Ordinance amending the Business and Tax Regulations Code by: 1) revising the minimum filing amounts for the payroll expense tax and gross receipts tax and making the amounts consistent with administrative requirements for the small business exemptions; 2) clarifying penalty and interest provisions; 3) clarifying that each member of a combined group engaged in business in San Francisco must register with the Tax Collector; 4) clarifying when annual adjustments must be made to the business registration fee; 5) clarifying the basis of the business registration fee; and 6) deleting obsolete registration provisions.

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

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

Section 1. The Business and Tax Regulations Code is hereby amended by revising Article 6, Sections 6.9-2, 6.9-3, and 6.17-1, to read as follows:

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

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

(b) **Minimum Filing Amount.** Notwithstanding any other provision of this Section, and
commencing with tax years beginning on or after January 1, 2014:

(1) With respect to each tax year, the Tax Collector may exempt from the annual tax
return filing requirement those taxpayers whose liability under the Payroll Expense Tax Ordinance-A
person whose combined taxable payroll expense in the City under the Payroll Expense Tax Ordinance
(Article 12-A), computed without regard to the small business exemption set forth in
Section 905-A of Article 12-A, is less than $150,000, shall be exempt from filing a payroll expense
tax return. The Minimum Filing Amount for such tax year. For purposes of this Section, the Minimum
Filing Amount shall be an amount of tax liability, computed without regard to such small business
exemption, between zero and $2,250. The Tax Collector shall specify the Minimum Filing Amount prior
to the beginning of each tax year. If the Tax Collector fails to specify a Minimum Filing Amount prior
to the start of a new tax year, the Minimum Filing Amount for such tax year shall be the Minimum
Filing Amount for the preceding tax year.

(2) Notwithstanding any other provision of this Section, commencing with tax years
beginning on or after December 31, 2013, a A person, other than a lessor of residential real estate as
that term is used in Section 954.1 of Article 12-A-1, taxpayer whose combined taxable gross
receipts in the City under the Gross Receipts Tax Ordinance (Article 12-A-1), computed

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without regard to the small business tax exemption set forth under Section 954.1 of Article 12-A-1, is less than $500,000, shall be exempt from filing a gross receipts tax return.

(3) A lessor of residential real estate, as that term is used in Section 954.1 of Article 12-A-1, who leases fewer than 4 units in any individual building, shall be exempt from filing a gross receipts tax return.

SEC. 6.9-3. DETERMINATIONS, RETURNS AND PAYMENTS.

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

(1) Hotel and Parking Taxes. The Hotel Tax (Article 7) and the Parking Tax (Article 9) returns shall be filed monthly and taxes shall be remitted monthly. Such monthly remittances shall be due and payable to the Tax Collector on or before the last day of the month immediately following the month for which such remittance is due.

(2) Payroll Expense Tax and Gross Receipts Tax. The payroll expense tax (Article 12-A) and the gross receipts tax (Article 12-A-1) shall be paid in quarterly installments as follows:

(A) Due Dates. Every person liable for payment of payroll expense tax or gross receipts tax for any tax year shall pay such tax for that tax year in 4 quarterly installments. The first, second, and third quarterly installments shall be due and payable, and shall be delinquent if not paid on or before, April 30, July 31, and October 31, respectively, of that tax year. The fourth installment shall be reported and paid on or before the last day of February of the immediately following tax year.
(B) Installment Payments.

(i) The first, second, and third quarterly installments shall be a credit against the person's total payroll expense tax or gross receipts tax, as applicable, for the tax year in which such first, second, and third quarterly installments are due. The fourth quarterly installment shall be in an amount equal to the person's total payroll expense tax or gross receipts tax liability for the tax year, as applicable, less the amount of the payroll expense tax or gross receipts tax first, second, and third quarterly installments and other tax payments, if any, actually paid.

