Ordinance amending Section 6.17-2 of the Business and Tax Regulations Code by adding an additional "substantial underreporting" penalty equal to fifty percent of the unreported tax for underreporting a tax liability by twenty-five percent or more.

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

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

Section 1. The San Francisco Business and Tax Regulations Code is hereby amended by amending Section 6.17-2, to read as follows:

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

(a) Penalties for taxpayer negligence. If the Tax Collector determines that all or part of any tax required to be reported on any return was underreported and that such underreporting was attributable to negligence or intentional disregard of rules and regulations, the Tax Collector may impose a penalty upon the taxpayer in the amount of 5 percent of the amount of the underreported tax, in addition to the tax or amount of tax, if the negligence or intentional disregard of rules and regulations is for not more than one month, with an additional 5 percent for each month or fraction of a month during which such negligence or intentional disregard of rules and regulations continues, up to 20 percent in the aggregate.

(b) Penalties for intentional disregard of rules, fraud, or intent to evade tax. When it is determined by the Tax Collector that all or part of any tax required to be reported on any return was underreported and such underreporting was attributable to fraud or an intent to evade the Business and Tax Regulations Code, the Tax Collector may impose a penalty upon
the taxpayer in the amount of 50 percent of the amount of the underreported tax. The taxpayer or other person determined to be liable for penalties pursuant to this Section are entitled to a notice of such determination to be issued in accordance with the provisions of Section 6.11-1 et seq. and to the appeal rights set forth in Sections 6.13-1 et seq.

(c) Additional penalty for substantial underreporting.

(1) For purposes of this section, "substantial underreporting of tax" means the tax finally determined by the Tax Collector under Articles 7, 9, 10, 10B, 11, or 12-A of this Business and Tax Regulations Code exceeds the amount of tax reported on a taxpayer's original or amended return for a taxable period by 25 percent or more.

(2) If the Tax Collector determines that a taxpayer has made a substantial underreporting of tax for any taxable period, the Tax Collector may impose an additional penalty in an amount equal to 50 percent of the tax attributable to the substantially underreported amount. The penalty for substantial underreporting is in addition to any other penalty imposed under this Article 6.

(3) The additional penalty for substantial underreporting applies to all taxable periods ending on or after the effective date of this Ordinance.

(4) The City shall use no less than 50% of the penalties collected pursuant to this subsection (c) for technology costs in the Office of the Treasurer—Tax Collector related to collection of business taxes, fees and licenses.

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

By: Jean H. Alexander
Deputy City Attorney
File Number: 100247          Date Passed: May 11, 2010

Ordinance amending Section 6.17-2 of the Business and Tax Regulations Code by adding an additional "substantial underreporting" penalty equal to fifty percent of the unreported tax for underreporting a tax liability by twenty-five percent or more.

May 04, 2010 Board of Supervisors - PASSED, ON FIRST READING
   Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell and Mirkarimi

May 11, 2010 Board of Supervisors - FINALLY PASSED
   Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell and Mirkarimi

File No. 100247

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 5/11/2010 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayor Gavin Newsom

3/21/2010
Date Approved