



NORMAN YEE

August 1, 2020

Members of the Ballot Simplification Committee
1 Dr. Carlton B. Goodlett Place City Hall, Room 48
San Francisco, CA 94102

SENT VIA E-EMAIL

RE: Recommendations to the Ballot Digest for “Business Tax Overhaul”

Dear Chair Packard and Members of the Ballot Simplification Committee:

Thank you for your diligent service to this important part of the election process. On behalf of the primary sponsors of **File No. 200648 - Charter Amendment and Initiative Ordinance - Business and Tax Regulations Code - Adjustment of Baseline Funding and Business Tax Changes**, I am writing to offer suggestions to the draft digest for the “Business Tax Overhaul” measure as posted:

Given the complexity of this tax measure, in “**The Way It Is Now**” we recommend editing this section to provide the key information that is necessary to understand the changes being proposed in the ballot measure.

The additional information is not necessary to understand current law and can potentially confuse the voter about the elements that are being changed by the proposed ballot measure. Excluding those extraneous details helps with the flow and understanding of the difference between the various elements of the measure:

We recommend omitting details on the registration fee that are not directly relevant to the measure:

The City collects certain taxes from San Francisco businesses:

- *The business registration fee is an annual tax ~~between \$75 and \$35,000 (adjusted for inflation)~~ that generally varies based on a business’s activities and its San Francisco gross receipts.*
- *The payroll expense tax is a percentage of a business’s San Francisco payroll expense. The tax does not apply to some small businesses or to businesses that pay the administrative office tax.*

The following edit is to provide more clarification on which small businesses are currently exempt from gross receipts tax:

- *The gross receipts tax is a percentage of a business’s ~~San Francisco~~ gross receipts in San Francisco. The gross receipts tax does not apply to ~~some~~ small businesses ~~with gross receipts under \$1,170,000~~ or to businesses that pay the administrative office*

tax. Certain taxpayers who pay a similar tax to another jurisdiction may receive a credit against their gross receipts tax to the City.

- *The administrative office tax is a tax on payroll expense that applies to certain large businesses with administrative offices in the City, instead of the payroll expense or gross receipts taxes.*

The following edits help to simplify the relevance of the Childcare Tax and Homelessness Tax to the proposed measure:

The City also collects an Early Care and Education Commercial Rents Tax (Childcare Tax) and a Homelessness Gross Receipts Tax (Homelessness Tax) that only apply to certain businesses.

~~• The Childcare Tax applies to businesses that receive gross receipts from the lease of commercial space.~~

~~• The Homelessness Tax applies to businesses with more than \$50 million in San Francisco gross receipts. Under this tax, businesses subject to the administrative office tax pay an additional tax on their San Francisco payroll expense.~~

The Childcare and Homelessness Taxes have been challenged in court and the City has not spent the money collected through these taxes.

The Charter requires the City to provide a minimum amount of funding for specified City services, such as: transportation, parks and recreation, youth programs, public education, maintenance of street trees, and supportive services for older adults (Baseline Funds). The minimum amount required for Baseline Funds is based on the amount of revenue the City receives that can be used for any purpose.

State law limits the amount of revenue, including tax revenue, the City can spend each year. State law authorizes San Francisco voters to approve increases to this limit to last for four years.

In “The Proposal,” we want to provide further clarification on the elements of the new tax reform measure.

The primary goal of the measure is to overhaul the existing tax system by repealing the payroll tax and replacing it with a gross receipts tax system. It is also important to emphasize that the small business exemption now applies to any businesses that have under \$2 million in gross receipts:

The Proposal: Proposition would eliminate the payroll expense tax beginning in calendar year 2021 and transition to a gross receipts tax. Small businesses under \$2 million will be exempt from this tax.

The modification of registration fees is directly related to businesses that would benefit from being exempted from the gross receipts tax; as currently written, this increase sounds arbitrary, when, in reality, it is planned as part of the transition from a payroll system to a gross receipts system. Therefore the following change would be more accurate:

For business registration fees, Proposition would:

- *Beginning in fiscal year 2021-22 decrease the fee by about 50% for most businesses with \$1 million or less in San Francisco gross receipts; and*
- *Increase the registration fee for ~~most~~ businesses with between \$1-2 million in San Francisco gross receipts that would benefit from being exempted from the gross receipts tax.*

The following bulletpoint summarizes an important detail that should be included. The proposed measure reduces the gross receipts tax rates for the following industries that are most impacted by the economic shutdown: manufacturing, retail, other services, hospitality, food services, arts, entertainment, and recreation. The tax rates are reduced by 50% from 2021 to 2023, 25% from 2023 to 2024; and will phase back to the normal rate (without proposed increases) in 2024.

- *For the gross receipts tax, Proposition would:*
- *Reduce tax rates for certain industries, including retail, hotel accommodations, and food services for 2021-2024.*

The existing language “Between calendar years 2021-24, phase in increased gross receipts tax rates” is not accurate. By converting from the payroll tax to the gross receipts tax, the taxes collected are revenue-neutral. There are some industries that will receive phased-in increases, but others that will not have any increases. Furthermore, it is also important to note that the increases proposed in 2022-2024 are based on economic recovery criteria (comparing previous years’ gross receipts levels to 2019 levels):

- *~~Between~~In calendar years ~~2021-24~~, phase in increased gross receipts tax rates for some industries; and from calendar years 2022-2024 phase in increases for some industries based on economic recovery criteria;*

For the following bulletpoint, it should make clear that the small businesses are expanded to cover all small businesses now under \$2 million:

- *~~Exempt~~ Expand the existing all small businesses exemption to cover more small businesses making under \$2 million; and*
- *Eliminate the credit for businesses that pay a similar tax to another jurisdiction.*

The following changes help to shorten the paragraph for clarity and accuracy while capturing key elements:

The City would delay for one year some of the changes to the gross receipts and administrative office tax rates for most industries for calendar years 2023 and 2024 if total gross receipts to ~~For the administrative office tax, Proposition _____ would phase in increased tax rates between calendar years 2022-24.~~the City do not meet certain levels. City businesses do not generate a specific level of total San Francisco gross receipts.