(ii) Payroll Expense Tax Installments. A person's first, second, and third quarterly installment payments of payroll expense tax for any tax year shall be computed by using the person's taxable payroll expense (as defined under Article 12-A) for each quarter and the rate of tax applicable to the tax year in which the first, second, and third quarterly installments are due. Notwithstanding the foregoing sentence, and except for taxpayers under Section 953.8 of Article 12-A-1, for tax years commencing after December 31, 2013, the first, second, and third quarterly installments shall be computed using the rates set forth in the following table:

<table>
<thead>
<tr>
<th>Tax Year</th>
<th>1st, 2nd and 3rd Installments</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014</td>
<td>1.350%</td>
</tr>
<tr>
<td>2015</td>
<td>1.125%</td>
</tr>
<tr>
<td>2016</td>
<td>0.750%</td>
</tr>
<tr>
<td>2017</td>
<td>0.375%</td>
</tr>
<tr>
<td>2018</td>
<td>0.000%</td>
</tr>
</tbody>
</table>
(iii) **Gross Receipts Tax Installments.** A person’s first, second, and third quarterly installments of gross receipts tax for any tax year shall be computed by using the person’s taxable gross receipts (as defined under Article 12-A-1) for each quarter and the rate of tax applicable to the tax year in which the first, second and third quarterly installments are due. Notwithstanding the foregoing sentence, and except for taxpayers under Section 953.8 of Article 12-A-1, for tax years commencing after December 31, 2013, the first, second and third quarterly installments shall be computed using the rates applicable to the person’s taxable gross receipts under Sections 953.1 through 953.7 of Article 12-A-1, multiplied by the percentages set forth in the following table:

<table>
<thead>
<tr>
<th>Tax Year</th>
<th>1st, 2nd and 3rd Installments</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014</td>
<td>10%</td>
</tr>
<tr>
<td>2015</td>
<td>25%</td>
</tr>
<tr>
<td>2016</td>
<td>50%</td>
</tr>
<tr>
<td>2017</td>
<td>75%</td>
</tr>
<tr>
<td>2018</td>
<td>100%</td>
</tr>
</tbody>
</table>

(C) **Computation of Liability; Payments.**

(i) A person’s total payroll expense tax liability shall be computed using the rate for that tax year computed, certified, and published by the Controller under Section 903.1 of Article 12-A or as otherwise provided in Article 12-A. A person’s total gross receipts tax liability shall be computed using the rate for that tax year computed, certified and published by the Controller under Section 959 of Article 12-A-1, or as otherwise provided in Article 12-A-1.
(ii) Any amounts paid on a person's payroll expense tax liability for a tax year that are in excess of that person's actual payroll expense tax liability for that year shall be credited to that person's gross receipts tax liability for that year. Any amounts paid on a person's gross receipts tax liability for a tax year that are in excess of that person's actual gross receipts tax liability for that year shall be credited to that person's payroll expense tax liability for that year.

(b) **Tax Installment Penalties.** Every person who fails to pay any tax installment required under this Section before the relevant delinquency date shall pay a penalty in the amount of 5 percent of the amount of the delinquent tax installment per month, or fraction thereof, up to 20 percent in the aggregate, and shall also pay interest on the amount of the delinquent tax installment from the date of delinquency at the rate of 1 percent per month, or fraction thereof, for each month the installment is delinquent, until paid.

The penalty and interest provided under this subsection shall not apply if each of the payroll expense tax and gross receipts tax payments are equal to or greater than the actual tax owed for that quarter, or the sum of the payroll expense tax payments and gross receipts tax payments for the quarter is equal to or greater than 26 percent of the sum of the payroll expense tax and gross receipts tax liability for the immediately preceding tax year. For taxpayers under Section 953.8 of Article 12-A-1, for tax year 2014 only, the penalty and interest provided under this subsection shall also not apply if a first, second, or third gross receipts tax quarterly installment payment is in an amount that is at least 26 percent of the payroll expense tax liability for the immediately preceding tax year.

(c) **Hotel and Parking Taxes.** An operator subject to the Hotel Tax (Article 7) or the Parking Tax (Article 9) shall make monthly remittances in the amount of the actual tax owed.

(d) **Forms and Adjustments.** Tax remittances required under this Section shall be accompanied by a tax remittance form prepared by the Tax Collector, but failure of the Tax Collector to provide such a form shall not relieve the person of the tax liability.
Collector to furnish the taxpayer with a tax remittance form shall not relieve the taxpayer from any tax payment obligation.

