



NOTICE OF TAX COLLECTOR HEARING

December 10th, 2014 – 2:00pm

City Hall, Room 408

1 Dr. Carlton B. Goodlett Place

San Francisco, CA 94102

Pursuant to authority granted under Section 6.16-1 of the San Francisco Business and Tax Regulations Code (hereinafter “BTRC”), the San Francisco Tax Collector invites the public to comment on the following proposed regulations:

2014-1

2014-2

2014-3

The hearing will be on December 10th, 2014 at 2:00pm in room 408 of City Hall. The proposed regulations are attached to this notice and available at www.sfgov.org/tax.

You may comment at the hearing and/or submit written comments. If you would like to submit written comments, it is requested that they be received at the Tax Collector’s Office no later than 5:00pm on December 8th, 2014, so that they may be reviewed prior to the hearing. Written comments may also be submitted at the hearing. You will be able to address the Tax Collector during the public comments period at the hearing.

To submit written comments, or for any questions, please contact:

Greg Kato, Gross Receipts Tax Director
Email: Greg.Kato@sfgov.org

Posted: 11/7/2014

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DOES NOT REFLECT THE FINAL POSITION OF THE TAX COLLECTOR

CITY AND COUNTY OF SAN FRANCISCO

Tax Collector Regulation 2014-1

GROSS RECEIPTS TAX – INTERPRETATIONS OF PRIOR LAW

San Francisco Business and Tax Regulations Code

(a) Authority. The Tax Collector promulgates this regulation pursuant to the Tax Collector’s authority to adopt rules and regulations under San Francisco Business and Tax Regulations Code section 6.16-1.

(b) Definitions. For purposes of this regulation, “Former Gross Receipts Tax” means the former tax based on gross receipts imposed under the former Article 12-B of the Business and Tax Regulations Code, which was repealed and replaced effective April 25, 2001 by the current Article 12-B of the Business and Tax Regulations Code and was known as the “Business Tax.” “Current Gross Receipts Tax” means the tax imposed under Article 12-A-1 of the Business and Tax Regulations Code. All other terms are as defined in Articles 6 and 12-A-1 of the Business and Tax Regulations Code.

(c) Prior Interpretations of the Former Gross Receipts Tax. No prior interpretations of the Former Gross Receipts Tax, whether oral or in writing, whether formal or informal, and in whatever form provided, apply to the Current Gross Receipts Tax.

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Tax Collector Regulation 2014-2

GROSS RECEIPTS TAX, PAYROLL EXPENSE TAX, AND BUSINESS REGISTRATION –
SINGLE-MEMBER ENTITIES DISREGARDED FOR FEDERAL INCOME TAX PURPOSES

San Francisco Business and Tax Regulations Code

(a) Authority. The Tax Collector promulgates this regulation pursuant to the Tax Collector's authority to adopt rules and regulations under San Francisco Business and Tax Regulations Code section 6.16-1.

(b) Purpose. The gross receipts tax, payroll expense tax, and business registration requirements in Articles 12, 12-A, and 12-A-1 of the Business and Tax Regulations Code apply to all persons, which include individuals, firms, companies, partnerships, limited liability partnerships, joint ventures, associations, proprietorships, social clubs, fraternal organizations, joint stock companies, domestic or foreign corporations, limited liability companies, estates, trusts, business trusts, receivers, trustees, trustees in bankruptcy, administrators, executors, assignees, syndicates, and any other group or combination acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise. This regulation clarifies how single-member entities that are treated as disregarded entities for federal income tax purposes will be treated for purposes of the gross receipts tax, payroll expense tax, and business registration requirements.

(c) Definitions. For purposes of this regulation, all terms are as defined in Articles 6, 12, 12-A, and 12-A-1 of the Business and Tax Regulations Code.

(d) Single-Member Entities. A single-member entity (including a single-member limited liability company) treated as a disregarded entity for federal income tax purposes will be disregarded for purposes of the gross receipts tax, payroll expense tax, and business registration requirements. Each such entity will be treated as a sole proprietorship, branch, or division of its owner. The owner of the disregarded entity will be the registrant and taxpayer for purposes of the gross receipts tax, payroll expense tax, and business registration requirements.

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Tax Collector Regulation 2014-3

GROSS RECEIPTS TAX – AGENCY RECEIPTS

San Francisco Business and Tax Regulations Code

(a) Authority. The Tax Collector promulgates this regulation pursuant to the Tax Collector’s authority to adopt rules and regulations under San Francisco Business and Tax Regulations Code section 6.16-1.

(b) Purpose. The gross receipts tax is a tax on persons engaging in business within the City that is measured by the person’s gross receipts attributable to the City. This regulation clarifies the definition of “gross receipts” in Business and Tax Regulations Code section 952.3 as applied to a person acting as an agent on behalf of a principal.

(c) Definitions. For purposes of this regulation, all terms are as defined in Articles 6 and 12-A-1 of the Business and Tax Regulations Code.

(d) Agency Receipts. For purposes of the gross receipts tax in Article 12-A-1 of the Business and Tax Regulations Code, “gross receipts” shall not include amounts received by persons acting as agents or brokers for other persons to be transferred to the other persons, to pay for those other persons’ legal obligations, to reimburse sums advanced by the agent for those other persons’ legal obligations, or to invest on behalf of those other persons. Notwithstanding the foregoing, “gross receipts” shall include any amounts received that the person can retain or use for its own benefit, or that the person uses or can use to pay its own legal obligations or to invest, at least in part, on its own behalf.

(e) Presumption That the Person Is Acting On Its Own Behalf. In any dispute as to whether amounts received constitute “gross receipts” under this regulation, there shall be a presumption that a person receives such amounts for its own benefit, to pay its own obligations, or to invest on its own behalf, unless the person demonstrates that it received the amounts solely as an agent or broker for another person to transfer to that other person, to pay that other person’s legal obligations, to reimburse sums advanced by the agent for the other person’s legal obligations, or to invest on behalf of the other person.

(f) Example 1. A client advances \$500 to his attorney to pay for the client’s court costs pursuant to a written agreement between the client and the attorney that requires the client to advance such amounts to the attorney separately from the attorney’s fees. Because the attorney received the \$500 solely as the agent of the client to pay for the client’s legal obligation to the court, the \$500 is not a gross receipt to the attorney.

(g) Example 2. Business A contracts to provide services for Business B in exchange for a fee calculated as Business A’s costs of services and goods acquired plus 10 percent. Business A purchases all necessary goods and services to complete the project in its own name such that it is using the amounts it receives from Business B to pay for Business A’s own obligations. Therefore, the entire amount Business A receives from Business B (i.e., the fee equal to the cost of goods and services to Business A plus 10 percent) constitutes “gross receipts” to Business A.