
ARTICLE 12-A: PAYROLL EXPENSE TAX ORDINANCE

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SEC. 901. SHORT TITLE.

This ordinance shall be known as the "Payroll Expense Tax Ordinance" and the tax imposed herein shall be known as the "Payroll Expense Tax."

(Ord. 275-70, 9/2/70; amended by Ord. 118-80, App. 3/28/80, App. 3/28/80; Ord. 357-88, App. 8/4/88)

SEC. 902. OPERATION OF DEFINITIONS.

Except where the context otherwise requires, terms not defined in this Article that are defined in Article 6 shall have the same meaning as given to them in Article 6.

(Ord. 275-70, 9/2/70; amended by Ord. 118-80, App. 3/28/80; Ord. 357-88, App. 8/4/88; Ord. 26-04, File No. 031990, App. 2/19/2004)

SEC. 902.1. PAYROLL EXPENSE.

(a) The term "Payroll Expense" means the compensation paid to, on behalf of, or for the benefit of an individual, including shareholders of a professional corporation or a Limited Liability Company ("LLC"), including salaries, wages, bonuses, commissions, property issued or transferred in exchange for the performance of services (including but not limited to stock options), compensation for services to owners of pass-through entities, and any other form of compensation, who during any tax year, perform work or render services, in whole or in part in the City; and if more than one individual or shareholders of a professional corporation or members of an LLC, during any tax year performs work or renders services in whole or in part in the City, the term "Payroll Expense" means the total compensation paid including salaries, wages, bonuses, commissions, property issued or transferred in exchange for the performance of services (including but not limited to stock options), in addition to any compensation for services to owners of pass-through entities, and any other form of compensation for services, to all such individuals and shareholders of a professional corporation or members of an LLC.

(b) Any person that grants a service provider a right to acquire an ownership interest in such person in exchange for the performance of services shall include in its payroll expense for the tax year in which such right is exercised an amount equal to the excess of (i) the fair market value of such ownership interest on the date such right is exercised over (ii) the price paid for such interest.

(c) Any individual compensated in his or her capacity as a real estate salesperson or mortgage processor shall be deemed an employee of the real estate broker or mortgage broker for or under whom such individual performs services, and any compensation received by such individual, including compensation by way of commissions, shall be included in the payroll expense of such broker. For purposes of this Section, "real estate broker" and "mortgage broker" refer to any individual licensed as such under the laws of the State of California who engages the services of salespersons or a salesperson, or of mortgage processors or a mortgage processor, to perform services in the business which such broker conducts under the authority of his or her license; a "salesperson" is an individual who is engaged by a real estate broker to perform services, which may be continuous in nature, as a real estate salesperson under an agreement with a real estate broker, regardless of whether the individual is licensed as a real estate broker under the law of the State of California, a "mortgage processor" is an individual who is engaged by a real estate broker or mortgage broker to perform services which may be continuous in nature, as a mortgage processor under an agreement with such real estate broker or mortgage broker, regardless of whether the mortgage processor is also licensed as a mortgage broker under the laws of the State of California.

(d) All compensation, including all pass-through compensation for services paid to, on behalf of, or for the benefit

of owners of a pass through entity, shall be included in the calculation of such entity's payroll expense tax base for purposes of determining such entity's tax liability under this Article. For purposes of this section, the "pass-through compensation for services" of a pass-through entity shall be the aggregate compensation paid by such entity for personal services rendered by all such owners, and shall not include any return on capital investment. The taxpayer may calculate the amount of compensation to owners of the entity subject to the Payroll Expense Tax, or the taxpayer may presume that, in addition to amounts reported on a W-2 form, the amount subject to the payroll expense tax is, for each owner, an amount that is two hundred percent (200%) of the average annual compensation paid to, on behalf of, or for the benefit of the employees of the pass-through entity whose compensation is in the top quartile (i.e., 25%) of the entity's employees who are based in the City; provided, the total number of employees of the entity based in the City is not less than four.

(Formerly Sec. 902.6; added by Ord. 275-70, 9/2/70; amended by Ord. 118-80, App. 3/28/80; Ord. 357-88, App. 8/4/88; renumbered and amended by Ord. 26-04, File No. 031990, App. 2/19/2004) (Former Sec. 902.1 added by Ord. 275-70, 9/2/70; amended by Ord. 118-80, App. 3/28/80; Ord. 357-88, App. 8/4/88; renumbered Sec. 6.2-4 and amended by Ord. 26-04; Amended by Proposition Q, § 1, 11/4/2008)

SEC. 902.2. PASS-THROUGH ENTITY.

The term "pass-through entity" includes a trust, partnership, corporation described in Subchapter S of the Internal Revenue Code of 1986, as amended, limited liability company, limited liability partnership, professional corporation, and on other person or entity (other than a disregarded entity for federal income tax purposes) which is not subject to the income tax imposed by Subtitle A, Chapter 1 of the Internal Revenue Code of 1986, as amended, or which is allowed a deduction in computing such tax for distributions to the owners or beneficiaries of such person or entity. Any person exempt from payment of the Payroll Expense Tax under Section 905-A or 906 of this Article shall not be disqualified from or denied such exemption as result of being a "pass-through entity" under this Section.

(Added by Proposition Q, § 1, 11/4/2008)

(Ord. 275-70, 9/2/70; amended by Ord. 118-80, App. 3/28/80; Ord. 357-88, App. 8/4/88; renumbered Sec. 6.2-5 and amended by Ord. 26-04, File No. 031990, App. 2/19/2004)

SEC. 902.4.

(Ord. 275-70, 9/2/70; amended by Ord. 118-80, App. 3/28/80; Ord. 395-84, App. 9/20/84; Ord. 357-88, App. 8/4/88; Ord. 24-98, App. 1/16/98; renumbered Sec. 6.2-9 and amended by Ord. 26-04, File No. 031990, App. 2/19/2004)

SEC. 902.5.

(Ord. 275-70, 9/2/70; amended by Ord. 118-80, App. 3/28/80; Ord. 357-88, App. 8/4/88; renumbered Sec. 6.2-10 and amended by Ord. 26-04, File No. 031990, App. 2/19/2004)

SEC. 902.6.

(Ord. 275-70, 9/2/70; amended by Ord. 118-80, App. 3/28/80; Ord. 357-88, App. 8/4/88; renumbered Sec. 902.1 by Ord. 26-04, File No. 031990, App. 2/19/2004)

SEC. 903. IMPOSITION OF PAYROLL EXPENSE TAX.

(a) A tax for general governmental purposes is hereby imposed upon every person engaging in business within the City as defined in Section 6.2-12 of Article 6; provided, that such tax shall be levied only upon that portion of the person's payroll expense that is attributable to the City as set forth in Section 904.

(b) The Payroll Expense Tax is imposed for general governmental purposes and in order to require commerce and the business community to carry a fair share of the costs of local government in return for the benefits, opportunities and protections afforded by the City. Proceeds from the tax shall be deposited in the City's general fund and may be expended for any purposes of the City.

(Ord. 275-70, App. 9/2/70; amended by Ord. 118-80, App. 3/28/80; Ord. 493-84, App. 12/13/84; Ord. 357-88, App. 8/4/88; Ord. 250-89, App. 6/22/89; Ord. 24-98, App. 1/16/98; Ord. 26-04, File No. 031990, App. 2/19/2004)

SEC. 903.1. RATE OF PAYROLL EXPENSE TAX.

The rate of the payroll expense tax shall be 1½ percent. The amount of a person's liability for the payroll expense tax shall be the product of such person's taxable payroll expense multiplied by 0.015. The amount of such tax for Associations shall be 1½ percent of the payroll expense of such Association, plus 1½ percent of the total distributions made by such Association by way of salary to those having an ownership interest in such Association. Amounts paid or credited to those having an ownership interest in such Association prior and in addition to the distribution of ownership profit or loss shall be presumed to be distributions "by way of salary" and for personal services rendered, unless the taxpayer proves otherwise by clear and convincing evidence.