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

(a) Any person who fails to pay any tax to the City, or any operator or other person who fails to collect and remit any third-party taxes shall pay a penalty of 5 percent of the tax, if the failure is for not more than 1 month after the tax became delinquent, plus an additional 5 percent for each following month or fraction of a month during which such failure continues, up to 20 percent in the aggregate, until the date of payment. Any taxes remaining unpaid for a period of 90 days after notification that the tax is delinquent shall be subject to an additional penalty of 20 percent of the tax or amount of the tax. The penalty and interest provided under this subSection shall not apply with respect to the payroll expense tax and the gross receipts tax if the sum of the payroll expense tax payments and gross receipts tax payments is equal to or greater than the sum of the payroll expense tax and gross receipts tax liability for that tax year.

(b) If the failure to pay any tax is due to fraud or an intent to evade the Business and Tax Regulations Code or the Tax Collector's rules and regulations, an additional penalty in the amount of 50 percent of the amount due, in addition to any other penalties and interest, shall be added thereto. A taxpayer or other person against whom a fraudulent failure to pay penalty is asserted is 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 Section 6.13-1 et seq.

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

Section 2. The Business and Tax Regulations Code is hereby amended by deleting Article 12, Section 852.3, as follows:

SEC. 852.3. "REGISTRATION TRANSITION PERIOD."

The term "Registration Transition Period" means the six-month period commencing January 1, 2003, and ending June 30, 2003.

Section 3. The Business and Tax Regulations Code is hereby amended by revising Article 12, Sections 852.1, 855, and 856, to read as follows:

SEC. 852.1. "NEWLY ESTABLISHED BUSINESS."

(a) The term "newly established business" means a business that was not conducted within the City during the immediately preceding tax year. The following shall not be considered newly established businesses:

(1) A business to which a valid existing registration certificate is transferred in accordance with Section 856(f) of this Article.

(2) A business conducted from a new location, whether within or without the City, if the business conducted at the location during the preceding tax year was discontinued prior to or concurrently with commencement of business at the new location.

(3) A business that was conducted within the City at any time during the preceding tax year.
(b) The Tax Collector may, on written application by the taxpayer, and after considering all the facts and circumstances, determine that a business described in Subsection (a) of this Section is in fact newly established and not a continuation of a business conducted within the City during the immediately preceding tax year.

SEC. 855. REGISTRATION CERTIFICATE – FEE.

(a) Fee for registration years ending on or after June 30, 2004, but ending on or before June 30, 2014. Except as otherwise provided in this Section and Section 856 of this Article, the annual fee for obtaining a registration certificate for registration years ending on or after June 30, 2004, but ending on or before June 30, 2014, payable in advance, shall be as follows:

<table>
<thead>
<tr>
<th>San Francisco Payroll Expense Tax for the Immediately Preceding Tax Year</th>
<th>Annual Registration Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than $1</td>
<td>$25</td>
</tr>
<tr>
<td>$1 to $10,000</td>
<td>$150</td>
</tr>
<tr>
<td>$10,000.01 to $50,000</td>
<td>$250</td>
</tr>
<tr>
<td>More than $50,000</td>
<td>$500</td>
</tr>
</tbody>
</table>

(b) In the event that an applicant for a registration certificate, for registration years ending on or after June 30, 2004, but ending on or before June 30, 2014, has not filed a tax return for the immediately preceding tax year as required by Section 6.9-2 of Article 6, the Tax Collector shall determine the amount of the registration fee required based on the applicant’s estimated tax liability under Article 12-A (Payroll Expense Tax Ordinance) for the period covered by the registration certificate.
(c) Fee for Registration Year Commencing July 1, 2014 and Ending June 30, 2015. Except as otherwise provided in this Section and Section 856 of this Article, the annual fee for obtaining a registration certificate, for the registration year commencing July 1, 2014 and ending June 30, 2015, payable in advance, shall be as follows:

