

CITY AND COUNTY OF SAN FRANCISCO

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 a person acting as an agent or broker on behalf of a principal where the amounts are received: (1) to be transferred to the principal; (2) to pay for the principal's legal obligations to third parties; (3) to reimburse sums advanced by the agent for the principal's legal obligations to third parties; or (4) to invest on behalf of the principal. 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 a principal: (1) to transfer to that principal; (2) to pay that principal's legal obligations to third parties; (3) to reimburse sums advanced by the agent for the principal's legal obligations to third parties; or (4) to invest on behalf of the principal.

(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. 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.