(Added by Ord. 295-90, App. 8/1/90; amended by Ord. 273-93, App. 8/25/93; Ord. 179-94, App. 5/3/94; Ord. 24-98, App. 1/16/98; Ord. 26-04, File No. 031990, App. 2/19/2004)

SEC. 904. APPORTIONMENT OF PAYROLL EXPENSE.

Where payroll expense is incurred by reason of work performed or services rendered by an individual, wholly within the City, all of the payroll expense for such individual shall be attributable to the City and subject to tax hereunder. Where payroll expense is incurred by reason of work performed or services rendered by an individual partly within and partly without the City, the portion of such payroll expense attributable to the City (and subject to tax hereunder) shall be determined as follows:

(a) Except as otherwise provided in this section, the portion of such payroll expense attributable to the City shall be the portion of such payroll expense which the total number of working hours employed within the City bears to the total number of working hours within and without the City.

(b) If the amount of such payroll expense depends on the volume of business transacted by such individual, then the portion of such payroll expense attributable to the City shall be the portion of such payroll expense which the volume of business transacted by such individual in the City bears to the volume of business transacted by such individual within and without the City.

(c) If it is impracticable, unreasonable or improper to apportion such payroll expenses as aforesaid either because of the particular nature of the services of such individual, or on account of the unusual basis of compensation, or for any other reason, then the amount of such payroll earnings reasonably attributable to work performed or services rendered in the City shall be determined on the basis of all relevant facts and circumstances of the particular case, in accordance with any rulings or regulations issued or promulgated by the Tax Collector for the purpose.

(d) If the Tax Collector determines that the percentage of payroll expenses attributable to the City, for any one or more persons, is a relatively stable percentage, the Tax Collector may establish that percentage as a prima facie evidence of payroll expense attributable to the City; provided, that the Tax Collector shall condition the establishment of such fixed percentage upon the obligation of the taxpayer to report immediately to the Tax Collector any significant change in the taxpayer's mode of business which may impact the portion of the person's payroll expense which is attributable to the City; and, provided further, that the Tax Collector may rescind any such fixed percentage at any time by providing

written notice to the taxpayer of such rescission.

(Ord. 275-70, 9/2/70; amended by Ord. 118-80, App. 3/28/80; Ord. 357-88, App. 8/4/88; Ord. 24-98, App. 1/16/98; Ord. 26-04, File No. 031990, App. 2/19/2004)

SEC. 905.

(Ord. 275-70, 9/2/70; amended by Ord. 118-80, App. 3/28/80; Ord. 357-88, App. 8/4/88; Ord. 24-98, App. 1/16/98; renumbered Sec. 6.2-12 and amended by Ord. 26-04, File No. 031990, App. 2/19/2004)

SEC. 905-A. SMALL BUSINESS TAX EXEMPTION.

(a) Notwithstanding any other provisions of this Article, "small business enterprises" as hereinafter defined, shall be exempt from payment of the Payroll Expense Tax; provided, however, that small business enterprises shall pay the annual registration fee pursuant to Section 855 of Article 12.

(b) The term "small business enterprise" shall mean and include any taxpayer:

(1) Whose tax liability under this Article, but for this exemption provision, would not exceed \$2,500.00 or, effective January 1, 2009 whose taxable payroll expense does not exceed \$250,000.00 and:

(2) Who has filed a tax return by the last date of February for the preceding tax year. If the taxpayer fails to file a return by that date, the taxpayer shall be subject to a penalty as specified in Subsection (d).

(c) For the 2011 tax year, and each second succeeding tax year the Tax Collector shall increase the ceiling for the Small Business Tax Exemption (rounded to the nearest \$10,000.00 increment) to reflect increases in the United States Department of Labor's Bureau of Labor Statistics consumer price index for all urban customers for the San Francisco-Oakland-San Jose area for each of the preceding two tax years.

(d) In lieu of the penalty specified in Section 6.17-3 of this Article for failing to file a return, any person who otherwise qualifies for the small business exemption set forth in this Section who fails to file a return by the last date of February shall pay a penalty as follows:

(1) If the person's Payroll Expense Tax liability under this Article, but for the small business exemption under this section, would be less than \$1,000.00, the penalty shall be \$100.00 plus 10% of the amount of such liability, for each month, or fraction thereof, that the return is delinquent, up to a maximum amount equal to the person's liability for such tax but for the small business exemption;

(2) If the person's Payroll Expense Tax liability under this Article, but for the small business exemption under this section, would be \$1,000.00 or more, then the penalty shall be \$250.00 plus 10% of the amount of such liability, for each month, or fraction thereof, that the return is delinquent, up to a maximum amount equal to the person's liability for such tax but for the small business exemption.

(e) The Tax Collector may, in his or her discretion, reduce the penalty set forth in Subsection (c) to not less than \$100.00 upon a showing that the late filing of the return was due to reasonable cause and not due to willful neglect.

(Amended by Ord. 397-82, App. 8/12/82; Ord. 357-88, App. 8/4/88; Ord. 273-93, App. 8/25/93; Ord. 179-94, App. 5/3/94; Ord. 195-94, App. 5/13/94; Ord. 267-94, App. 7/29/94; Ord. 429-94, App. 12/23/94; Ord. 24-98, App. 1/16/98; Ord. 63-01, File No. 010274, App. 4/25/2001; Ord. 177-01, File No. 010826, App. 8/17/2001; Ord. 26-04, File No. 031990, App. 2/19/2004; Amended by Proposition Q, § 2, 11/4/2008)

SEC. 906. EXEMPTION PROVISIONS.

(a) Except as provided in Subsection (b) of this Section, an organization having a formally recognized exemption from income tax pursuant to Sections 501(c) or 501(d) or 401(a) of the Internal Revenue Code of 1986, as amended, as qualified by Sections 502, 503 and 504 of the Internal Revenue Code of 1986, as amended, shall be exempt from taxation under this Article.

(b) Except for an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, an organization otherwise exempt from taxation under Subsection (a) of this Section that is directly engaged within the City in an unrelated trade or business within the meaning of Section 513(a) of the Internal Revenue Code of 1986, as amended, and has, from its own operations, unrelated business taxable income within the meaning of Section 512(a)(1) of the Internal Revenue Code of 1986, as amended, shall pay the Payroll Expense Tax equal to the amount calculated by multiplying the tax which would have been due under this Article if the organization were not an exempt organization by the percentage which its unrelated business receipts bear to its total receipts. If it is impracticable, unreasonable or improper to allocate such organization's payroll expense as aforesaid either because of the particular nature of the organization's unrelated trade or business or the particular nature of the services provided to the organization in connection therewith by its employees, or on account of the unusual basis of compensation, or for any other reason, then the amount of such payroll expense reasonably attributable to work performed or services rendered in the City shall be determined on the basis of all relevant facts and circumstances of the particular case, in accordance with any rulings or regulations issued or promulgated by the Tax Collector for the purpose.

(c) Blind persons licensed under the provisions of Chapter 6A of Title 12 of the United States Code ("Vending Stands for Blind in Federal Buildings") and Article 5 of Chapter 6 of Part 2 of Division 10 of the Welfare and Institutions Code of the State of California ("Business Enterprises for the Blind") need not include in the computation of payroll expense the first \$15,000 of payroll expense in any one year which is attributable to their licensed operations within the City.

(d) Skilled Nursing Facilities licensed under the provisions of Title 22, California Administrative Code, Division 5 ("Licensing and Certification of Health Facilities and Referral Agencies") Chapter 3 ("Skilled Nursing Facilities"), shall be exempt from taxation under this Article.

(e) For only so long as and to the extent that the City is prohibited from imposing the tax under this Article, the following persons shall be exempt from the Payroll Expense Tax:

(1) Banks and financial corporations exempt from local taxation under Article XIII, Section 27 of the California Constitution and Revenue and Taxation Code Section 23182;

(2) Insurance companies exempt from local taxation under Article XIII, Section 28 of the California Constitution;

(3) Persons engaging in business as a for-hire motor carrier of property under Revenue and Taxation Code Section 7233;

(4) Persons engaging in intercity transportation as a household goods carrier under Public Utilities Code Section 5327;

(5) Charter-party carriers operating limousines that are neither domiciled nor maintain a business office with the City under Public Utilities Code Section 5371.4;

(6) Any person upon whom the City is prohibited under the Constitution or statute of the state of California from imposing the Payroll Expense Tax.