<table>
<thead>
<tr>
<th>San Francisco Payroll Expense for the Immediately Preceding Tax Year</th>
<th>Annual Registration Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0 to $66.66</td>
<td>$75</td>
</tr>
<tr>
<td>$66.67 to $75,000</td>
<td>$150</td>
</tr>
<tr>
<td>$75,001 to $100,000</td>
<td>$250</td>
</tr>
<tr>
<td>$100,001 to $150,000</td>
<td>$500</td>
</tr>
<tr>
<td>$150,001 to $200,000</td>
<td>$700</td>
</tr>
<tr>
<td>$200,001 to $250,000</td>
<td>$800</td>
</tr>
<tr>
<td>$250,001 to $1,000,000</td>
<td>$300</td>
</tr>
<tr>
<td>$1,000,001 to $2,500,000</td>
<td>$800</td>
</tr>
<tr>
<td>$2,500,001 to $5,000,000</td>
<td>$5,000</td>
</tr>
<tr>
<td>$5,000,001 to $10,000,000</td>
<td>$15,000</td>
</tr>
<tr>
<td>$10,000,001 to $25,000,000</td>
<td>$25,000</td>
</tr>
<tr>
<td>$25,000,001 to $40,000,000</td>
<td>$30,000</td>
</tr>
<tr>
<td>$40,000,001 or more</td>
<td>$35,000</td>
</tr>
</tbody>
</table>

(d) In the event that an applicant for a registration certificate, for registration year commencing July 1, 2014 and ending June 30, 2015, has not filed a tax return for the immediately preceding tax year as required by Section 6.9-2 of Article 6, the Tax Collector shall determine the amount of the registration fee required based on the applicant’s payroll.
expense under Article 12-A (Payroll Expense Tax Ordinance) for the period covered by the registration certificate. A combined group as described in Section 956.3 of Article 12-A-1 shall apply for a certificate and calculate its fee on a combined basis.

(e) Fee for Registration Years Ending After June 30, 2015.

(1) General Rule. Except as otherwise provided in this Section and Section 856 of this Article, the annual fee for obtaining a registration certificate, for the registration years ending after June 30, 2015, payable in advance, shall be as follows:

<table>
<thead>
<tr>
<th>San Francisco Gross Receipts for the Immediately Preceding Tax Year</th>
<th>Annual Registration Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0 to $100,000</td>
<td>$90</td>
</tr>
<tr>
<td>$100,001 to $250,000</td>
<td>$150</td>
</tr>
<tr>
<td>$250,001 to $500,000</td>
<td>$250</td>
</tr>
<tr>
<td>$500,001 to $750,000</td>
<td>$500</td>
</tr>
<tr>
<td>$750,001 to $1,000,000</td>
<td>$700</td>
</tr>
<tr>
<td>$1,000,001 to $2,500,000</td>
<td>$300</td>
</tr>
<tr>
<td>$2,500,001 to $7,500,000</td>
<td>$500</td>
</tr>
<tr>
<td>$7,500,001 to $15,000,000</td>
<td>$1,500</td>
</tr>
<tr>
<td>$15,000,001 to $25,000,000</td>
<td>$5,000</td>
</tr>
<tr>
<td>$25,000,001 to $50,000,000</td>
<td>$12,500</td>
</tr>
<tr>
<td>$50,000,001 to $100,000,000</td>
<td>$22,500</td>
</tr>
<tr>
<td>$100,000,001 to $200,000,000</td>
<td>$30,000</td>
</tr>
<tr>
<td>$200,000,001 and over</td>
<td>$35,000</td>
</tr>
</tbody>
</table>
(2) **Fee for Retail Trade, Wholesale Trade and Certain Services.** Except as otherwise provided in this Section and Section 856 of this Article, for registration years ending after June 30, 2015, the annual fee for obtaining a registration certificate, payable in advance, for a business that was required to report all of its gross receipts pursuant to Article 12-A-1, Section 953.1 for the preceding tax year, shall be as follows:

<table>
<thead>
<tr>
<th>San Francisco Gross Receipts for the Immediately Preceding Tax Year</th>
<th>Annual Registration Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0 to $100,000</td>
<td>$75</td>
</tr>
<tr>
<td>$100,001 to $250,000</td>
<td>$125</td>
</tr>
<tr>
<td>$250,001 to $500,000</td>
<td>$200</td>
</tr>
<tr>
<td>$500,001 to $750,000</td>
<td>$400</td>
</tr>
<tr>
<td>$750,001 to $1,000,000</td>
<td>$600</td>
</tr>
<tr>
<td>$1,000,001 to $2,500,000</td>
<td>$200</td>
</tr>
<tr>
<td>$2,500,001 to $7,500,000</td>
<td>$400</td>
</tr>
<tr>
<td>$7,500,001 to $15,000,000</td>
<td>$1,125</td>
</tr>
<tr>
<td>$15,000,001 to $25,000,000</td>
<td>$3,750</td>
</tr>
<tr>
<td>$25,000,001 to $50,000,000</td>
<td>$7,500</td>
</tr>
<tr>
<td>$50,000,001 to $100,000,000</td>
<td>$15,000</td>
</tr>
<tr>
<td>$100,000,001 to $200,000,000</td>
<td>$20,000</td>
</tr>
<tr>
<td>$200,000,001 and over</td>
<td>$30,000</td>
</tr>
</tbody>
</table>

