ORDINANCE NO. 235-18

FILE NO. 180753

[Business and Tax Regulations Code - Administration of Early Care and Education Commercial Rents Tax]

Ordinance amending the Business and Tax Regulations Code to add provisions to administer the Early Care and Education Commercial Rents Tax, to increase the payment required to obtain an extension of time to file business tax returns, and to make other non-substantive changes.

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. The Business and Tax Regulations Code is hereby amended by revising Sections 6.1-1, 6.2-12, 6.2-17, 6.8-1, 6.9-1, 6.9-2, 6.9-3, 6.9-4, 6.9-5, 6.15-1, 6.15-2, and 6.17-1, 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, and 12-B, and 21 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 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 Supervisors Kim; Yee BOARD OF SUPERVISORS
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.

(b) Unless expressly provided otherwise, all statutory references in this Article 6 and the Articles set forth in subsection (a) shall refer to such statutes as amended from time to time and shall include successor provisions.

(c) For purposes of this Article 6, a domestic partnership established pursuant to Chapter 62 of the Administrative Code shall be treated the same as a married couple.

SEC. 6.2-12. NEXUS: “ENGAGING IN BUSINESS WITHIN THE CITY.”

The taxes imposed by Article 12-A (Payroll Expense Tax Ordinance), and Article 12-A-1 (Gross Receipts Tax Ordinance), and Article 21 (Early Care and Education Commercial Rents Tax Ordinance), and the registration fee imposed by Article 12 (Business Registration Ordinance) shall apply to any person engaging in business within the City unless exempted therefrom under such said Articles. A person is “engaging in business within the City,” within the meaning of this Article 6, if that person meets one or more of the following conditions:

(a) The person maintains a fixed place of business within the City; or

(b) An employee, representative or agent of the person maintains a fixed place of business within the City for the benefit or partial benefit of the person; or

(c) The person or one or more of the person’s employees, representatives or agents owns, rents, leases, or hires real or personal property within the City for business purposes for the benefit or partial benefit of the person; or
(d) The person or one or more of the person's employees, representatives or agents regularly maintains a stock of tangible personal property within the City, for sale in the ordinary course of the person's business; or

(e) The person or one or more of the person's employees, representatives or agents employs or loans capital on property within the City for the benefit or partial benefit of the person; or

(f) The person or one or more of the person's employees, representatives or agents solicits business within the City for all or part of any seven days during a tax year; or

(g) The person or one or more of the person's employees, representatives or agents performs work or renders services within the City for all or part of any seven days during a tax year; or

(h) The person or one or more of the person's employees, representatives or agents utilizes the streets within the City in connection with the operation of motor vehicles for business purposes for all or part of any seven days during a tax year; or

(i) The person or one or more of the person's employees, representatives or agents exercises corporate or franchise powers within the City for the benefit or partial benefit of the person; or

(j) The person or one or more of the person's employees, representatives or agents liquidates a business when the liquidators thereof hold themselves out to the public as conducting such business.

**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, or 21, 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, or-12-A-1, or 21 shall be construed as imposing a tax upon:

(1) The City;

(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, and-12-A-1, and 21 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), and 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), and the Early Care and Education Commercial Rents Tax (Article 21), 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 5 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; and

(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.

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.

(b) Exemption From Filing. Commencing with tax years beginning on or after January 1, 2017, a person who qualifies for the small business tax exemption in Section 905-A of Article 12-A shall be exempt from filing a payroll expense tax return, and a person or combined group who qualifies for the small business exemption in Section 954.1 of Article 12-A-1 shall be exempt from filing a gross receipts tax return and an Early Care and Education Commercial Rents Tax return. Notwithstanding the preceding sentence, any person taking any of the following exclusions must file a payroll expense tax return and a gross receipts tax return, and an Early Care and Education Commercial Rents Tax return, regardless of whether such person qualifies for the small business tax exemption from the payroll expense tax or the small business exemption from the gross receipts tax after claiming the exclusion:

(1) the Biotechnology Exclusion in Section 906.1;
(2) the Clean Technology Business Exclusion in Section 906.2;
(3) the Central Market Street and Tenderloin Area Payroll Expense Tax Exclusion in Section 906.3; or
(4) the Stock-Based Compensation Exclusion in Section 906.4.

