

CITY AND COUNTY OF SAN FRANCISCO

Tax Collector Regulation 2016-2

GROSS RECEIPTS TAX – PAYMENTS TO CONSTRUCTION SUBCONTRACTORS

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. Section 953.5(c) of the Business and Tax Regulations Code permits construction contractors to reduce their taxable gross receipts by any amounts that were included in the construction contractor's gross receipts within the City under Section 956.1 of the Business and Tax Regulations Code, and which the construction contractor paid to a subcontractor possessing a valid business registration certificate with the City during the tax year. This regulation clarifies the application of this provision.

(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) Reduction for Payments to Subcontractors. After allocating and apportioning its gross receipts under Section 953.5(c), a construction contractor may reduce its San Francisco gross receipts for the business activity of construction by any amounts paid to a subcontractor for work performed with respect to property in the City if the subcontractor possesses a valid business registration certificate with the City during the tax year. No reduction is permitted for any other costs, such as materials, fees, equipment or other services, and the reduction may not reduce the construction contractor's taxable gross receipts for the business activity of construction below \$0. To support the reduction, the contractor must provide to the Tax Collector upon request an itemized schedule of payments to the subcontractors and information sufficient to enable the Tax Collector to verify that the subcontractors possessed valid business registration certificates with the City during the tax year.

(e) Example. Able is a construction contractor that does work in San Francisco and Oakland. He received \$10,000,000 of gross receipts in Year 1, \$6,000,000 of which was from properties in San Francisco and \$4,000,000 of which was from properties in Oakland. Able has 5 employees whom he paid a total of \$400,000 in Year 1, \$250,000 of which was for work performed at the San Francisco properties, and \$150,000 of which was for work performed at the Oakland properties. Able paid 3 construction subcontractors in Year 1: (1) He paid Baker, who had a valid San Francisco business registration certificate during the tax year, \$300,000 in Year 1 exclusively for work done for the San Francisco properties; (2) He paid Cook, who did not have a valid San Francisco business registration certificate during the tax year, \$200,000 in Year 1 exclusively for work done for the San Francisco properties; and (3) He paid Douglas, who had a valid San Francisco business registration certificate during the tax year, \$500,000 in Year 1, \$400,000 for work done for the San Francisco properties and \$100,000 for work done for the

Oakland properties. Under these facts, Able has \$6,125,000 of San Francisco gross receipts before any reduction under Section 953.5(c) (half of the amount determined under Section 956.1 (50% x \$6,000,000) plus half of the amount determined under Section 956.2 (50% x \$10,000,000 x (\$250,000/\$400,000))). Able may reduce this amount by \$700,000 (\$300,000 for the amount paid to Baker and \$400,000 for the amount paid to Douglas for work done for the San Francisco properties). Able may not exclude the \$200,000 paid to Cook because Cook did not have a valid San Francisco business registration certificate during the tax year, and may not exclude \$100,000 of the amount paid to Douglas for work done for properties not located in San Francisco.