

CITY AND COUNTY OF SAN FRANCISCO

Tax Collector Regulation 2019-2

EARLY CARE AND EDUCATION COMMERCIAL RENTS TAX – COSTS PASSED ON TO
TENANTS UNDER A LEASE

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 Early Care and Education Commercial Rents Tax is a tax on persons engaging in business in the City that receive gross receipts from the lease of commercial space in properties in the City. This regulation clarifies the application of the Early Care and Education Rents Tax to certain leasing activities.

(c) Definitions. For purposes of this regulation, all terms are as defined in Articles 6 and 21 of the Business and Tax Regulations Code.

(d) Leases Passing on Costs to Tenants. All amounts received from the lease of commercial space in properties in the City, including without limitation, property taxes, insurance premiums, maintenance costs, and other charges passed on to tenants, are gross receipts that are subject to the Early Care and Education Commercial Rents Tax, to the extent not excluded from the definition of "gross receipts" under Article 12-A-1 of the Business and Tax Regulations Code.

(e) Example. Landlord owns several buildings in San Francisco, with respect to which the City assesses the Landlord \$500,000 in annual San Francisco real property taxes. Under a triple net lease, Landlord annually charges a tenant on the bottom floor of one of its buildings \$200,000 of base rent, and passes on charges of \$20,000 for San Francisco real property taxes, \$10,000 in insurance premiums, and \$30,000 of maintenance costs. Landlord separately states the San Francisco real property tax charge on a statement to its tenants by identifying the tax as "San Francisco real property tax," in the amount of \$20,000, for the 2019 property tax year. The sum of the San Francisco real property tax charges that Landlord passes on to all tenants does not exceed \$500,000. Landlord's receipt of \$240,000 for rent, insurance, and maintenance are gross receipts subject to the Early Care and Education Commercial Rents Tax. Landlord's receipt of \$20,000 for San Francisco real property tax is a reimbursement excluded from "gross receipts" under Section 952.3(c) of Article 12-A-1 of the Business and Tax Regulations Code and is not subject to the Early Care and Education Commercial Rents Tax.