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:

* * * *

(3) Payroll Expense Tax, and Gross Receipts Tax, and Early Care and Education Commercial Rents Tax: Estimated Tax Payments. Except as provided in
Section 6.9-3(a)(3)(DE) with respect to estimated tax payments of the gross receipts tax,
with the payroll expense tax (Article 12-A), or 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), or the Early Care and Education Commercial Rents Tax (Article 21) shall make three estimated tax payments, in addition to the annual payments in Section 6.9-3(a)(4), as follows:

(A) Due Dates. The first, second, and third estimated tax payments for a tax year shall be due and payable, and shall be delinquent if not paid on or before, April 30, July 31, and October 31, respectively, of that tax year. Estimated tax payments shall be a credit against the person or combined group’s total annual payroll expense tax, or gross receipts tax (including the tax on administrative office business activities imposed under Section 953.8 of Article 12-A-1), or Early Care and Education Commercial Rents Tax liability, as applicable, for the tax year in which such estimated tax payments are due.

(B) Payroll Expense Tax Estimated Tax Payments. For purposes of this Section 6.9-3, a person’s estimated tax payments of payroll expense tax for any tax year shall each equal the lesser of:

(i) 25% of the payroll expense tax liability shown on the person’s return for the tax year (or, if no return is filed, 25% of the person’s actual payroll expense tax liability for the tax year); or

(ii) 25% of the payroll expense tax liability shown on the person’s return for the preceding tax year. If the person did not file a return for the preceding tax year, the person shall be deemed to have filed a return showing no liability for purposes of this Section 6.9-3(a)(3)(B)(ii), and no estimated tax payments of payroll expense taxes shall be due for the current tax year.
(C) **Gross Receipts Tax Estimated Tax Payments.** For purposes of this Section 6.9-3, a person or combined group’s estimated tax payments of gross receipts tax, including the tax on administrative office business activities imposed under Section 953.8 of Article 12-A-1, for any tax year shall each equal the lesser of:

(i) 25% of the gross receipts tax liability (including any liability for the tax on administrative office business activities imposed under Section 953.8 of Article 12-A-1) shown on the person or combined group’s return for the tax year (or, if no return is filed, 25% of the person or combined group’s actual gross receipts tax liability for the tax year); or

(ii) 25% of the gross receipts tax liability (including any liability for the tax on administrative office business activities imposed under Section 953.8 of Article 12-A-1) shown on the person or combined group’s return for the preceding tax year. If the person or combined group did not file a return for the preceding tax year, the person or combined group shall be deemed to have filed a return showing no liability for purposes of this Section 6.9-3(a)(3)(C)(ii), and no estimated tax payments of gross receipts taxes shall be due for the current tax year.

(D) **Early Care and Education Commercial Rents Tax Estimated Tax Payments For Tax Years Commencing On or After January 1, 2020.** For purposes of this Section 6.9-3, a person or combined group’s estimated tax payments of Early Care and Education Commercial Rents Tax for any tax year beginning on or after January 1, 2020, shall each equal the lesser of:

(i) 25% of the Early Care and Education Commercial Rents Tax liability shown on the person or combined group’s return for the tax year (or, if no return is filed, 25% of the person or combined group’s actual Early Care and Education Commercial Rents Tax liability for the tax year); or
(ii) 25% of the Early Care and Education Commercial Rents Tax liability shown on the person or combined group's return for the preceding tax year. If the person or combined group did not file a return for the preceding tax year, the person or combined group shall be deemed to have filed a return showing no liability for purposes of this Section 6.9-3(a)(3)(D)(ii), and no estimated tax payments of Early Care and Education Commercial Rents Taxes shall be due for the current tax year.

(E) Early Care and Education Commercial Rents Tax Estimated Tax Payments for Tax Years Ending On or Before December 31, 2019. For purposes of this Section 6.9-3, a person or combined group's estimated tax payments of Early Care and Education Commercial Rents Tax for tax years ending on or before December 31, 2019, shall each equal the person or combined group's taxable gross receipts from the lease of commercial space in properties in the City (as defined in Article 21) for each quarter multiplied by the appropriate tax rate in Section 2104(b) of Article 21.

(DF) Lessor of Residential Real Estate; Exemption. Notwithstanding anything else in this Section 6.9-3(a)(3), a lessor of residential real estate, as defined in Section 954.1 of Article 12-A-1, shall not be required to make estimated tax payments of gross receipts tax, but shall pay its full gross receipts tax liability on or before the last day of February following the tax year, if the lessor's gross receipts within the City shown on the lessor's return for either the current tax year or the preceding tax year did not exceed the threshold in Section 954.1(b) of Article 12-A-1.

(EG) Estimated Tax Penalties.