(f) To the extent that any taxpayer has paid a substantially similar tax to any other taxing jurisdiction on any payroll

expense taxed under this Article, the tax paid to such taxing jurisdiction shall be credited against the tax due under this Article.

(g) Nothing in this Article shall be construed as requiring the payment of any tax for engaging in a business or the doing of an act when such payment would be in violation of the Constitution or a statute of the United States or of the Constitution or a statute of the State of California.

(Ord. 275-70, 9/2/70; amended by Ord. 118-80, App. 3/28/80; Ord. 395-84, App. 9/20/84; Ord. 357-88, App. 8/4/88; Ord. 423-91, App. 12/19/91; Ord. 26-04, File No. 031990, App. 2/19/2004)

SEC. 906A. ENTERPRISE ZONE TAX CREDIT.

(a) A credit against this tax shall be allowed for each person who maintains a fixed place of business within the San Francisco Enterprise Zone and who, between January 1, 1992 and the effective date of this legislation, creates one or more new jobs and hires employees who qualify under Subsection (b) of this Section; provided, however, that in no event shall the tax credit reduce a person's tax liability to less than zero. Moreover, the tax credits shall only serve as an offset against the additional tax that would be paid as a result of additional hiring by a business within the zone. Each person claiming this credit shall file with the Tax Collector, on a form prescribed by the Tax Collector, an affidavit attesting to facts establishing his or her entitlement to the tax credit; said affidavit shall be supported by state tax credit forms (EDD, DSS, and PIC).

(b) An employee is a "qualified employee" for purposes of computing this tax credit if he or she is newly hired by the taxpayer on or after January 1, 1992 and either (1) is receiving subsidized employment training or services under the terms of the Federal Job Training Partnership Act (JTPA); or (2) is registered in the Greater Avenues for Independence (GAIN) Program; or (3) is certified by the Employment Development Department as eligible for the federal Work Opportunity Credit Program; or (4) is receiving General Assistance.

(c) The tax credit, for each qualified employee, shall be a varying percentage of the additional tax that would be incurred as a result of additional wages paid for work performed within the Enterprise Zone, and the dollar amount of such tax credit shall depend both upon the duration of employment as of the date payroll taxes are due, and the eligible wages paid, as follows:

(1) The eligible wages to which the percentage is applied shall be limited to wages paid for work performed by the qualified employee while physically present within San Francisco.

(2) The percentage to be applied to eligible wages shall depend upon the employee's duration of employment as follows:

<i>Duration of Employment</i>	<i>Credit Allowed on Payroll Tax Liability</i>
First 24 months	100%
Second 24 months	50%
Third 24 months	25%
Fourth 24 months	15%
Fifth 24 months	10%

(d) On or after the effective date of this legislation a credit against this tax shall be allowed for each person who maintains a fixed place of business within the San Francisco Enterprise Zone and who hires new employees who qualify under Subsection (f) of this Section; provided, however, that in no event shall the tax credit reduce a person's tax liability to less than zero. Moreover, the tax credits shall only serve as an offset against the tax that would be paid as a result of hiring by a business within the zone. Each person claiming this credit shall file with the Tax Collector, on a form prescribed by the Tax Collector, an affidavit attesting to facts establishing his or her entitlement to the tax credit; said affidavit shall be supported by applicable State tax credit forms (EDD, DSS) and an approved state enterprise zone voucher.

(e) "Enterprise zone" means the area within the City and County of San Francisco designated as an enterprise zone by the State Department of Housing and Community Development pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(f) "Qualified employee" means a San Francisco resident who meets all of the following requirements:

(1) At least 90 percent of whose services for the taxpayer during the taxable year are directly related to the conduct of the taxpayer's trade or business located in an enterprise zone.

(2) Performs at least 50 percent of his or her services for the taxpayer during the taxable year in an enterprise zone.

(3) Is hired by the taxpayer after the date of original designation of the area in which services were performed as an enterprise zone.

(4) Is any of the following:

(i) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible for services under the Federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving, subsidized employment, training, or services funded by the Federal Job Training Partnership Act, or its successor.

(ii) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible to be a voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 (GAIN) provided for pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, or its successor.

(iii) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was an economically disadvantaged individual 14 years of age or older.

(iv) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a dislocated worker who meets any of the following:

(aa) Has been terminated or laid off or who has received a notice of termination or layoff from employment, is eligible for or has exhausted entitlement to unemployment insurance benefits, and is unlikely to return to his or her previous industry or occupation.

(bb) Has been terminated or has received a notice of termination of employment as a result of any permanent closure or any substantial layoff at a plant, facility, or enterprise, including an individual who has not received written notification but whose employer has made a public announcement of the closure or layoff.

(cc) Is long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including an individual 55 years of age or older who may have substantial barriers to employment by reason of age.

(dd) Was self-employed (including farmers and ranchers) and is unemployed as a result of general economic conditions in the community in which he or she resides or because of natural disasters.

(ee) Was a civilian employee of the Department of Defense employed at a military installation being closed or realigned under the Defense Base Closure and Realignment Act of 1990.

(ff) Was an active member of the armed forces or National Guard as of September 30, 1990, and was either involuntarily separated or separated pursuant to a special benefits program.

(gg) Is a seasonal or migrant worker who experiences chronic seasonal unemployment and underemployment in the agriculture industry, aggravated by continual advancements in technology and mechanization.

(hh) Has been terminated or laid off or has received a notice of termination or layoff, as a consequence of compliance with the Clean Air Act.

(v) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a disabled individual who is eligible for or enrolled in, or has completed a state rehabilitation plan or is a service-connected disabled veteran, veteran of the Vietnam era, or veteran who is recently separated from military service.

(vi) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was an ex-offender. An individual shall be treated as convicted if he or she was placed on probation by a state court without a finding of guilt.

(vii) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible for or a recipient of any of the following:

(aa) Federal Supplemental Security Income benefits.

(bb) Aid to Families with Dependent Children.

(cc) Food stamps.

(dd) State and local general assistance.

(viii) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member of a federally recognized Indian tribe, band, or other group of Native American descent.

(ix) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member of a targeted group, as defined in Section 51(d) of the Internal Revenue Code, or its successor.

(g) The tax credit, for each qualified employee, shall be a varying percentage of the tax that would be incurred as a result of wages paid for work performed within the Enterprise Zone, and the dollar amount of such tax credit shall depend both upon the duration of employment as of the date payroll taxes are due, and the eligible wages paid, as follows:

(1) The eligible wages to which the percentage is applied shall be limited to wages paid for work performed by the qualified employee while physically present within San Francisco.

(2) The percentage to be applied to eligible wages shall depend upon the employee's duration of employment as follows:

<i>Duration of Employment</i>	<i>Credit Allowed on Payroll Tax Liability</i>
First 24 months	100%
Second 24 months	50%
Third 24 months	25%
Fourth 24 months	15%
Fifth 24 months	10%

(h) This Section 906A shall expire by operation of law on December 31, 2021, unless extended by the Board of Supervisors or the voters, and the City Attorney shall cause it to be removed from future editions of the Business and Tax Regulations Code.

(Added by Ord. 38-92, App. 2/3/92; amended by Ord. 200-93, App. 6/16/93; Ord. 24-98, App. 1/16/98; Ord. 113-08, File No. 080350, App. 6/30/2008)

SEC. 906B. RESERVED.

(Added by Ord. 199-93, App. 6/16/93; amended by Ord. 188-96, App. 5/8/96; Ord. 24-98, App. 1/16/98; Ord. 389-98, App. 12/24/98)

Editor's Note:

Former Sec. 906B ("New Jobs Tax Credit") expired on December 31, 2002.

SEC. 906C. RESERVED.