(f) Except as provided in subsection (g) (Administrative Office Business Activities), in the event that an applicant for a registration certificate, for a registration year ending after June 30, 2015, has not filed a tax return for the immediately preceding tax year as required by Supervisor Chiu

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Section 6.9-2 of Article 6, the Tax Collector shall determine the amount of the registration fee required based on the applicant’s estimated gross receipts under Article 12-A-1 (Gross Receipts Tax Ordinance) for the period covered by the registration certificate.

(g) **Fee for Administrative Office Business Activities.** Except as otherwise provided in this Section and Section 856 of this Article, the annual fee for obtaining a registration certificate for Administrative Office Business Activities under Section 953.8 of Article 12-A-1, for the registration years ending after June 30, 2015, payable in advance, shall be as follows:

<table>
<thead>
<tr>
<th>San Francisco Payroll Expense for Immediately Preceding Tax Year</th>
<th>Annual Registration Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0 to $2,500,000</td>
<td>$15,000</td>
</tr>
<tr>
<td>$2,500,001 to $25,000,000</td>
<td>$25,000</td>
</tr>
<tr>
<td>$25,000,000 or more</td>
<td>$35,000</td>
</tr>
</tbody>
</table>

(h) In the event that an applicant for a registration certificate for Administrative Office Business Activities under Section 953.8 of Article 12-A-1, for a registration year ending after June 30, 2015, has not filed a tax return for the immediately preceding tax year as required by Section 6.9-2 of Article 6, the Tax Collector shall determine the amount of the registration fee required based on the applicant’s estimated payroll expense under Article 12-A-1 for the period covered by the registration certificate.

(i) The amount of annual registration fee under subsections (e), (f), and (g) of this Article 12, Section 855, for all registration years ending after June 30, 2016, shall be adjusted annually in accordance with the increase in the Consumer Price Index: All Urban Consumers for the San Francisco/Oakland/San Jose Area for All Items as reported by the United States
Bureau of Labor Statistics, or any successor to that index, as of December 31st of the preceding year, beginning July 1, 2016.

(j) Any organization having a formally recognized exemption from income taxation pursuant to Section 501(c), 501(d) or 401(a) of the Internal Revenue Code of 1986, as amended, as qualified by Sections 502, 503, 504 and 508 of the Internal Revenue Code of 1986, as amended, shall not be required to pay a registration fee under this Article unless the organization is also engaged within the City in an unrelated trade or business within the meaning of Section 906 of Article 12-A or Section 954 of Article 12-A-1.

(k) A person shall be exempt from paying the registration fee required by this Section if and to the extent that, and only so long as, federal or state law prohibits the imposition of the registration fee upon such person.

(kl) The business registration fee is a tax imposed for general governmental purposes and may not be extended or increased without a vote of the people, as provided in Article XIIIC of the California Constitution. This tax may be collected in any manner legally permitted to the City.

SEC. 856. REGISTRATION CERTIFICATE – APPLICATION AND ISSUANCE.

(a) Each person engaging in business within the City shall apply to the Tax Collector for a registration certificate, using the form prescribed by the Tax Collector. The application shall be accompanied by the person's registration fee as determined under this Article, except for the initial application filed for a person that is part of a combined group (as described in Section 956.3 of Article 12-A-1) where the combined group has already paid the fee on a combined basis. A combined group as described in Section 956.3 of Article 12-A-1 shall apply for a separate certificate for each person in the combined group that is engaging in business within the City.
but shall calculate and remit its fee on a combined basis and shall file only one application for renewal for all entities in the combined group.

