

1 [Business and Tax Regulations Code - Early Care and Education Commercial Rents Tax
2 Credit and Exclusions]

3 **Ordinance amending the Business and Tax Regulations Code to provide a credit**
4 **against the Early Care and Education Commercial Rents Tax for the operation of**
5 **certain child care facilities, and to exclude from the Early Care and Education**
6 **Commercial Rents Tax base amounts subject to the hotel tax or parking tax.**

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

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

15 Section 1. Article 21 of the Business and Tax Regulations Code is hereby amended by
16 revising Section 2105 and adding Section 2106.1, to read as follows:

17 **SEC. 2105. EXEMPTIONS AND EXCLUSIONS.**

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19 (e) For purposes of this Article 21, gross receipts from the lease of Commercial Space shall not
20 include rent that is subject to the tax imposed under Articles 7 or 9 of the Business and Tax Regulations
21 Code and shall not include rent that would be subject to the tax imposed under Article 7 or
22 Article 9 but for the exemptions from that tax under Section 506 of Article 7 or Section 606 of
23 Article 9.

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1 **SEC. 2106.1. CREDIT FOR CHILD CARE FACILITIES.**

2 (a) Any person subject to the Early Care and Education Commercial Rents Tax imposed under
3 this Article 21 that leases or provides Commercial Space in a property in the City for a Qualifying
4 Child Care Facility that operates for more than six months in a tax year shall be allowed a credit
5 against the Early Care and Education Commercial Rents Tax for that tax year. If a person entitled to
6 the credit under this Section 2106.1 is required to file an Early Care and Education Commercial Rents
7 Tax return on a combined basis under Section 2107, the credit may be claimed against the Early Care
8 and Education Commercial Rents Tax liability required to be reflected on the combined return for that
9 tax year. In no event shall the credit allowed under this Section 2106.1 reduce a person or combined
10 group's Early Care and Education Commercial Rents Tax liability for any tax year to less than zero,
11 and no credit shall be allowed as a carryforward to a subsequent tax year.

12 (b) For purposes of this Section 2106.1, the credit for a tax year shall be based on the total
13 number of Infants, Toddlers, and Preschool-Age Children for which the Qualifying Child Care Facility
14 is licensed by the California Department of Social Services to provide care and shall be in the amount
15 prescribed in the table below.

<u>Number of Infants, Toddlers, and Preschool-Age Children</u>	<u>Amount of Credit</u>
<u>1 to 49</u>	<u>\$7,200</u>
<u>50 to 99</u>	<u>\$16,000</u>
<u>100 or more</u>	<u>\$36,000</u>

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20 (c) The following definitions shall apply for purposes of this Section 2106.1.

21 (1) "Qualifying Child Care Facility" means a facility that is licensed by the California
22 Department of Social Services, or any successor agency, to provide non-medical care to Infants,
23 Toddlers, Preschool-Age Children, or any combination thereof in need of personal services,
24 supervision, or assistance essential for sustaining the activities of daily living or for the protection of
25 the individual on less than a 24-hour basis in a group setting.

1 (2) “Infants” means children under two years of age.

2 (3) “Toddlers” means children between the ages of 18 months and 30 months.

3 (4) “Preschool-Age Children” means children who are enrolled in a child day care
4 center licensed by the California Department of Social Services, or any successor agency, and who are
5 not enrolled in a child care center or part of a child care center where less than 24-hour per day non-
6 medical care and supervision are provided to Infants or School-Age Children.

7 (5) “School-Age Child” means a child who has entered the first grade or above or who
8 is in a child care program providing care and supervision exclusively to children enrolled in
9 kindergarten and above.

10 (d) To be eligible for the credit authorized under this Section 2106.1, persons wishing to claim
11 the credit must:

12 (1) Maintain a reasonable method of documentation that can be reviewed or verified
13 objectively that demonstrates that the person is eligible for the credit provided for in this
14 Section 2106.1, and provide such documentation to the Tax Collector upon request; and

15 (2) File a timely annual Early Care and Education Commercial Rents Tax return
16 regardless of the amount of liability, if any, shown on the return after claiming the credit provided for
17 in this Section 2106.1.

18 (e) The Tax Collector shall verify that any credit claimed pursuant to this Section 2106.1 is
19 correct. The Office of Early Care and Education, or any successor agency, shall provide to the Tax
20 Collector upon request such information that the Tax Collector may require to verify that a Qualifying
21 Child Care Facility for which the credit is claimed meets the eligibility requirements of this
22 Section 2106.1, and the Tax Collector may share taxpayer information with the Office of Early Care
23 and Education, or any successor agency, for this purpose. To the extent permitted by law, the Office of
24 Early Care and Education, or any successor agency, shall maintain the confidentiality of any such

1 information that the Tax Collector provides, and shall be subject to Section 6.22-1 of Article 6 of the
2 Business and Tax Regulations Code with respect to such information.

3 (f) The Tax Collector shall submit an annual report to the Board of Supervisors for each year
4 for which the credit authorized under this Section 2106.1 is available, that sets forth aggregate
5 information on the dollar value of the credits taken each year and the number of persons taking the
6 credit.

7 (g) The Controller, not later than four years after the effective date of the ordinance in Board
8 of Supervisors File No. 181082 establishing this Section 2106.1, shall perform an assessment and
9 review of the effect of the credit provided by this Section 2106.1. Based on such assessment and review
10 the Controller shall prepare and submit an analysis to the Board of Supervisors. The analysis shall be
11 based on factors that the Controller deems relevant, and may include, but shall not be limited to, data
12 contained in the annual reports to the Board of Supervisors as required by subsection (f) of this
13 Section 2106.1.

14 (h) The credit provided by this Section 2106.1 shall be allowable in tax years ending after
15 December 31, 2018, and shall expire by operation of law on December 31, 2023. No person may use
16 or claim the credit provided for under this Section 2106.1 after the expiration date of this Section.

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18 Section 2. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
19 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
20 numbers, letters, punctuation marks, charts, diagrams, or any other constituent parts of the
21 Business and Tax Regulations Code that are explicitly shown in this ordinance as additions,
22 deletions, Board amendment additions, and Board amendment deletions in accordance with
23 the “Note” that appears under the official title of the ordinance.
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1 Section 3. Effective Date; Retroactivity.

2 (a) Effective Date. This ordinance shall become effective 30 days after enactment.

3 Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance
4 unsigned or does not sign the ordinance within ten days of receiving it, or the Board of
5 Supervisors overrides the Mayor’s veto of the ordinance.

6 (b) Retroactive Date. This ordinance shall be retroactive to January 1, 2019.

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

10 By: _____
11 KERNE H. O. MATSUBARA
12 Deputy City Attorney

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