(Added by Ord. 239-96, App. 6/11/96; amended by Ord. 24-98, App. 1/16/98)

Editor's Note:

Former Sec. 906C ("Summer Youth Employment Tax Credit") expired on December 31, 2001.

SEC. 906D. RESERVED.

(Added by Ord. 11-97, App. 1/3/97; amended by Ord. 166-99, File No. 990335, App. 6/18/99)

Editor's Note:

Former Sec. 906D ("Garment Manufacturers' Tax Credit") expired on December 31, 2001.

SEC. 906E. CREDIT OF SURPLUS BUSINESS TAX REVENUE.

(a) **General Rule.** Any business, as defined in Section 902.2 of Part III of the Municipal Code, that does not qualify as a "small business enterprise" under the provisions of Section 905-A (Small Business Exemption), shall be

allowed a credit against the Payroll Expense Tax for any taxable year ending within a fiscal year of the City and County of San Francisco immediately following a fiscal year in which the City and County of San Francisco has surplus Business Tax revenue; provided, however, that in no event shall the tax credit allowable pursuant to this Section reduce a taxpayer's liability for such tax to an amount less than zero. For each fiscal year, the Controller shall determine whether the City and County of San Francisco has surplus Business Tax revenue. The Controller's determination whether the City and County of San Francisco has surplus Business Tax revenue shall be made on or before the first business day of September following the close of such fiscal year; provided, however, that for purposes of the 1997/1998 fiscal year, the Controller may make his or her determination on or before December 31, 1998. The Controller shall notify the Tax Collector of his or her determination.

(b) **Amount of Credit.** For purposes of this Section, the amount of the tax credit for any taxable year shall be \$500.00; provided, however, that in no event shall the tax credit allowable pursuant to this Section reduce a taxpayer's liability for such tax to an amount less than zero.

(c) **Definitions.** The following definitions shall apply to the terms used in this Section.

(1) For any fiscal year of the City and County of San Francisco, the City and County of San Francisco shall be deemed to have "surplus Business Tax revenue" if and only if the actual Business Tax revenue for such fiscal year exceeds the anticipated Business Tax revenue for such fiscal year.

(2) For any fiscal year of the City and County of San Francisco, the "actual Business Tax revenue" means the aggregate amount of tax revenue collected pursuant Article 12-A (Payroll Expense Tax Ordinance) and Article 12-B (Business Tax Ordinance) of Part III of the San Francisco Municipal Code, less the amount of such revenue for such year allocable solely to tax rate increases in such year.

(3) For any fiscal year of the City and County of San Francisco, the "anticipated Business Tax revenue" is an amount equal to the product of (i) the actual Business Tax revenue for the fiscal year immediately preceding such fiscal year, multiplied by (ii) 107.5 percent.

(d) **Effective Date.** The tax credit provided by this Section shall be allowable in taxable years ending after 1997.

(Added by Ord. 391-98, App. 12/24/98)

SEC. 906.1. BIOTECHNOLOGY EXCLUSION.

(a) Any person engaging in biotechnology business within the city may exclude from their payroll expense all compensation paid to, on behalf of or for the benefit of all employees of that person, and all distributions by an Association by way of salary to those having an ownership interest in such Association, who or that perform substantially all work or render substantially all services in direct support of such person's biotechnology business, subject to the conditions and limitations set forth in this Section. For purposes of this Section, outside contractors shall not be considered employees of the biotechnology business. For purposes of this Section, "biotechnology business" means conducting biotechnology research and experimental development, and operating laboratories for biotechnology research and experimental development, using DNA, cells, and/or bioprocessing techniques, as well as the application thereof to the development of therapeutics, diagnostic products and/or devices to improve human health, animal health, and agriculture.

(b) For purposes of this section, "DNA" is a nucleic acid sequence, or fragment thereof, that contains the genetic information for cell growth, division, and function. Examples of DNA include recombinant DNA, RNA, mRNA, antisense, RNAi, genes and ESTs.

(c) For purposes of this section, "cells" are membrane bound structures containing biomolecules, such as nucleic acids, proteins, and polysaccharides. This definition includes both prokaryotic (bacterial) and eukaryotic (animal or plant) cells. Examples include primary cells, transformed or cultured cells, stem cells, iPS, ESCs, fused cells and cell lines.

(d) For purposes of this section, "bioprocessing" is the use of microbial, plant, or animal cells or portions thereof, for the production of therapeutics or diagnostics. Bioprocessing includes the extraction of compounds from biomaterials; reaction of biomaterials, such as microbial fermentation, cell culture, cell fusion or biotransformation by enzymes; and separation of product from biomaterials using filtration, purification, precipitation, centrifugation, solvents, chromatography or other means.

(e) The biotechnology exclusion authorized under this Section shall be available to and may be taken by each person engaging in the biotechnology business in the City for a period of seven and one-half years from the effective date of this Section or the commencement of the person's biotechnology business in the City, whichever is later. The date the Director of Public Health or his or her designee received the person's application for a business registration certificate for the person's biotechnology business shall be presumed to be the date of commencement of such business unless the person establishes a different commencement date to the satisfaction of the Tax Collector.

(f) In order to be eligible for the payroll expense tax exclusion authorized under this Section, persons wishing to claim the exclusion must:

(1) Complete and submit an initial application to the Director of the Department of Public Health or his or her designee for review and evaluation. The Director of the Department of Public Health, or his or her designee shall have authority to develop eligibility criteria for the biotechnology exclusion, which shall include participation in the City's First Source Hiring Program as defined in Section 83.4 of the Administrative Code.

(2) After approval, file an annual affidavit with the Department of Public Health affirming that they continue to meet the eligibility criteria as determined by the Department of Public Health. The affidavit must be filed with the Department of Public Health on or before January 31 of every year after the year the application is first approved.

(3) Maintain a reasonable method of documentation that can be reviewed or verified objectively that tracks how employees whose compensation qualifies for the payroll expense tax exclusion spend their time at work, and provide such documentation to the Tax Collector upon request.

(4) File an annual Payroll Expense Tax Return with the Tax Collector regardless of the amount of tax liability shown on the return after claiming the exclusion provided for in this Section.

(5) File annual affidavits with the Office of Economic and Workforce Development detailing the total number of individuals hired, the number of individuals hired who were referred by the San Francisco Workforce Development System, and the duration of employment for each individual hired. The affidavits must be filed with the Office of Economic and Workforce Development on or before January 31 of every year after the year the application is first approved.

(g) The biotechnology exclusion authorized under this Section shall expire on the tenth anniversary date of the effective date of this Section. Unless exempted under Sections 906 of this Article, every person engaging in the biotechnology business in the City shall pay the tax imposed under this Article on the full amount of the person's payroll expense attributable to the City from and after the expiration of this Section.

(h) If a person's taxable payroll for any year does not exceed the small business exemption amount as defined in Section 905-A, the person shall be exempt from payment of the Payroll Expense Tax for that year.

[(i) Reserved.]

(j) The Tax Collector shall submit an annual report to the Board of Supervisors for each year for which the biotechnology exclusion authorized under this Section is available that sets forth aggregate information on the dollar value of the biotechnology exclusions taken each year, the number of businesses taking the exclusion, the change in the number of biotechnology businesses engaging in business in the City, and any increase or decrease in the number of jobs in the biotechnology business sector compared to the number of jobs in the biotechnology business sector for the immediately preceding calendar year.

(k) The Assessor-Recorder and the Tax Collector shall jointly prepare and submit an annual report to the Board of Supervisors for each year for which the biotechnology exclusion authorized under this Section is available that sets forth any increases in property taxes resulting from biotechnology businesses location, relocation or expansion to or within the City.

(l) The Mayor's Office of Economic Development shall coordinate community educational workshops on the biotechnology industry.

(m) The Controller, after five years from the enactment of this Ordinance, shall perform an assessment and review of the effect of the biotechnology tax exclusion. Based on such assessment and review the Controller shall prepare and submit an analysis to the Board of Supervisors. The analysis shall be based on criteria deemed relevant by the Controller, and may include but is not limited to, data contained in the annual reports to the Board of Supervisors as required by subsections (j) and (a) of Section 1. *

(Added by Ord. 209-04, File No. 040592, App. 8/12/2004; Ord. 105-10, File No. 091269, App. 5/21/2010)

CODIFICATION NOTE

* So in Ord. [105-10](#); probably should be "divisions (j) and (k) of this Section."

