

1 [Limitation Period for Filing Tax Claim]
2 AMENDING ARTICLE 6 OF PART III OF THE SAN FRANCISCO MUNICIPAL CODE BY
3 AMENDING SECTION 6.15-1 TO PROVIDE THAT ANY CLAIM FOR REFUND OF TAXES
4 PAID BE FILED WITHIN SIX MONTHS FROM THE TIME THE RETURN WAS FILED OR
5 THE TAX WAS PAID, WHICHEVER PERIOD EXPIRES LATER, WITH THE EXCEPTION
6 THAT IN NO EVENT SHALL SUCH PERIOD EXPIRE PRIOR TO THE SHORTEST PERIOD
7 ALLOWABLE FOR FILING TAX REFUND CLAIMS UNDER TITLE 1, DIVISION 3.6, PART 3,
8 SECTION 911.2 OF THE CALIFORNIA GOVERNMENT CODE.

9 Note: Additions are underlined; deletions are in ((double parentheses)).

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

11 Section 1. The following are findings of the Board of Supervisors regarding the purpose
12 of prior law:

13 The specific legislative intent of the Board of Supervisors in enacting the 90-day
14 limitation period previously set forth in Section 6.15-1(a) of the San Francisco Municipal Code
15 was to provide prompt notice to the City and County of San Francisco of challenges to the
16 validity of taxes imposed under Part III of the Municipal Code to enable the City and County of
17 San Francisco to cure any defect in such tax in the current taxable year, and thereby protect
18 the revenues of the City and County of San Francisco. The City and County of San Francisco
19 selected that 90-day period believing, and still believes, that, as a Charter City, it has
20 sovereign power over municipal affairs under article XI, section 5, subdivision (a) of the
21 California Constitution to adopt claim-filing procedures and periods of limitations independent
22 of the enabling legislation contained in Title 1, Division 3.6, Part 3 (sections 900 et seq.) of the
23 California Government Code.

24 Section 2. The following are findings of the Board of Supervisors regarding the purpose
25 of amending prior law:

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1 The specific legislative intent of the Board of Supervisors in enacting the limitation
2 periods now set forth in Section 6.15-1(b) of the San Francisco Municipal Code is to conform
3 the local limitations period with the periods established by the California Tort Claims Act. The
4 Tort Claims Act limitations periods have been in place since 1963, are familiar to the bench
5 and bar, and are the subject of an established body of case law that will aid in the
6 interpretation and application of this ordinance. Further, reliance on the limitations scheme
7 long established by the Tort Claims Act is recommended by the League of California Cities
8 and it is likely that many cities throughout the state will follow that recommendation.
9 Accordingly, this ordinance promotes uniform limitations periods both with respect to similar
10 provisions of State law and with respect to the practice of other local governments in the
11 State.

12 Section 3. Article 6 of Part III of the San Francisco Municipal Code is hereby amended
13 by amending Section 6.15-1, to read as follows:

14 **SEC. 6.15-1. REFUNDS.** (a) Except as otherwise provided in subdivision (c) below,
15 whenever the amount of any tax, interest or penalty has been overpaid or paid more than
16 once, or has been erroneously or illegally collected or received by the City and County under
17 Part III of the Municipal Code, ((that amount)) so much of the tax as has been overpaid or
18 paid more than once or has been erroneously collected or received by the City and County of
19 San Francisco may be refunded, provided a verified claim in writing therefor, stating under
20 penalty of perjury the specific grounds upon which the claim was founded, with specificity
21 sufficient to enable the Tax Collector to understand and evaluate the claim, is filed with the
22 Tax Collector within ((three years of the day of payment. Any claim for refund of taxes paid
23 based on a violation of the United States or California Constitutions or a violation of a United
24 States or California statute must be made within 90 days of the payment of the taxes for which
25 the refund is claimed and must state the grounds on which the claim is based)) six months

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1 from time the return was due or the tax was paid, whichever of such periods expires later;
2 provided, however, that in no event shall the period to file such claim expire prior to shortest
3 period allowable for filing a tax refund claim under Title 1, Division 3.6, Part 3, section 911.2 of
4 the California Government Code or any successor provision as amended from time to time.
5 For purposes of this section 6.15-1, a claim shall be deemed to accrue on the later of the date
6 the return was due or the tax was paid.