(b) A person shall have 15 days after commencing business within the City to apply for a registration certificate. The registration fee for newly-established businesses shall be prorated as follows:

(1) For the registration year commencing on or after July 1, 2014 and ending June 30, 2015, the fee for obtaining a registration certificate for a newly established business shall be determined pursuant to Section 855(c) of this Article using the applicant's estimated payroll expense under Article 12-A (Payroll Expense Tax Ordinance) for the tax year in which the person commences such business within the City. For registration years commencing on or after July 1, 2015, the fee for obtaining a registration certificate for a newly established business shall be determined pursuant to Section 855(e) of this Article using the applicant's estimated gross receipts under Article 12-A-1 (Gross Receipts Tax Ordinance) for the tax year in which the person commences such business within the City. The registration fee shall be prorated as follows: For persons commencing business between January 1st and March 31st, the registration fee shall be 50 percent of the annual fee; for persons commencing business between April 1st and June 30th, the registration fee shall be 25 percent of the annual fee; for persons commencing business between July 1st and September 30th, the registration fee shall be 100 percent of the annual fee; and for persons commencing business between October 1st and December 31st, the registration fee shall be 75 percent of the annual fee. Where a registration certificate is issued for a period other than for a registration year, the Tax Collector shall have discretion to prorate the registration fee in accordance with this model.

(2) Notwithstanding any other provision of this Article, no person obtaining a registration certificate for a newly established business that qualifies for the minimum
registration fee set forth in Section 855 of this Article shall be entitled to prorate the
registration fee under this Section, but instead shall pay the minimum registration fee.

(c) All applications for renewal of registration certificates shall be accompanied by the
full amount of the applicant's annual registration fee for the period covered by the registration
certificate. *A combined group shall file only one application for renewal for all entities in the
combined group.*

(d) Promptly after receiving a properly completed application and registration fee from
any person, the Tax Collector shall determine whether the applicant has paid all outstanding:
(1) gross receipts taxes; (2) payroll expense taxes; (3) costs and/or charges assessed
pursuant to Article 5.1 of the Public Works Code, as amended from time to time, for failure to
abate a nuisance regarding the cleanliness of an abutting public sidewalk or right-of-way; and
(4) other taxes and license fees due to the City. In addition, the Tax Collector may investigate
whether the applicant has paid other amounts *owing* to the City as a result of fines,
penalties, interest, assessments, or any other financial obligations imposed by law, regulation
or contract. If the Tax Collector determines that all liabilities have been paid, the Tax
Collector shall issue a registration certificate to the applicant for each place of business
maintained by the applicant.

(e) If a person submits a timely application under this Section and the Tax Collector
determines that the applicant has satisfied all the requirements of this Article, including the
payment of all outstanding liabilities owed to the City, then the Tax Collector shall issue a
registration certificate to the applicant *within the later of: (1) 30 days after the Tax Collector
makes such determination; or (2) the date on which the registration certificate would be effective.*

(f) Each registration certificate shall be non-assignable and nontransferable. The
holder of the registration certificate shall surrender the certificate to the Tax Collector
immediately upon the sale or transfer of the business for which the Tax Collector issued the
registration certificate. The holder of the registration certificate shall also surrender the
certificate to the Tax Collector when such holder ceases to conduct business at the location
designated in the certificate.

(g) If the Tax Collector determines that any liabilities enumerated in subsection (d) of
this Section remain unpaid as of the date an application is received, the Tax Collector shall
give written notification of that fact to the applicant. The written notification shall set forth the
amount owed, the liabilities enumerated in subsection (d) of this Section for which the
amount(s) are owed, the dates the liabilities were incurred and any other information the Tax
Collector deems necessary to apprise the applicant of what specific liabilities are owed to the
City. The Tax Collector shall not issue a registration certificate unless and until the applicant
has paid all amounts owing to the City, including, but not limited to, taxes, license fees, and
costs or charges assessed for failure to abate a nuisance condition on a public right-of-way
under Article 5.1 of the Public Works Code, as amended from time to time, for which the
applicant is liable; provided, that if a good faith dispute exists regarding the amount of the
outstanding liability or liabilities owed by the applicant to the City and the dispute is pending
before a City agency or court of competent jurisdiction, then the Tax Collector shall not refuse
to issue a registration certificate solely for non-payment of the amount in dispute.