SEC. 906.2. CLEAN TECHNOLOGY BUSINESS EXCLUSION.

(a) Any person that employs a full-time staff of not more than one hundred employees and is engaging in a clean technology business may exclude from the person's payroll expense all compensation paid to, on behalf of or for the benefit of the person's employees, and all distributions by an association by way of salary to those having an ownership interest in such association, who or that perform substantially all work or render substantially all services in direct support of such person's clean technology business activities,, subject to the conditions and limitations set forth in this Section. For purposes of this Section, outside independent contractors shall not be considered employees of the clean technology business.

(b) For purposes of this section, the following terms shall have the meanings set forth below:

(1) The term "person" includes the combination of all domestic subsidiaries, affiliates and other business entities related by ownership including but not limited to partnerships, joint ventures, limited liability companies, corporations and other business organizations of whatever form. Any beneficial ownership of the stock of publicly traded corporations shall not be considered for purposes of this definition.

(2) The term "business" is as defined in Section 6.2-5 of Article 6 of the San Francisco Business and Tax Regulations Code.

(3) The term "association" is as defined in Section 6.2-4 of Article 6 of the San Francisco Business and Tax Regulations Code.

(4) "Clean energy" means energy utilizing energy produced by wind, solar energy, landfill gas, geothermal

resources, ocean thermal energy conversion, quantifiable energy conservation measures, tidal energy, wave energy, biomass, biofuels, or hydrogen fuels derived from renewable sources, excluding (A) any fossil fuel based energy production, including but not limited to, clean coal, clean diesel, natural gas and hydrogen from natural gas, (B) any nuclear based energy production, (C) waste to energy via combustion or incineration, or/and (D) other technologies that are detrimental to human health.

(5) "Clean technology business" means a business in which at least seventy-five percent of all business activities carried on during the tax year are directly related to one or more of the following activities:

(A) research and development and/or associated manufacturing applying scientific advances to the production, distribution or storage of clean energy:

(B) research and development and/or associated manufacturing applying scientific advances to prototype or commercially viable materials and products powered by clean energy, including but not limited to single passenger vehicles and fueling infrastructure:

(C) research and development and/or associated manufacturing applying scientific advances to prototype or commercially viable techniques, materials and products that materially improve energy efficiency, water conservation or air quality;

(D) research and development, manufacture and/or installation of solar panels: or

(c) In order to be eligible for the payroll expense tax exclusion authorized under this Section, persons wishing to claim the exclusion must:

(1) Complete and submit an initial application to the Director of the Department of the Environment for review and evaluation.

(2) After approval, file an annual affidavit with the Department of the Environment affirming that they continue to meet the eligibility criteria set forth in regulations adopted by the Department of the Environment. The affidavit must be filed with the Department of the Environment on or before January 31 of every year after the year the application is first approved.

(3) Maintain a reasonable method of documentation that can be reviewed or verified objectively that tracks how employees whose compensation qualifies for the payroll expense tax exclusion spend their time at work, and provide such documentation to the Tax Collector upon request.

(4) File an annual Payroll Expense Tax Return with the Tax Collector regardless of the amount of tax liability shown on the return after claiming the exclusion provided for in this Section.

(5) For clean technology businesses in business sectors eligible for Green Business recognition from the City under Chapter 15 of the Environment Code and implementing regulations, qualify as a Green Business, and (2) complete and submit all required applications for Green Business recognition at least ninety days prior to the close of the tax year for which the payroll tax exemption is requested.

(d) The Director of the Department of the Environment shall:

(1) No later than the effective date of this ordinance, after a public hearing, adopt rules, regulations and forms regarding eligibility and the application process for the payroll tax expense exclusion. The Director of the Department of the Environment may amend such rules, regulations and forms from time to time as necessary.

(2) Review all applications for completeness and if an application is approved issue a certificate of eligibility to the applicant. The Director's decision on the application shall be final.

(3) Provide the Tax Collector with a list of persons eligible to claim the tax exclusion authorized under this Section for the preceding tax year by March 1 of each year. The Tax Collector shall grant or deny the tax exclusion on the basis of the Department of the Environment's determination along with the review, at the Tax Collector's option, of the documentation maintained by the employer under Subsection (c)(3) of this Section.

(e) The clean technology exclusion authorized under this Section shall be available to and may be taken by a person for each tax year that person holds a valid certificate of eligibility for a period of ten years from the effective date of this Section or the commencement of the person's clean technology business in the City, whichever is later. The date the Tax Collector first received the person's application for a business registration certificate for the person's clean technology business shall be presumed to be the date of commencement of such business unless the person establishes a different commencement date to the satisfaction of the Tax Collector.

(f) The clean technology exclusion authorized under this Section shall expire on the fifteenth anniversary date of the effective date of this Section. A person may not use or claim any unused portion of the ten year clean technology exclusion after the expiration date of this Section. Unless exempted under Sections 906 of this Article, every person engaging in a clean technology business in the City shall pay the tax imposed under this Article on the full amount of the person's payroll expense attributable to the City from and after the expiration of this Section.

(g) If a person's calculated liability for the Payroll Expense Tax does not exceed the ceiling specified in Section 905-A for the tax year after applying the clean technology exclusion under this Section, the person shall be exempt from payment of the Payroll Expense Tax for that tax year as provided in Section 905-A.

(h) The effective date of this Section 906.2 shall be January 1, 2006 except that the amendments to Section 906.2 made by Ordinance 08- * do not apply to tax years beginning before January 1, 2009.

(i) The Tax Collector shall submit an annual report to the Board of Supervisors for each year for which the clean technology exclusion authorized under this Section is available that sets forth aggregate information on the dollar value of the clean technology exclusions taken each year, the number of businesses taking the exclusion, the change in the number of clean technology businesses engaging in business in the City, and any identifiable increase or decrease in the number of jobs in the clean technology business sector compared to the number of jobs in the clean technology business sector for the immediately preceding calendar year.

(j) The Assessor-Recorder shall submit an annual report to the Board of Supervisors for each year for which the clean technology exclusion authorized under this Section is available that sets forth any identifiable increases in property taxes resulting from clean technology businesses location, relocation or expansion to or within the City.

(k) The Controller, after three years from the enactment of this Ordinance, shall perform an assessment and review of the effect of the clean technology tax exclusion. Based on such assessment and review the Controller shall prepare and submit an analysis to the Board of Supervisors. The analysis shall be based on criteria deemed relevant by the Controller, and may include but is not limited to, data contained in the annual reports to the Board of Supervisors as required by subsections (i) and (j) of this Section.

(l) A misrepresentation or misstatement by any person regarding eligibility for the clean technology payroll expense tax exclusion authorized by this section that results in the underpayment or underreporting of the payroll expense tax shall be subject to penalties as provided in Section 6.17-2 of Article 6 of the San Francisco Business and Tax Administrative Code.

(Added by Ord. 249-05, File No. 050922, App. 11/10/2005; amended by Ord. 21-06, File No. 051818, App. 2/3/2006; Ord. 313-08, File No.

CODIFICATION NOTE

* So in Ord. [313-08](#); probably should be "Ordinance 313-08."

SEC. 906.3. CENTRAL MARKET STREET AND TENDERLOIN AREA PAYROLL EXPENSE TAX EXCLUSION.

(a) An exclusion from the payroll expense tax shall be allowed for each person who maintains a fixed place of business within the Central Market Street and Tenderloin Area for payroll expense attributable to that fixed location; provided, however, that in no event shall the tax exclusion reduce a person's tax liability to less than the person's Base Year payroll expense tax liability.

