~~To the extent that the City's authorization to impose or to collect any tax imposed under this~~
16 ~~Article 36 is expanded or limited as a result of changes in state or federal statutes, regulations, or other~~
17 ~~laws, or judicial interpretations of those laws, no amendment or modification of this Article shall be~~
18 ~~required to conform the taxes to those changes, and the taxes are hereby imposed in conformity with~~
19 ~~those changes, and the Tax Collector shall collect them to the full extent of the City's authorization up~~
20 ~~to the full amount and rate of the taxes imposed under this Article.~~

21
22 ~~SEC. 3615. SEVERABILITY.~~

23 ~~(a) Except as provided in Section 3615(b), below, if any section, subsection, sentence, clause,~~
24 ~~phrase, or word of this Article 36, or the application thereof to any person or circumstance, is for any~~
25 ~~reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such~~

1 ~~decision shall not affect the validity of the remaining portions of this Article, including the application~~
2 ~~of such portions to other persons or circumstances. The People of the City and County of San~~
3 ~~Francisco hereby declare that, except as provided in Section 3615(b), they would have adopted each~~
4 ~~section, subsection, sentence, clause, phrase, and word of this Article not declared invalid or~~
5 ~~unconstitutional without regard to whether any other portion of this Article would be subsequently~~
6 ~~declared invalid or unconstitutional.~~

7 ~~(b) If the imposition of the Commercial Rents Tax in Section 3603 of this Article 36 is held in~~
8 ~~its entirety to be facially invalid or unconstitutional in a final judicial decision, the remainder of this~~
9 ~~Article 36 shall be void and of no force and effect, and the City Attorney shall cause it to be removed~~
10 ~~from the Business and Tax Regulations Code.~~

11
12 **~~SEC. 3616. SAVINGS CLAUSE.~~**

13 ~~No section, clause, part, or provision of this Article 36 shall be construed as requiring the~~
14 ~~payment of any tax that would be in violation of the Constitution or laws of the United States or of the~~
15 ~~Constitution or laws of the State of California.~~

16
17 Section 6. Effective Date. This ordinance shall become effective 30 days after
18 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
19 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
20 of Supervisors overrides the Mayor's veto of the ordinance.

21
22 Section 7. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
23 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
24 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
25 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment

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

3
4 Section 8. Severability. If any section, subsection, sentence, clause, phrase, or word
5 of this ordinance, or any application thereof to any person or circumstance, is held to be
6 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
7 shall not affect the validity of the remaining portions or applications of the ordinance. The
8 Board of Supervisors hereby declares that it would have passed this ordinance and each and
9 every 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 APPROVED AS TO FORM:
14 DENNIS J. HERRERA, City Attorney

15 By: /s/
16 KERNE H. O. MATSUBARA
Deputy City Attorney

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LEGISLATIVE DIGEST

[Business and Tax Regulations Code - Administrative Provisions]

Ordinance amending the Business and Tax Regulations Code to revise its common administrative provisions and other provisions to implement Proposition F amending the gross receipts tax and repealing the payroll expense tax and Proposition L imposing the overpaid executive gross receipts tax, approved at the November 3, 2020, election, and make clarifying and other nonsubstantive changes.

Existing Law

Voters approved Propositions F and L at the November 3, 2020 election. Proposition F amended business registration fees for certain small businesses beginning in the 2021-22 fiscal year, and modified the Gross Receipts Tax and repealed the Payroll Expense Tax beginning with the 2021 tax year. Proposition F also added tax provisions to the Business and Tax Regulations Code that would have taken effect if then-pending litigation invalidated the Homelessness Gross Receipts Tax and/or the Early Care and Education Commercial Rents Tax. Proposition L added Article 33 to the Business and Tax Regulations Code to impose the Overpaid Executive Gross Receipts Tax on businesses with a greater than 100:1 ratio of the compensation of the business's highest-paid managerial employee to the median compensation paid to the business's employees based in the City.

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 administrative provisions, as applicable, to the Overpaid Executive Gross Receipts Tax. It would also amend the administrative provisions to make them consistent with the changes approved by Proposition F, including the repeal of the Payroll Expense Tax, and would renumber certain sections and make other nonsubstantive and clarifying changes.

The courts have upheld the validity of the Homelessness Gross Receipts Tax and the Early Care and Education Commercial Rents Tax. Accordingly, this ordinance would remove from the Business and Tax Regulations Code the provisions added to that Code by Proposition F in the event those taxes had been invalidated. This ordinance also would remove Article 12-B, which relates to certain business tax refunds for the 2000 tax year and is obsolete, from the Business and Tax Regulations Code.

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