[Business and Tax Regulations Code - Administration of Vacancy Tax]

Ordinance amending the Business and Tax Regulations Code to add provisions to administer the Vacancy 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. Article 6 of the Business and Tax Regulations Code is hereby amended by revising Sections 6.1-1, 6.2-17, 6.8-1, 6.9-1, 6.9-2, 6.9-3, 6.9-4, and 6.9-5, 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, 12-B, 21, 28, 29, 30, and 32 of this Code and to Chapter 105 of the 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 also 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.

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**SEC. 6.2-17. RETURN.**

The term “return” means any written statement required to be filed under Articles 6, 7, 8, 9, 10, 10B, 11, 12, 12-A, 12-A-1, 21, 28, 29, 30, or 32, or under laws applicable to a fee administered pursuant to Article 6, or under 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, 12-A-1, 21, 28, 29, 30, or 32 shall be construed as imposing a tax upon:

1. The City, *except for the Vacancy Tax (Article 29)*;
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, 12-A-1, 21, 28, 29, 30, and 32 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), 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), the Early Care and Education Commercial Rents Tax (Article 21), the Homelessness Gross Receipts Tax (Article 28) (including the homelessness administrative office tax imposed under Section 2804(d) of Article 28), and the Cannabis Business Tax (Article 30), 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 five days after the event, subject to the provisions of Section 804 of Article 11;

(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;

(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; and

(g) For the Traffic Congestion Mitigation Tax (Article 32), for each month, on or before the last day of the following month; and

(h) For the Vacancy Tax (Article 29), on or before the last day of February of each year.
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.

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(c) Additional Requirements for Vacancy Tax. In addition to the filing requirements in Section 6.9-2(a), each person who at any time during a calendar year is an owner, lessee, or sublessee of Taxable Commercial Space, as that term is defined in Article 29 of the Business and Tax Regulations Code, shall file a Vacancy Tax return, in the form and manner prescribed by the Tax Collector, on or before the last day of February of the succeeding year.

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

(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:

* * * *
(6) **Vacancy Tax.** The Vacancy Tax (Article 29) returns shall be filed annually and taxes shall be remitted annually. Such annual remittances shall be due and payable to the Tax Collector on or before the last day of February as specified in Section 6.9-1(h).

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**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, other than a Vacancy Tax (Article 29) 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 100% of such person’s liability for such period.

(b) Failure to make the required 100% 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, 12-C, 21, 28, 29, 30, and 32, 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.

Section 2. 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 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.

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

By: /s/  
KERNE H. O. MATSUBARA  
Deputy City Attorney
City and County of San Francisco
Tails
Ordinance

File Number: 210161  Date Passed: June 22, 2021

Ordinance amending the Business and Tax Regulations Code to add provisions to administer the Vacancy Tax.

June 07, 2021 Rules Committee - RECOMMENDED

June 15, 2021 Board of Supervisors - PASSED ON FIRST READING
  Ayes: 10 - Chan, Haney, Mandelman, Mar, Peskin, Preston, Ronen, Safai, Stefani and Walton
  Excused: 1 - Melgar

June 22, 2021 Board of Supervisors - FINALLY PASSED
  Ayes: 11 - Chan, Haney, Mandelman, Mar, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

File No. 210161  I hereby certify that the foregoing Ordinance was FINALLY PASSED on 6/22/2021 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor

7/2/2021  Date Approved