(b) For purposes of this Section, the following terms shall have the meanings set forth below:

(1) "Central Market Street and Tenderloin Area" means the area located in downtown San Francisco, generally including: parcels fronting the south side of Market Street from Eleventh Street to Sixth Street; a portion of the parcels fronting the south side of Market Street from Sixth Street to Fifth Street (odd numbered addresses from 999 to 933 Market Street); parcels fronting the north side of Market Street from Van Ness Avenue to Eighth Street; 875 Stevenson Street; and parcels in the area bordered by: Ellis Street from Polk Street to Mason Street (south side only); Mason Street, from Ellis Street to Market Street (west side only); Market Street, from Mason Street to Charles J. Brenham Place (north side only); Charles J. Brenham Place, from Market Street to McAllister Street (east side only); McAllister Street, from Charles J. Brenham Place to Larkin Street (north side only); Larkin Street, from McAllister Street to Eddy Street (east side only); Eddy Street, from Larkin Street to Polk Street (north side only); and Polk Street, from Eddy Street to Ellis Street (east side only). The exclusion applies exclusively to the following Assessor's Lots: the entirety of Blocks 0331, 0332, 0333, 0334, 0335, 0336, 0337, 0338, 0339, 0340, 0342, 0343, 0344, 0345, 0346, 0347, 0348, 0349, 0350, and 0740; Block 0813, Lots 7, 8, 9 and 10; Block 0835, Lots 1, 2 and 3; Block 3701, Lots 50 and 59; Block 3702, Lots 1, 45, 46, 47, 48, 48A, and 53; Block 3703, Lots 1, 56, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 70, 74, 75, 76, 78 and 88; Block 3704, Lots 70, 69, 68, 67 and 78; Block 3507, Lots 39 and 41; Block 3508, Lots 1 and 39; Block 0355, Lots 3, 4, 5, 6, 7, 8, 9, 10 and 15; and Block 0351, Lots 1, 22, 39, 41, 46, 47, 49 and 51.

(2) "Base Year" means the 2010 tax year for a person who maintains a fixed place of business in the Central Market Street and Tenderloin Area on the effective date of this ordinance, provided that the person maintained a fixed place of business in the Area for the entirety of such tax year. If the person did not maintain a fixed place of business in the Area for the entirety of 2010, then the first full tax year that person maintains a fixed place of business in the Area shall be the Base Year. For a person who moves a business to the Central Market Street and Tenderloin Area from another part of San Francisco, Base Year means that person's full tax year for the year prior to entering into a lease agreement or buying real property in the Area, provided that person was doing business in San Francisco for the entirety of such tax year. For a person who commences to maintain a fixed place of business in San Francisco after the effective date of this ordinance, Base Year means that person's first full tax year in the Area.

(c) In order to be eligible for the payroll expense tax exclusion authorized under this Section, persons wishing to claim the exclusion must:

(1) Complete and submit an initial application to the Office of Economic and Workforce Development for review and evaluation. The Office of Economic and Workforce Development will use this application to verify that applicants claiming the payroll expense tax exclusion under this Section meet the eligibility requirements outlined in subsection (b) of this Section. The Office of Economic and Workforce Development and the Office of the Treasurer and Tax Collector shall prescribe the form of the application and, consistent with this ordinance, the rules and regulations

regarding eligibility for the Central Market Street and Tenderloin Area payroll expense tax exclusion, which shall include participation in the City's First Source Hiring Program as defined in Section 83.4 of the Administrative Code.

(2) File an annual affidavit with the Office of Economic and Workforce Development affirming that they continue to meet the eligibility criteria as determined by the Office of Economic and Workforce Development. The annual affidavit should detail the total number of individuals hired during the year, the number of individuals who were referred by the San Francisco Workforce Development System during the year, and the duration of employment for each individual hired during the year. The affidavit must be filed with the Office of Economic and Workforce Development on or before January 31 of each year subsequent to the Office of Economic and Workforce Development's initial approval of the application.

(3) Maintain records and documents in a manner acceptable to the Tax Collector. Such records and documents must objectively substantiate any exclusion claimed under this Section and be provided to the Tax Collector upon request.

(4) File an annual Payroll Expense Tax Return with the Tax Collector regardless of the amount of tax liability, if any, shown on the return after claiming the exclusion provided for in this Section.

(5) Any person whose annual payroll expense exceeds one million dollars (\$1,000,000) shall enter into a binding Community Benefit Agreement with the City Administrator in order to be eligible for the payroll expense tax exclusion under this Section. Such Community Benefit Agreement may include commitments to engage in community activities in the Central Market Street and Tenderloin Area as well as participation in workforce development opportunities.

(d) The Office of Economic and Workforce Development shall:

(1) Together with the Office of the Treasurer and Tax Collector, adopt rules, regulations and forms regarding eligibility and the application process for the Central Market Street and Tenderloin Area payroll expense tax exclusion. The rules, regulations and forms may be amended from time to time as necessary.

(2) Review all applications for completeness and upon approval, issue a certificate of eligibility to the applicant. The decision of the Office of Economic and Workforce Development regarding eligibility for the exclusion may not be appealed by an applicant.

(3) Provide the Tax Collector with a list of persons eligible to claim the tax exclusion authorized under this Section for the preceding tax year by March 1 of each year.

(e) The Tax Collector shall verify that any exclusion claimed pursuant to this Section is appropriate.

(f) The Central Market Street and Tenderloin Area exclusion authorized under this Section shall be available to and may be taken by each person for each tax year that person holds a valid certificate of eligibility for a period not to exceed six years from the effective date of this ordinance or the commencement of the person's business in the Central Market Street and Tenderloin Area, whichever is later. The date the Tax Collector first received the person's application for a business registration certificate for the person's Central Market Street and Tenderloin Area business shall be presumed to be the date of commencement of such business unless the person establishes a different commencement date to the satisfaction of the Tax Collector.

(g) The Central Market Street and Tenderloin Area exclusion authorized under this Section shall expire on the eighth anniversary date of the effective date of this Section. A person may not use or claim any unused portion of the Central Market Street and Tenderloin Area exclusion after the expiration date of this Section. Unless exempted under Sections 906 of this Article, every person engaging in a business in the Central Market Street and Tenderloin Area in the

City shall pay the tax imposed under this Article on the full amount of the person's payroll expense attributable to the City from and after the expiration of this Section.

(h) If a person's calculated liability for the payroll expense tax does not exceed the ceiling specified in Section 905-A for the tax year after applying the Central Market Street and Tenderloin Area exclusion under this Section, the person shall be exempt from payment of the payroll expense tax for that tax year as provided in Section 905-A.

(i) The Tax Collector shall submit an annual report to the Board of Supervisors for each year for which the Central Market Street and Tenderloin Area exclusion authorized under this Section is available that sets forth aggregate information on the dollar value of the Central Market Street and Tenderloin Area exclusions taken each year, the number of businesses taking the exclusion and the change in the number of businesses located in the Central Market Street and Tenderloin Area of the City.

(j) The Office of the City Administrator shall submit an annual report to the Board of Supervisors for each year for which the Central Market Street and Tenderloin Area exclusion authorized under this Section is available that sets forth any and all Community Benefit Agreements that have been entered into with the Office of the City Administrator during that year.

(k) The Assessor-Recorder shall submit an annual report to the Board of Supervisors for each year for which the Central Market Street and Tenderloin Area exclusion authorized under this Section is available that sets forth any identifiable increases in property value resulting from businesses' location, relocation or expansion to or within the Central Market Street and Tenderloin Area.

(l) The Controller, not later than three years after the effective date of this ordinance, shall perform an assessment and review of the effect of the Central Market Street and Tenderloin Area payroll expense tax exclusion on the Central Market Street and Tenderloin Area. Based on such assessment and review the Controller shall prepare and submit an analysis to the Board of Supervisors. The analysis shall be based on factors that the Controller deems relevant, and may include, but shall not be limited to, data contained in the annual reports to the Board of Supervisors as required by subsections (i), (j) and (k) of this Section.

(m) The Central Market Street and Tenderloin Area payroll expense tax exclusion set forth in this Section may not be claimed concurrently with any other payroll expense tax exclusion.

