Ordinance amending the Business and Tax Regulations Code to administer the Sugary Drinks Distributor Tax.

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 Sections 6.1-1, 6.2-17, 6.8-1, 6.9-1, 6.9-5, 6.15-1, and 6.15-2, to read as follows:

SEC. 6.1-1. COMMON ADMINISTRATIVE PROVISIONS.
(a) These common administrative provisions shall apply to Articles 6, 7, 8, 9, 10, 10B, 11, 12, 12-A, 12-A-1, and 12-B of this Code and to Chapter 105 of the San Francisco Administrative Code, unless the specific language of either Code otherwise requires. Any provision of this Article 6 that references or applies to Article 10 shall be deemed to reference or apply to Article 10B. Any provision of this Article 6 that references or applies to a tax shall be deemed to also reference or apply to a fee administered pursuant to this Article, and shall be deemed to also reference or apply to an assessment levied pursuant to the Property and Business Improvement District Law of 1994 (California Streets and Highways Code sections 36600 et seq.) or Article 15 of this Code. A fee administered pursuant to Article 6 or an assessment levied pursuant to the Property and Business Improvement District Law of 1994
or Article 15 of this Code shall for purposes of this Article be deemed to be imposed pursuant to the provisions of the Business and Tax Regulations Code.

(b) Unless expressly provided otherwise, all statutory references in this Article 6 and the Articles set forth in subsection (a) shall refer to such statutes as amended from time to time and shall include successor provisions.

(c) For purposes of this Article 6, a domestic partnership established pursuant to Chapter 62 of the San Francisco Administrative Code shall be treated the same as a married couple.

SEC. 6.2-17. RETURN.

The term "return" means any written statement required to be filed pursuant to Articles 6, 7, 8, 9, 10, 10B, 11, 12, 12-A, or 12-A-1, or pursuant to laws applicable to a fee administered pursuant to Article 6, or pursuant to laws applicable to an assessment levied pursuant to the Property and Business Improvement District Law of 1994 (California Streets and Highways Code sections 36600 et seq.) or Article 15 of this Code.

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

(a) Nothing in Articles 6, 7, 8, 9, 10, 10B, 11, 12, 12-A, or 12-A-1 shall be construed as imposing a tax upon:

(1) The City;

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

(3) The United States of America, or any of its agencies or subdivisions, except where any constitutional or statutory immunity from taxation is waived or is not applicable; or
(4) Any person exempted from the particular tax by the Constitution or statutes of the United States or the Constitution or statutes of the State of California.

(b) The foregoing exemption from taxation does not relieve an exempt party from its duty to collect, report, and remit third-party taxes.

SEC. 6.9-1. DETERMINATIONS, RETURNS AND PAYMENTS; DUE DATE OF TAXES.

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

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

(b) For the payroll expense tax (Article 12-A) and the gross receipts tax (Article 12-A-1) (including the tax on administrative office business activities imposed under Section 953.8 of Article 12-A-1), on or before the last day of February of each year;

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

(d) For the stadium operator admission tax (Article 11), within 5 days after the event, subject to the provisions of Section 804 of Article 11; and

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

(f) For the sugary drinks distributor tax (Article 8), for each quarterly period, on or before the last day of the month immediately following each calendar quarter.
SEC. 6.9-4. DETERMINATIONS, RETURNS AND PAYMENTS; EXTENSION OF TIME FOR FILING A RETURN AND PAYING TAX.

(a) For good cause, the Tax Collector, in his or her discretion, may extend, for a period not to exceed 60 days, the time for filing any return pursuant to this Article 6 or regulations prescribed by the Tax Collector. For taxes required to be deposited monthly, or for the sugary drinks distributor tax (Article 8), the Tax Collector may only extend the time for filing a return for a period not to exceed 30 days. As a condition of such extension, the person seeking the extension shall make a payment of not less than 90% of such person’s liability for such period.

(b) Failure to make the required 90% payment will result in the automatic denial of the person’s extension and the person being subject to the standard due dates in this Article 6, including any penalties, interest, fees, and other consequences of failing to file and pay by those due dates.