(h) Each registration certificate, and each duplicate thereof, shall set forth the name
under which the person transacts or intends to transact business, the location of the
registrant's place of business and such other information as the Tax Collector may require,
and be prominently displayed therein. In the case of a sole proprietorship, the registration
certificate shall be signed by the sole proprietor; in the case of a partnership, the registration
certificate shall be signed by a general partner; in the case of a limited liability company, the
registration certificate shall be signed by the managing member; and in the case of a
corporation, the registration certificate shall be signed by the person authorized by the
corporation to sign on its behalf.

(i) Each person liable for payment of a registration fee pursuant to this Article shall pay
only one annual registration fee. The Tax Collector shall issue a separate registration
certificate for each location within the City where the person engages in business.

(j) The person may register up to 15 fictitious business names (sometimes abbreviated
DBA, dba or d/b/a) without an additional charge. The Tax Collector shall charge a fee of $25,
in addition to the registration fee, for each fictitious business name under which the business
or operation is registered to conduct business in the City in addition to the first 15 fictitious
business names registered.

(k) In addition to all other civil penalties provided for by law, the Tax Collector may
charge any person who fails to register in a timely manner a fictitious business name or a
location within the City where the person engages in business, an administrative penalty of
$500 per fictitious business name or business location that the person fails to register.

Section 4. The Business and Tax Regulations Code is hereby amended by revising
Article 12-A, Section 905-A, to read as follows:

SEC. 905-A. SMALL BUSINESS TAX EXEMPTION.

(a) Notwithstanding any other provisions of this Article, a "small business enterprise"
as hereinafter defined, shall be exempt from payment of the payroll expense tax; provided,
however, that a small business enterprise shall pay the annual registration fee pursuant to
Section 855 of Article 12.

(b) The term "small business enterprise" shall mean and include any taxpayer:
(1) Whose tax liability under this Article, but for this exemption provision, would not exceed $2,500 or, effective January 1, 2009 whose taxable payroll expense does not exceed $250,000; and

(2) Who has timely filed a tax return by the last date of February for the preceding tax year, if that person or group had payroll expense in the City of at least $150,000. If the person is required to file a tax return under this Section and taxpayer fails to file a return by that the due date, the taxpayer shall be subject to a penalty as specified in subsection (d).

(c) For the 2011 tax year, and each second succeeding tax year the Tax Collector shall increase the ceiling for the small business tax exemption (rounded to the nearest $10,000 increment) to reflect increases in the United States Department of Labor's Bureau of Labor Statistics consumer price index for all urban customers for the San Francisco-Oakland-San Jose area for each of the preceding two tax years.

(d) In lieu of the penalty and interest specified in Section 6.17-31 of Article 6 for failure to pay a return, any person who otherwise qualifies for the small business tax exemption set forth in this Section and who had payroll expense in the City of at least $150,000 who fails to timely file a return by the last date of February shall pay a penalty as follows:

(1) If the person's payroll expense tax liability under this Article, but for the small business tax exemption under this Section, would be $2,250 or more, the penalty for the first month, or fraction thereof, that the return is delinquent, shall be 5 percent of the amount of the tax liability, calculated without regard to the small business tax exemption in this Section, such liability. The penalty shall increase by an additional 5 percent for each month, or fraction thereof, that the return amount due is delinquent, plus an additional 5 percent each month, or fraction thereof, that the amount due is delinquent, up to a maximum of 20 percent of the tax liability. Any penalties remaining unpaid for a period of 90 days or more shall be subject to an additional penalty of 20 percent of the amount of the tax liability excluding penalties and interest.
(2) Penalties are due and payable when assessed. Unpaid penalties shall accrue interest at the rate of 1 percent per month, or fraction thereof, from the date that they are assessed through the date of payment. The total amount of the penalties, interest and fees shall not exceed the amount of the person's payroll expense tax liability for the period but for the small business tax exemption.

(e) The Tax Collector may, in his or her discretion, reduce the penalty set forth in subsection (d) to not less than $100 upon a showing that the late filing of the return was due to reasonable cause and not due to willful neglect.

Section 5. The Business and Tax Regulations Code is hereby amended by revising Article 12-A-1, Section 954.1, to read as follows:

SEC. 954.1. SMALL BUSINESS EXEMPTION.