(n) A misrepresentation or misstatement by any person regarding eligibility for the Central Market Street and Tenderloin Area payroll expense tax exclusion authorized by this Section that results in the underpayment or underreporting of the payroll expense tax shall be subject to penalties.

(Added by Ord. [68-11](#), File No. 110155, App. 4/20/2011, Eff. 5/20/2011)

SEC. 906.3-1. CENTRAL MARKET STREET AND TENDERLOIN AREA CITIZEN'S ADVISORY COMMITTEE.

(a) There shall be a Central Market Street and Tenderloin Area Citizen's Advisory Committee.

(b) The Citizen's Advisory Committee shall be an advisory body whose purpose is to make recommendations to the Mayor, Board of Supervisors and City Administrator on policies and programs that mitigate the effects of development, bolster economic development, local employment, and community sustainability and seek to stabilize and protect existing tenants, community based organizations and small businesses in and around the Central Market Street and Tenderloin Area.

(c) Duties of the Citizen's Advisory Committee may include:

- (1) Advise the City Administrator of community issues in order to better align the Community Benefit Agreements called for under the Central Market Street and Tenderloin Area Payroll Expense Tax Exclusion * with the community needs.
- (2) Make recommendations to the City Administrator about terms and conditions in the Community Benefit Agreements called for under the Central Market Street and Tenderloin Area Payroll Expense Tax Exclusion.
- (3) Provide a report every six months to the Board of Supervisors regarding the implementation and execution of the Community Benefit Agreements called for under the Central Market Street and Tenderloin Area Payroll Expense Tax Exclusion.
- (4) Make recommendations to the Board of Supervisors and the Office of Economic and Workforce Development on policies, initiatives, and programs that bolster economic development, local employment, and community sustainability and seek to stabilize and protect existing tenants, community based organizations and small businesses in and around the Central Market Street and Tenderloin Area.
- (5) Advise the Mayor, Board of Supervisors and City Administrator on the creation of a community development fund that may support workforce development, community infrastructure and programs to mitigate potential displacement of small businesses, community based organizations and tenants.
- (6) Help facilitate partnerships between persons claiming the Central Market Street and Tenderloin Area Payroll Expense Tax Exclusion and community organizations, local schools and small businesses.
- (7) Hold public hearings regarding Community Benefit Agreements within four weeks from the time the parties to any such Agreements reach a consensus on the terms to be included therein and prior to the execution of any Community Benefit Agreement by the City Administrator. The City Administrator may, at his or her sole discretion, extend this time in order to combine hearings and utilize staff time more efficiently.
- (8) The City Administrator shall convene the Citizen's Advisory Committee no less than four times yearly.

(d) The Citizen's Advisory Committee shall be composed of eleven members:

- (1) One member representing low-income families who lives with his or her family in the Central Market Street and Tenderloin Area or Adjacent Area;
- (2) Two members who have expertise in job creation and or workforce development, including one member who represents labor;
- (3) One member who is a senior or disabled resident of the Central Market Street and Tenderloin Area or Adjacent Area;
- (4) One member who has expertise in affordable housing or tenant protection and anti-displacement policies and strategies, and has familiarity with the Central Market Street and Tenderloin Area;
- (5) One member who represents a community-based organization or provides direct services to the Central Market Street and Tenderloin Area or Adjacent Area;
- (6) One member who has small business expertise and familiarity with the Central Market Street and Tenderloin Area;

(7) One member with expertise on homelessness, transitional age youth, or supportive housing and familiarity with the Central Market Street and Tenderloin Area or the Adjacent Area;¹

(8) One member with expertise in commercial real estate and leasing within the Central Market Street and Tenderloin Area; and

(9) Two members who are residents of the Central Market Street and Tenderloin Area or Adjacent Area.

(e) The Rules Committee of the Board of Supervisors shall nominate each Citizen's Advisory Committee member.

(f) The appointment of each nominee shall be confirmed by the full Board of Supervisors.

(g) For purposes of this Section, "Adjacent Area" shall mean the area in District 6, bounded on the southern side by 13th Street and Townsend Street.

(h) The members of the Citizen's Advisory Committee shall be appointed for a term of four years; provided, however, that members first appointed shall, by lot at the first meeting, classify their terms so that three shall serve for a term of two years and four shall serve for a term of four years. At the initial meeting of the Citizen's Advisory Committee and yearly thereafter, the Citizen's Advisory Committee members shall select such officer or officers as deemed necessary by the Citizen's Advisory Committee. The Citizen's Advisory Committee shall promulgate such rules and regulations as are necessary for the conduct of its business under this Section. In the event a vacancy occurs, a successor shall be appointed to fill the vacancy consistent with the process and requirements to appoint the previous appointee. When a vacancy occurs for a reason other than the expiration of a term of office, the appointee to fill such vacancy shall hold office for the unexpired term of his or her predecessor. Any appointee who misses four meetings within a twelve-month period, without the approval of the Citizen's Advisory Committee, shall be deemed to have resigned.

(i) The Citizen's Advisory Committee shall comply with all applicable public records and meetings laws and shall be subject to the Conflict of Interest provisions of the City's Charter and Administrative Code. Specifically, during the twelve months prior to and during a member's tenure on the Citizen's Advisory Committee, no member of the Citizen's Advisory Committee may receive any gift, income or have any investment in any entity that foreseeably may be subject to or be the beneficiary of any Community Benefit Agreement reviewed by the Citizen's Advisory Committee. For purposes of this Section, "income," "gift" and "investment" shall have the same meanings as defined in the Political Reform Act of 1974 under California Government Code Section 81000 et seq. The initial meeting of the Citizen's Advisory Committee shall be called within 30 days from the day the Board of Supervisors confirms its initial appointments. The City Administrator shall provide administrative support to the Citizen's Advisory Committee.

(j) The provisions of this ordinance and the operation of the Citizen's Advisory Committee shall expire upon expiration of the Central Market Street and Tenderloin Area Payroll Expense Tax Exclusion under Section 906.3 of this Article.

(Added by Ord. [103-11](#), File No. 110435, App. 6/20/2011, Eff. 7/20/2011)

CODIFICATION NOTE

1. The punctuation at the end of divisions (d)(7) and (d)(8) was corrected by the codifier.

*** Editor's Note:**

See Sec. 906.3.

SEC. 906.4. STOCK-BASED COMPENSATION EXCLUSION.

(a) **Definitions.**

(1) "Eligible Person" shall mean a person who undertakes an initial public offering on a public stock exchange, or experiences a change in control prior to any such initial public offering, during the period this exclusion is in effect.

(2) "Stock-Based Compensation" includes all incentive and non-statutory stock options granted prior to the date a person makes an initial public offering or undergoes a change in control including all underlying stock relating to such options, restricted stock, restricted stock units, and stock acquired as a result of employee stock purchase plans.

(b) An Eligible Person may exclude from its Payroll Expense, as defined in Section 902.1, compensation related to Stock-Based Compensation for the tax years 2011 through 2017.

(c) The amount of Payroll Expense attributable to Stock-Based Compensation that a person may exclude on an annual basis from its Payroll Expense is calculated as follows:

(1) A person who, in tax year 2010, paid more than \$750,000 in Payroll Expense Tax attributable to Stock-Based Compensation may exclude Payroll Expense attributable to Stock-Based Compensation in excess of that paid in tax year 2010;

(2) A person who, in tax year 2010, did not pay more than \$750,000 in Payroll Expense Tax attributable to Stock-Based Compensation may exclude Payroll Expense attributable to Stock-Based Compensation in excess of \$750,000.

(d) In order to be eligible for the Payroll Expense Tax exclusion authorized under this Section, persons wishing to claim the exclusion must:

(1) File with the Tax Collector, on a form prescribed by the Tax Collector, an affidavit attesting to the facts establishing entitlement to the tax exclusion. The affidavit shall be supported by such other documentation as the Tax Collector shall prescribe.

(2) Maintain records and documents in a manner acceptable to the Tax Collector. Such records and documents must objectively substantiate any exclusion claimed under this Section and be provided to the Tax Collector upon request.

