[Payroll Expense Tax Biotechnology Exclusion Amendment.]

Ordinance amending Section 906.1 of the San Francisco Business and Tax Regulations Code to clarify the definition of "biotechnology business" and to allow applicants to claim the biotechnology exclusion for seven and one half years irrespective of the application date.

NOTE: Additions are single-underline italics Times New Roman; deletions are strike-through 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 906.1 to read as follows:

SEC. 906.1. BIOTECHNOLOGY EXCLUSION.

(a) Any person engaging in biotechnology business within the city may exclude from their payroll expense all compensation paid to, on behalf of or for the benefit of all employees of that person, and all distributions by an Association by way of salary to those having an ownership interest in such Association, who or that perform substantially all work or render substantially all services in direct support of such person's biotechnology business, subject to the conditions and limitations set forth in this Section. For purposes of this Section, outside contractors shall not be considered employees of the biotechnology business. For purposes of this Section, "biotechnology business" means conducting biotechnology research and experimental development, and operating laboratories for biotechnology research and experimental development, using recombinant DNA, cells fusion, and/or bioprocessing techniques, as well as the application thereof to the development of therapeutics, diagnostic products and/or devices to improve human health, animal health, and agriculture.
(b) For purposes of this section, "DNA" is a nucleic acid sequence, or fragment thereof, that contains the genetic information for cell growth, division, and function. Examples of DNA include recombinant DNA, RNA, mRNA, antisense, RNAi, genes and ESTs.

(c) For purposes of this section, "cells" are membrane bound structures containing biomolecules, such as nucleic acids, proteins, and polysaccharides. This definition includes both prokaryotic (bacterial) and eukaryotic (animal or plant) cells. Examples include primary cells, transformed or cultured cells, stem cells, iPS, ESCs, fused cells and cell lines.

(d) For purposes of this section, "bioprocessing" is the use of microbial, plant, or animal cells or portions thereof, for the production of therapeutics or diagnostics. Bioprocessing includes the extraction of compounds from biomaterials; reaction of biomaterials, such as microbial fermentation, cell culture, cell fusion or biotransformation by enzymes; and separation of product from biomaterials using filtration, purification, precipitation, centrifugation, solvents, chromatography or other means.

(j) In order to be eligible for the payroll expense tax exclusion authorized under this Section, persons wishing to claim the exclusion must:

(1) Complete and submit an initial application to the Director of the Department of Public Health or his or her designee for review and evaluation. The Director of the Department of Public Health, or his or her designee shall have authority to develop eligibility criteria for the
biotechnology exclusion, which shall include participation in the City's First Source Hiring Program as defined in Section 83.4 of the Administrative Code.

(2) After approval, file an annual affidavit with the Department of Public Health affirming that they continue to meet the eligibility criteria as determined by the Department of Public Health. The affidavit must be filed with the Department of Public Health on or before January 31 of every year after the year the application is first approved.

(3) Maintain a reasonable method of documentation that can be reviewed or verified objectively that tracks how employees whose compensation qualifies for the payroll expense tax exclusion spend their time at work, and provide such documentation to the Tax Collector upon request.

(4) File an annual Payroll Expense Tax Return with the Tax Collector regardless of the amount of tax liability shown on the return after claiming the exclusion provided for in this Section.

(5) File annual affidavits with the Office of Economic and Workforce Development detailing the total number of individuals hired, the number of individuals hired who were referred by the San Francisco Workforce Development System, and the duration of employment for each individual hired. The affidavits must be filed with the Office of Economic and Workforce Development on or before January 31 of every year after the year the application is first approved.

The biotechnology exclusion authorized under this Section shall expire on the tenth anniversary date of the effective date of this Section. A person may not use or claim any unused portion of the seven and one-half year biotechnology exclusion after the expiration date of this Section. Unless exempted under Sections 906 of this Article, every person engaging in the biotechnology business in the City shall pay the tax imposed under this Article on the full amount of the person's payroll expense attributable to the City from and after the expiration of this Section.
(dh) If a person's taxable payroll for any year does not exceed the small business exemption amount as defined in Section 905-A, the person shall be exempt from payment of the Payroll Expense Tax for that year. If a person's calculated liability for the Payroll Expense Tax does not exceed $2,500 for the tax year after applying the biotechnology exclusion under this Section, the person shall be exempt from payment of the Payroll Expense Tax for that tax year as provided in Section 905-A.

[(ei) Reserved. ]

(ff) The Tax Collector shall submit an annual report to the Board of Supervisors for each year for which the biotechnology exclusion authorized under this Section is available that sets forth aggregate information on the dollar value of the biotechnology exclusions taken each year, the number of businesses taking the exclusion, the change in the number of biotechnology businesses engaging in business in the City, and any increase or decrease in the number of jobs in the biotechnology business sector compared to the number of jobs in the biotechnology business sector for the immediately preceding calendar year.

(gk) The Assessor-Recorder and the Tax Collector shall jointly prepare and submit an annual report to the Board of Supervisors for each year for which the biotechnology exclusion authorized under this Section is available that sets forth any increases in property taxes resulting from biotechnology businesses location, relocation or expansion to or within the City.

(hl) The Mayor's Office of Economic Development shall coordinate community educational workshops on the biotechnology industry.

(im) The Controller, after five years from the enactment of this Ordinance, shall perform an assessment and review of the effect of the biotechnology tax exclusion. Based on such assessment and review the Controller shall prepare and submit an analysis to the Board of Supervisors. The analysis shall be based on criteria deemed relevant by the Controller, and
may include but is not limited to, data contained in the annual reports to the Board of
Supervisors as required by subsections (f) and (a) of Section 1.

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

By: Carol A. Boardman
Deputy City Attorney
Ordinance amending Section 906.1 of the San Francisco Business and Tax Regulations Code to clarify the definition of "biotechnology business" and to allow applicants to claim the biotechnology exclusion for seven and one half (7.5) years irrespective of the application date.

April 20, 2010 Board of Supervisors - SUBSTITUTED

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

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

May 04, 2010 Board of Supervisors - PASSED ON FIRST READING AS AMENDED
Ayes: 9 - Alioto-Pier, Campos, Chiu, Chu, Dufty, Elsbernd, Mar, Maxwell and Mirkarimi
Noes: 2 - Avalos and Daly

May 11, 2010 Board of Supervisors - FINALLY PASSED
Ayes: 9 - Alioto-Pier, Campos, Chiu, Chu, Dufty, Elsbernd, Mar, Maxwell and Mirkarimi
Noes: 2 - Avalos and Daly
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

5/21/2010
Date Approved