7 (b) The claim shall be on a form furnished by the Tax Collector. A refund claim may
8 only be signed by the taxpayer or other person determined to be liable for the tax or said
9 person's guardian or conservator. No other agent, including the taxpayer's attorney, may sign
10 a refund claim. Class claims for refunds shall not be permitted. If the claim is approved by the
11 department which collected said tax and by the Controller, the excess amount collected or
12 paid may be refunded or may be credited on any amount due and payable, from the person
13 from whom it was collected or by whom paid and the balance may be refunded to such
14 person, his administrator or executors.

15 (c) The Tax Collector, in his or her discretion and upon good cause shown, may
16 waive the requirement set forth in subdivision (a) above that a taxpayer file a verified claim in
17 writing stating under penalty of perjury the specific grounds upon which a claim for refund is
18 founded in any case in which the Tax Collector can and does determine on the basis of other
19 evidence presented to him or her that (i) an amount of tax, interest or penalty has been
20 overpaid or paid more than once, or has been erroneously or illegally collected or received by
21 the City and County under Part III of the Municipal Code, and (ii) all other conditions
22 precedent to the payment of a refund to the taxpayer have been satisfied.

23 (d) Transitional Rule. The period of limitation for filing claims as amended
24 by this Ordinance shall not be applied to extinguish existing causes of action.
25 However, pursuant to *Brown v. Bleiberg* (1982) 32 Cal. 3d 426, a cause of action that is not

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1 time-barred as of the effective date of this amendment shall expire on the date six months
2 after the effective date of this amendment or on the date such cause of action would have
3 expired in the absence of this amendment, whichever of such dates occurs first. The Clerk of
4 the Board of Supervisors is directed to remove this subdivision (d) from this section 6.15-1
5 upon the expiration of a 42-month period commencing on the effective date of this
6 amendment.

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8 APPROVED AS TO FORM:

9 LOUISE H. RENNE, City Attorney

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12 By:


13 GEORGE W. PUTRIS
14 Deputy City Attorney
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City and County of San Francisco

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

Tails

Ordinance

File Number: 000183

Date Passed:

Ordinance amending Article 6 of Part III of the San Francisco Municipal Code by amending Section 6.15-1 to providing that any claim for refund of taxes paid be filed within six months from the time the return was filed or the tax was paid, whichever period expires later, with the exception that in no event shall such period expire prior to the shortest period allowable for filing tax refund claims under Title 1, Division 3.6, Part 3, Section 911.2 of the California Government Code.

March 20, 2000 Board of Supervisors — PASSED, ON FIRST READING

Ayes: 10 - Ammiano, Becerril, Brown, Katz, Kaufman, Leno, Newsom, Teng,
Yaki, Yee

Absent: 1 - Bierman

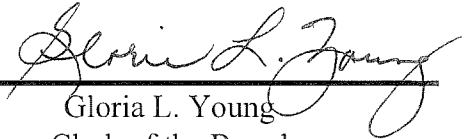
March 27, 2000 Board of Supervisors — FINALLY PASSED

Ayes: 9 - Ammiano, Becerril, Brown, Kaufman, Leno, Newsom, Teng, Yaki, Yee

Absent: 2 - Bierman, Katz

File No. 000183

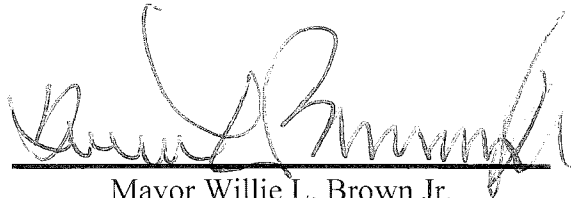
I hereby certify that the foregoing Ordinance
was FINALLY PASSED on March 27, 2000
by the Board of Supervisors of the City and
County of San Francisco.



Gloria L. Young
Clerk of the Board

APR - 7 2000

Date Approved



Mayor Willie L. Brown Jr.