(3) File an annual payroll expense tax return with the Tax Collector regardless of the amount of tax liability shown on the return after claiming the exclusion provided for in this Section.

(e) A person may not use or claim any unused portion of the exclusion available under this Section after the expiration date of this Section.

(f) The Office of the Treasurer and Tax Collector may adopt rules and regulations regarding the exclusion provided under this Section.

(g) The Tax Collector shall verify that any exclusion claimed pursuant to this Section is appropriate.

(h) A misrepresentation or misstatement by any person regarding eligibility for the exclusion authorized by this Section that results in the underpayment or underreporting of the Payroll Expense Tax shall be subject to penalties.

(i) The Stock-Based Compensation Exclusion in this Section may not be claimed concurrently with any other Payroll Expense Tax exclusion.

(j) The Tax Collector shall submit an annual report to the Board of Supervisors for each year for which the

exclusion authorized under this Section is available that sets forth aggregate information on the dollar value of the exclusions taken each year, and the number of persons claiming the exclusion.

(k) Not later than six months prior to the expiration of this ordinance, the Controller shall perform an assessment and review of the effect of the Stock-Based Compensation Exclusion under this Section. Based on such assessment and review, the Controller shall prepare and submit an analysis to the Board of Supervisors. The analysis shall be based on criteria deemed relevant by the Controller, and may include but is not limited to, data contained in the annual report to the Board of Supervisors as required by subsection (j). In its analysis, the Controller shall recommend to the Board of Supervisors whether the exclusion should be extended for an additional period.

(l) This Section 906.4 shall expire by operation of law on December 31, 2017, unless extended by the Board of Supervisors or the voters, and the City Attorney shall cause it to be removed from future editions of the Business and Tax Regulations Code.

(Added by Ord. [87-11](#), File No. 110337, App. 6/3/2011, Eff. 7/3/2011)

SEC. 906.5. NET NEW PAYROLL EXCLUSION.

(a) The purpose of this Section is to increase the number of jobs within the City and County of San Francisco by providing an incentive for Small Businesses to create new jobs or to relocate existing jobs to the City and County of San Francisco.

(b) Notwithstanding any other provisions of this Article, for purposes of this Section the following terms shall have the meaning set forth below:

(1) "Small Business" means a person whose Base Year Payroll Expense is between \$1 and \$500,000.

(2) "Base Year" means the 2011 tax year for a person who had Payroll Expense in 2011. If a person did not have Payroll Expense in the 2011 tax year, then the first year that the person incurs Payroll Expense shall be that person's Base Year. If a person is exempt from filing a Payroll Expense Tax return pursuant to Business and Tax Regulations Code 6.9-2 in the first year that the person incurs Payroll Expense, the person's Base Year Payroll Expense shall be \$150,000 for the purposes of calculating this exclusion.

(3) "San Francisco Labor Law" means the Health Care Security Ordinance, codified at San Francisco Administrative Code Chapter 14; the Minimum Wage Ordinance, codified at San Francisco Administrative Code Chapter 12R; the Paid Sick Leave Ordinance, codified at San Francisco Administrative Code Chapter 12W; the Minimum Compensation Ordinance, codified at San Francisco Administrative Code Chapter 12P; the Health Care Accountability Ordinance, codified at San Francisco Administrative Code Chapter 12Q; and the prevailing wage requirements, codified at San Francisco Administrative Code Chapter 6.22.

(c) A Small Business may exclude from its Payroll Expense the lesser of \$250,000 or the amount of Payroll Expense that is greater than its Base Year Payroll Expense for the 2012, 2013, 2014 and 2015 tax years; provided, however, that in no event shall this exclusion reduce a person's Payroll Expense Tax liability for 2012, 2013, 2014 or 2015 to less than the person's Base Year Payroll Expense Tax liability.

(d) In order to be eligible for the Payroll Expense Tax exclusion authorized under this Section, persons wishing to claim the exclusion must:

(1) Maintain records and documents in a manner acceptable to the Tax Collector. Such records and documents must objectively substantiate any exclusion claimed under this Section and be provided to the Tax Collector upon

request.

(2) Timely file with the Tax Collector an annual Payroll Expense Tax return claiming the exclusion provided for in this Section, regardless of the amount of tax liability shown on the return after claiming the exclusion provided for in this Section. All returns shall be filed by the due date set forth in Article 6 of the San Francisco Business and Tax Regulations Code.

(3) If, after the timely filing of a person's Payroll Expense Tax return, it is determined that the person was delinquent in remitting any taxes, fees or penalties owed to the City and County of San Francisco at the time of filing, that person shall be ineligible to claim the exclusion under this Section for the period covered by the return.

(4) If, prior to or after the timely filing of a person's Payroll Expense Tax return, the San Francisco Office of Labor Standards Enforcement determines that a person violated a San Francisco Labor Law during the period covered by the return, or, in response to an investigation by the San Francisco Office of Labor Standards Enforcement, a person paid, or was required to pay, restitution to former or current employees during the period covered by the return, then such person shall be ineligible to claim the exclusion provided by this Section for the period covered by the return.

(e) A person may not use or claim any unused portion of the exclusion available under this Section after the expiration of this Section.

(f) The San Francisco Office of Labor Standards Enforcement shall, no later than the first of December of each year that the exclusion under this Section is in effect, provide to the Tax Collector a list of all persons it determined to have violated a San Francisco Labor Law, including the year the violation occurred.

(g) The Tax Collector shall verify that any exclusion claimed pursuant to this Section is appropriate.

(h) A misrepresentation or misstatement by any person regarding eligibility for the exclusion authorized under this Section that results in the underpayment or underreporting of the Payroll Expense Tax shall be subject to penalties and interest.

(i) The Office of the Treasurer and Tax Collector may adopt rules and regulations regarding the exclusion provided under this Section.

(j) The exclusion provided by this Section may not be claimed concurrently with any other Payroll Expense Tax exclusion.

(k) The Tax Collector shall submit an annual report to the Board of Supervisors for each year for which the exclusion authorized under this Section is available. The report shall set forth aggregate information on the dollar value of the exclusions taken each year and the number of persons claiming this exclusion.

(l) The exclusion set forth in this Section shall expire by operation of law on December 31, 2015, and the City Attorney shall cause it to be removed from future editions of the Business and Tax Regulations Code unless the Board of Supervisors or the voters extend the exclusion prior to December 31, 2015. Alternatively, should the voters of the City and County of San Francisco pass a gross receipts tax prior to December 31, 2015, the exclusion under this Section shall terminate upon the effective date of such gross receipts tax.

(Added by Ord. [160-12](#), File No. 120377, App. 7/12/2012, Eff. 8/11/2012)

SEC. 907. PAYMENTS, RETURNS, PREPAYMENTS AND EXTENSIONS.

Payments, returns, prepayments and extensions for person's subject to this Article shall be as prescribed in the

common administrative provisions set forth in Article 6.

(Ord. 275-70, App. 9/2/70; amended by Ord. 118-80, App. 3/28/80; Ord. 395-84, App. 9/20/84; Ord. 357-88, App. 8/4/88; Ord. 273-93, App. 8/25/93; Ord. 26-04, File No. 031990, App. 2/19/2004)

SEC. 908. SAVINGS CLAUSE.

No section, clause, part or provision of this Article shall be construed as requiring the payment of any tax for engaging in a business or the doing of an act when such payment or act would constitute an unlawful burden upon or an unlawful interference with interstate or foreign commerce, or which payment or act would be in violation of the United States Constitution or a statute of the United States or of the California Constitution or a statute of the State of California. If any section, clause, part or provision of this Article, or the application thereof to any person or circumstance, is held invalid or unconstitutional, the remainder of this Article, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this Article are severable.

(Added by Ord. 63-01, File No. 010274, App. 4/25/2001)

SEC. 917.1. RESERVED.

(Ord. 275-70, App. 9/2/70; amended by Ord. 118-80, App. 3/28/80; Ord. 357-88, App. 8/4/88; Ord. 24-98, 1/16/98; repealed by Ord. 63-01, File No. 010274, App. 4/25/2001)

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