(i) Every person or combined group who fails to pay any estimated tax payment required under this Section 6.9-3(a)(3) before the relevant delinquency date shall pay an "Estimated Tax Penalty" in the amount of 5% of the amount of the underpayment. For purposes of this Section 6.9-3(a)(3)(EG), the amount of the
underpayment shall be the required estimated tax payment less the amount, if any, of the estimated tax payment paid on or before the delinquency date. The Estimated Tax Penalty provided under this Section 6.9-3(a)(3)(EG) shall not apply if the sum of the payroll expense tax estimated tax payments, and gross receipts tax estimated tax payments (including estimated tax payments of the tax on administrative office business activities imposed under Section 953.8 of Article 12-A-1), and Early Care and Education Commercial Rents Tax estimated tax payments for the quarter is equal to or greater than the sum of the estimated tax payments due for these taxes.

(ii) An Estimated Tax Penalty imposed under this Section 6.9-3(a)(3)(EG) may be waived by the Tax Collector, in whole or in part, upon a finding that the person or combined group meets the requirements under Section 6.17-4.

(iii) The Estimated Tax Penalties imposed under this Section 6.9-3(a)(3)(G) shall not apply to estimated tax payments of the Early Care and Education Commercial Rents Tax for tax periods ending on or before December 31, 2019, as described in Section 6.9-3(a)(3)(E).

(FH) Estimated Tax Filings.

(i) Every person or combined group engaged in business in the City must submit estimated tax filings for payroll expense taxes, and gross receipts taxes (including taxes on administrative office business activities imposed under Section 953.8 of Article 12-A-1), and Early Care and Education Commercial Rents Taxes, as applicable, before the delinquency dates for each estimated tax payment of those taxes, if either of the following are true:

a. the person or combined group owes payroll expense tax, or gross receipts tax (including the tax on administrative office business activities imposed...
under Section 953.8 of Article 12-A-1), or Early Care and Education Commercial Rents Tax
estimated tax payments; or

b. the person or combined group reported payroll expense
taxes, or gross receipts taxes (including taxes on administrative office business activities
imposed under Section 953.8 of Article 12-A-1), or Early Care and Education Commercial Rents
Taxes on their return for the preceding tax year, regardless of whether the person owes any
estimated tax payments for the current tax year.

(ii) If a person or combined group fails to make an estimated tax
filing under this Section 6.9-3(a)(3)(FH), the Tax Collector shall deem the estimated tax
payment due to be the amount calculated under Sections 6.9-3(a)(3)(B)(ii), or 6.9-3(a)(3)(C)(ii),
or 6.9-3(a)(3)(D)(ii), as applicable, until the person or combined group files an annual return for
the tax year (or, if no annual return is filed, until the person or combined group’s actual tax
liability for the tax year is known), at which time the estimated tax payments due shall be
recalculated under Sections 6.9-3(a)(3)(B), and (C), and (D), as applicable. This subsection
(a)(3)(H)(ii) shall not apply to estimated tax filings of the Early Care and Education Commercial Rents
Tax for tax periods ending on or before December 31, 2019.

(4) Payroll Expense Tax, and Gross Receipts Tax, and Early Care and
Education Commercial Rents Tax: Computation of Annual Liability; Payments.

(A) The total payroll expense tax liability of a person shall be computed
using the rate for that tax year computed, certified, and published by the Controller under
Section 903.1 of Article 12-A or as otherwise provided in Article 12-A. The total gross
receipts tax liability of a person or combined group, other than a person or combined group
subject to tax under Section 953.8 of Article 12-A-1, shall be computed using the rate for
that tax year computed, certified, and published by the Controller under Section 959 of
Article 12-A-1, or as otherwise provided in Article 12-A-1. The total liability for the tax on
administrative office business activities of a person or combined group subject to tax under
Section 953.8 of Article 12-A-1 shall be computed as provided in Section 953.8, or as
otherwise provided in Article 12-A-1. The total Early Care and Education Commercial Rents Tax
liability of a person or combined group shall be computed as provided in Section 2104, or as
otherwise provided in Article 21. Except as otherwise provided, the total payroll expense tax,
and gross receipts tax (including the tax on administrative office business activities under
Section 953.8 of Article 12-A-1), and Early Care and Education Commercial Rents Tax liabilities,
less any estimated tax payments for the tax year, shall be reported and paid on or before
the last day of February of the year immediately following the tax year.

(B) Any amounts paid on a person’s payroll expense tax liability for a tax
year that are in excess of that person’s actual payroll expense tax liability for that year shall be
credited to that person’s gross receipts tax or Early Care and Education Commercial Rents Tax
liability for that year, if any. Any amounts paid on a person’s gross receipts tax liability for a
tax year that are in excess of that person’s actual gross receipts tax liability for that year shall
be credited to that person’s payroll expense tax or Early Care and Education Commercial Rents
Tax liability for that year, if any. Any amounts paid on a person’s Early Care and Education
Commercial Rents Tax liability for a tax year that are in excess of that person’s actual Early Care and
Education Commercial Rents Tax liability for that year shall be credited to that person’s payroll
expense tax or gross receipts tax liability for that year, if any.