(a) Notwithstanding any other provision of this Article, a "small business enterprise," as hereinafter defined for purposes of this Article 12-A-1, shall be exempt from payment of the gross receipts tax, nevertheless, a small business enterprise shall pay the annual registration fee pursuant to Section 855 of Article 12.

(b) For purposes of this Article 12-A-1, the term "small business enterprise" shall mean and include any person or combined group, except for a lessor of residential real estate:

(1) Whose gross receipts within the City for the preceding tax year did not exceed $1,000,000, adjusted annually in accordance with the increase in the Consumer Price Index: All Urban Consumers for the San Francisco/Oakland/San Jose Area for All Items as reported by the United States Bureau of Labor Statistics, or any successor to that index, as of December 31st of the preceding year, beginning with December 31, 2014; and
(2) Who *timely* filed a tax return *by the last day of February* for the preceding tax year, if that person or group had gross receipts in the City of *over at least* $500,000. If a person is required to file a tax return under this Section, and fails to file a return by *that the due date*, the taxpayer shall be subject to a penalty as specified in subsection (c).

(c) In lieu of the penalty *and interest* specified in Section 6.17-31 of Article 6 for *failure to payfile a return*, any person who otherwise qualifies for the small business exemption set forth in this Section, and who had gross receipts in the City of *over at least* $500,000, who fails to *timely* file a return *by the last date of February* shall pay a penalty as follows:

(1) The penalty for the first month, or fraction thereof, that the return is delinquent, shall be 5 percent of the amount of the tax liability, calculated without regard to the small business exemption in this Section. The penalty shall increase by an additional 5 percent each month, or fraction thereof, that the return is delinquent, up to a maximum of 20 percent of the tax liability. Any penalties remaining unpaid for a period of 90 days or more shall be subject to an additional penalty of 20 percent of the amount of the tax liability excluding penalties and interest.

(2) Penalties are due and payable when assessed. Unpaid penalties, *interest and fees* shall accrue interest at the rate of 1 percent per month, or fraction thereof, from the date that they are assessed through the date of payment. The total amount of the penalties, interest and fees shall not exceed the amount of the person’s gross receipts tax liability for the period but for the small business exemption.

(d) The Tax Collector may, at his or her discretion, reduce the penalty set forth in subsection (c) to not less than $100 upon a showing that the late filing of the return was due to reasonable cause and not due to willful neglect.

(e) For purposes of this Article 12-A-1, and notwithstanding any other provision of this Section, a lessor of residential real estate is a "small business enterprise" if and only if the
lesser leases fewer than 4 units in any individual building. "Residential real estate" means real property where the primary use of or right to use the property is for the purpose of dwelling, sleeping or lodging other than as part of the business activity of accommodations. For purposes of this Article 12-A-1, Article 12-A, and Article 12, a lessor of residential real estate is treated as a separate person with respect to each individual building in which it leases residential real estate units, notwithstanding Section 6.2-15 of Article 6, or Section 956.3 of this Article. The provisions of this subsection apply only to leasing residential real estate units within a building, and not to any business activity related to other space, either within the same building or other buildings, which is not residential real estate. The Tax Collector is authorized to determine what constitutes a separate building and the number of units in a building.

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

Section 7. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.
Section 8. Severability. If any section, subsection, sentence, clause, phrase, or word of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this ordinance would be subsequently declared invalid or unconstitutional.

Section 9. No Conflict with Federal or State Law. Nothing in this ordinance shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law.

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

By: Scott M. Reiber
Deputy City Attorney
File Number: 140798  Date Passed: October 28, 2014

Ordinance amending the Business and Tax Regulations Code by revising the minimum filing amounts for the payroll expense tax and gross receipts tax and making the amounts consistent with administrative requirements for the small business exemptions; clarifying penalty and interest provisions; clarifying that each member of a combined group engaged in business in San Francisco must register with the Tax Collector; clarifying when annual adjustments must be made to the business registration fee; clarifying the basis of the business registration fee; and deleting obsolete registration provisions.

October 08, 2014 Budget and Finance Committee - RECOMMENDED

October 21, 2014 Board of Supervisors - PASSED, ON FIRST READING
   Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

October 28, 2014 Board of Supervisors - FINALLY PASSED
   Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

File No. 140798

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 10/28/2014 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

[Signature]

Date Approved