(c) Notwithstanding subsection (a) of this Section 6.9-4, the Tax Collector may extend any time for filing any return or payment of tax or excuse penalties for any late filing or late payment by a period not to exceed 60 days if billing or other administrative duties of the Tax Collector cannot be performed in a timely manner.

SEC. 6.9-5. DETERMINATIONS, RETURNS AND PAYMENTS; CREDITS AND EXEMPTIONS.

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

SEC. 6.15-1. REFUNDS.

*(g) Requests for Refund; Refunds Permissible Without a Claim.* The Tax Collector may authorize the Controller to refund tax, interest, or penalty payments, without a refund claim having been filed and without review by the City Attorney, if the Tax Collector determines that the amount paid exceeds the tax, penalties, and interest due. The person that made the overpayment may request such a refund from the Tax Collector on a return, amended return, or request for refund form that is issued by the Tax Collector and that is filed with the Tax Collector within the later of one year of the payment of such amount or the date the return accompanying such payment was due. The Tax Collector may also authorize the Controller to refund the overpaid tax, interest, or penalty payments on its own initiative within this one-year period. A refund requested on a return, amended return, or request for refund form under this subsection (g) shall automatically be deemed denied for purposes of subsections (a), (b), and (d) of this Section 6.15-1 if the Tax Collector does not grant or deny the refund request within one year of the date it was filed. Any action by the Tax Collector after a refund request under this subsection (g) has been deemed denied shall not constitute a denial and shall have no effect on the statute of limitations for filing a claim for refund under subsections (a)-(f) of this Section 6.15-1. In lieu of requesting a refund on a return, amended return, or request for refund form, a taxpayer may elect to apply an overpayment of the
business registration fee in Article 12, the payroll expense tax in Article 12-A, \textit{or} the gross receipts tax in Article 12-A-1 (including the tax on administrative office business activities under Section 953.8 of Article 12-A-1), \textit{or the sugary drinks distributor tax in Article 8} as a credit against the taxpayer's immediately succeeding payment or payments due of any of these tax types. Any election to apply an overpayment to the taxpayer's future liability shall be binding and may not later be changed by the taxpayer.

\textbf{SEC. 6.15-2. REFUNDS; INTEREST.}

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\textbf{* * * *}
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\begin{itemize}
\item[c] If a taxpayer elects to apply all or part of an overpayment of the business registration fee in Article 12, the payroll expense tax in Article 12-A, \textit{or} the gross receipts tax in Article 12-A-1 (including the tax on administrative office business activities under Section 953.8 of Article 12-A-1), \textit{or the sugary drinks distributor tax in Article 8} as a credit against the taxpayer's immediately succeeding payment or payments due of any of these tax types, the taxpayer will not be credited with interest on the amount so applied.
\end{itemize}

Section 2. 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.

Section 3. 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 4. Severability. If any section, subsection, sentence, clause, phrase, or word of
this ordinance, or any application thereof to any person or circumstance, is held to be invalid
or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not
affect the validity of the remaining portions or applications 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 or application
thereof would be subsequently declared invalid or unconstitutional.

Section 5. 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.

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

By: CAROLE F. RUWART
Deputy City Attorney

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Ordinance amending the Business and Tax Regulations Code to administer the Sugary Drinks Distributor Tax.

December 07, 2017 Budget and Finance Committee - RECOMMENDED

January 09, 2018 Board of Supervisors - PASSED ON FIRST READING
Ayes: 11 - Breed, Cohen, Farrell, Fewer, Kim, Peskin, Ronen, Safai, Sheehy, Tang and Yee

January 23, 2018 Board of Supervisors - FINALLY PASSED
Ayes: 11 - Breed, Cohen, Farrell, Fewer, Kim, Peskin, Ronen, Safai, Sheehy, Tang and Yee

File No. 171155

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 1/23/2018 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mark E. Farrell
Mayor

Date Approved 2/1/18