(b) Hotel and Parking Taxes. Unless otherwise provided, an operator subject to the
hotel tax (Article 7) or the parking tax (Article 9) shall make monthly remittances in the amount
of the actual tax owed.

(c) Forms and Adjustments. Tax remittances required under this Section 6.9-3 shall
be accompanied by a tax remittance form prepared by the Tax Collector, but failure of the Tax
Collector to furnish the taxpayer with a tax remittance form shall not relieve the taxpayer from any tax payment obligation.

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 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, and 12-C, and 21, 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.

SEC. 6.15-1. REFUNDS.

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(g) **Requests for Refund; Refunds Permissible Without a Claim.** The Tax Collector may authorize the Controller to refund tax, interest, or penalty payments, without a refund claim having been filed and without review by the City Attorney, if the Tax Collector determines that the amount paid exceeds the tax, penalties, and interest due. The person that made the overpayment may request such a refund from the Tax Collector on a return, amended return, or request for refund form that is issued by the Tax Collector and that is filed with the Tax Collector within the later of one year of the payment of such amount or the date the return accompanying such payment was due. The Tax Collector may also authorize the Controller to refund the overpaid tax, interest, or penalty payments on its own initiative within this one-year period. A refund requested on a return, amended return, or request for refund form under this subsection (g) shall automatically be deemed denied for purposes of subsections (a), (b), and (d) of this Section 6.15-1 if the Tax Collector does not grant or deny the refund request within one year of the date it was filed. Any action by the Tax Collector after a refund request under this subsection (g) has been deemed denied shall not constitute
a denial and shall have no effect on the statute of limitations for filing a claim for refund under subsections (a)-(f) of this Section 6.15-1. In lieu of requesting a refund on a return, amended return, or request for refund form, a taxpayer may elect to apply an overpayment of the business registration fee in Article 12, the payroll expense tax in Article 12-A, the gross receipts tax in Article 12-A-1 (including the tax on administrative office business activities under Section 953.8 of Article 12-A-1), or the sugary drinks distributor tax in Article 8, or the Early Care and Education Commercial Rents Tax in Article 21 as a credit against the taxpayer's immediately succeeding payment or payments due of any of these five tax types. Any election to apply an overpayment to the taxpayer's future liability shall be binding and may not later be changed by the taxpayer.

SEC. 6.15-2. REFUNDS; INTEREST.

(a) Any amounts refunded prior to entry of a final judgment in a judicial proceeding shall bear interest at the rate for prejudgment interest on refunds of local taxes or fees provided by Section 3287(c) of the California Civil Code, as amended from time to time, and shall be computed from the date of payment to the date of refund.

(b) If the Controller offsets overpayments for a period or periods against another liability or liabilities currently owed to the City, or against penalties or interest on the other liability or liabilities currently owed to the City, the taxpayer will be credited with interest on the amount so applied at the rate of interest set forth above, computed from the date of payment.

(c) If a taxpayer elects to apply all or part of an overpayment of the business registration fee in Article 12, the payroll expense tax in Article 12-A, the gross receipts tax in Article 12-A-1 (including the tax on administrative office business activities under Section 953.8 of Article 12-A-1), or the sugary drinks distributor tax in Article 8, or the Early Care and Education Commercial Rents Tax in Article 21 as a credit against the taxpayer's
immediately succeeding payment or payments due of any of these five tax types, the taxpayer will not be credited with interest on the amount so applied.

SEC. 6.17-1. PENALTIES AND INTEREST FOR FAILURE TO PAY.

(a) Any person who fails to pay any tax to the City, or any operator or other person who fails to collect and remit any third-party taxes shall pay a penalty of 5% per cent of the tax, if the failure is for not more than one month after the tax became delinquent, plus an additional 5% per cent for each following month or fraction of a month during which such failure continues, up to 20% per cent in the aggregate, until the date of payment. Any taxes remaining unpaid for a period of 90 days after notification that the tax is delinquent shall be subject to an additional penalty of 20% per cent of the amount of the tax. The penalty and interest provided under this Section 6.17-1 shall not apply with respect to the payroll expense tax, and the gross receipts tax, and the Early Care and Education Commercial Rents Tax if the sum of the payroll expense tax payments, and gross receipts tax payments, and Early Care and Education Commercial Rents Tax payments is equal to or greater than the sum of the payroll expense tax, and gross receipts tax, and Early Care and Education Commercial Rents Tax liability for that tax year.

(b) If the failure to pay any tax is due to fraud or an intent to evade the Business and Tax Regulations Code or the Tax Collector’s rules and regulations, an additional penalty in the amount of 50% per cent of the amount due, in addition to any other penalties and interest, shall be added thereto. A taxpayer or other person against whom a fraudulent failure to pay penalty is asserted is entitled to a notice of such determination to be issued in accordance with the provisions of Sections 6.11-1 et seq. and to the appeal rights set forth in Section 6.13-1 et seq.
(c) Unpaid taxes shall also accrue interest at the rate of 1\%\ per month, or fraction of a month, from the date the taxes become delinquent through the date the taxpayer or operator pays the delinquent taxes, penalties, interest and fees accrued to the date of payment in full.

Section 2. The Business and Tax Regulations Code is hereby amended by revising Section 2103, to read as follows:

SEC. 2103. DEFINITIONS.

(a) Unless otherwise defined in this Article 21, the terms used in this Article shall have the meanings given to them in Articles 6 and 12-A-1 of the Business and Tax Regulations Code, as amended from time to time. All references to Sections of the Planning Code are to the text of those Sections as of June 5, 2018.

(b) For purposes of this Article 21, the following definitions shall apply:

"Area Median Income" or "AMI" means Area Median Income for the San Francisco area, derived from the U.S. Department of Housing and Urban Development, adjusted solely for household size, as described in Administrative Code Section 10-100-81(c).

"Base Amount" means the Controller’s calculation of the amount of City appropriations (not including appropriations from the Fund and exclusive of expenditures funded by private funding, development impact fees, or prior period balances, or funded or mandated by state or federal law) for Baseline Programs for the Baseline Year, as adjusted in the manner provided in subsections (g) and (h) of Section 2112.

"Baseline Programs" means all programs serving children of all ages under six that are allocated funding through OECE.

"Baseline Year" means the Fiscal Year July 1, 2017 through June 30, 2018.
“Commercial Space” means any building or structure, or portion of a building or structure, that is not “residential real estate,” as that term is defined in Section 954.1(c(e) of Article 12-A-1 of the Business and Tax Regulations Code, as amended from time to time. Notwithstanding the preceding sentence, Commercial Space shall not include any building or structure, or portion of a building or structure, that is used for: (a) Industrial Use as defined in Section 102 of the Planning Code; (b) Arts Activities as defined in Section 102 of the Planning Code; or (c) Retail Sales or Service Activities or Retail Sales or Service Establishments, as defined in Section 303.1(c) of the Planning Code, that are not Formula Retail uses as defined in Section 303.1(b) of the Planning Code.

“Eligible Programs” are described in Section 2112(d)(1) of this Article 21.
“Fiscal Year” means the period starting July 1 and ending on the following June 30.
“Fund” means the Babies and Families First Fund described in Section 2111 of this Article 21.
“OECE” means the City’s Office of Early Care and Education, described in Section 2A.310 of the Administrative Code, or its successor.
“State Median Income” or “SMI” means the state median income, adjusted for family size, calculated by the California Department of Finance under California Education Code Section 8263.1.
“Warehouse Space” means Commercial Space that is used for Commercial Storage, for Volatile Materials Storage, for Wholesale Storage, or as a Storage Yard, as each of these capitalized terms is defined in Section 102 of the Planning Code.

Section 3. Effective and Operative Dates.

(a) 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.

(b) Operative Date. This ordinance shall become operative on January 1, 2019.

Section 4. 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 5. 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: SCOTT M. REIBER
Chief Tax Attorney

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City and County of San Francisco
Tails
Ordinance

File Number: 180753
Date Passed: October 02, 2018

Ordinance amending the Business and Tax Regulations Code to add provisions to administer the Early Care and Education Commercial Rents Tax, to increase the payment required to obtain an extension of time to file business tax returns, and to make other, non-substantive changes.

September 06, 2018 Budget and Finance Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

September 06, 2018 Budget and Finance Committee - CONTINUED AS AMENDED

September 13, 2018 Budget and Finance Committee - RECOMMENDED

September 25, 2018 Board of Supervisors - PASSED ON FIRST READING
Ayes: 10 - Brown, Cohen, Fewer, Kim, Mandelman, Peskin, Ronen, Safai, Stefani and Tang
Excused: 1 - Yee

October 02, 2018 Board of Supervisors - FINALLY PASSED
Ayes: 11 - Brown, Cohen, Fewer, Kim, Mandelman, Peskin, Ronen, Safai, Stefani, Tang and Yee

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 10/2/2018 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor

Date Approved: 10/12/18