The following edits help to clarify the explanation about the replacement taxes that only apply if the City loses the lawsuits for the Childcare Tax and Homelessness Tax:

If the City loses the lawsuit regarding the Childcare Tax and the Homelessness Tax, Proposition _____ would require the City to collect replacement ~~a new~~ taxes on the gross receipts from the lease of certain commercial space. If the City loses the lawsuit regarding the Homelessness Tax, Proposition would further increase gross receipts and administrative office tax rates on large ~~certain~~ businesses. The tax rate increases and The revenue from the replacement taxes would be excluded in the calculation ~~revenue~~ used to determine the amount of funding for the Baseline Funds.

The following is not a main element of the measure. We would recommend either striking it out altogether or editing it for clarity as was done for other tax measures for this Novembers' ballot:

Proposition would also increase the limit on the City's annual tax revenue spending by total revenues collected under the gross receipts tax and the total revenues collected under the proposed new tax for four years. that would become effective if the City loses the lawsuit relating to the Childcare Tax.

Or

Proposition __ would also increase the limit on the City's annual tax revenue spending by the amount of additional taxes collected under the proposed tax. The increased limit would last for four years.

In the "A 'YES' Vote Means Section," the following edits include bulletpoints on important elements of the proposed tax measure that were not included and provide further clarifying information:

A "YES" Vote Means: If you vote "yes," you want to:

- Eliminate the City's payroll expense tax;*
- Exempt small businesses under \$2 million from the gross receipts tax*
- ~~Reduce business taxes for some small businesses; and~~*
- Phase in ~~i~~ increases of gross receipts and administrative office taxes for some industries;*
- Reduce or eliminate business taxes for some small businesses; and*
- Impose a replacement tax ~~Further increase the City's business taxes~~ if the City loses either of the lawsuits regarding the Early Care and Education Commercial Rents Tax or the Homelessness Gross Receipts Tax, but exclude revenues from these increases for purposes of determining guaranteed spending on other City services.*

A "NO" Vote Means: If you vote "no," you do not want to make these changes

Thank you for your consideration of these recommendations. We are grateful for the level of thoughtfulness you put into every digest.

Sincerely,



Supervisor Norman Yee
President, Board of Supervisors

Attachments:
Tracked Changes for Suggestions to Digest

Recommendations with Tracked Changes

Business Tax Overhaul*

Digest by the Ballot Simplification Committee

The Way It Is Now: The City collects certain taxes from San Francisco businesses.

- The business registration fee is an annual tax ~~between \$75 and \$35,000 (adjusted for inflation)~~ that generally varies based on a business's activities and its San Francisco gross receipts.
- The payroll expense tax is a percentage of a business's San Francisco payroll expense. The tax does not apply to some small businesses or to businesses that pay the administrative office tax.
- The gross receipts tax is a percentage of a business's ~~San Francisco~~ gross receipts ~~in San Francisco~~. The gross receipts tax does not apply to ~~some~~ small businesses ~~with gross receipts under \$1,170,000~~ or to businesses that pay the administrative office tax. Certain taxpayers who pay a similar tax to another jurisdiction may receive a credit against their gross receipts tax to the City.
- The administrative office tax is a tax on payroll expense that applies to certain large businesses with administrative offices in the City, instead of the payroll expense or gross receipts taxes.

The City also collects an Early Care and Education Commercial Rents Tax (Childcare Tax) and a Homelessness Gross Receipts Tax (Homelessness Tax) ~~that only apply to certain businesses. • The Childcare Tax applies to businesses that receive gross receipts from the lease of commercial space. • The Homelessness Tax applies to businesses with more than \$50 million in San Francisco gross receipts. Under this tax, businesses subject to the administrative office tax pay an additional tax on their San Francisco payroll expense.~~

The Childcare and Homelessness Taxes have been challenged in court and the City has not spent the money collected through these taxes.

The Charter requires the City to provide a minimum amount of funding for specified City services, such as: transportation, parks and recreation, youth programs, public education, maintenance of street trees, and supportive services for older adults (Baseline Funds).

The minimum amount required for Baseline Funds is based on the amount of revenue the City receives that can be used for any purpose.

State law limits the amount of revenue, including tax revenue, the City can spend each year. State law authorizes San Francisco voters to approve increases to this limit to last for four years.

The Proposal: Proposition ___ would eliminate the payroll expense tax beginning in calendar year 2021 ~~and transition to a gross receipts tax. Small businesses under \$2 million will be exempt from this tax.~~

For business registration fees, Proposition ___ would:

- Beginning in fiscal year 2021-22 decrease the fee by about 50% for most businesses with \$1 million or less in San Francisco gross receipts; and

- Increase the registration fee for ~~most~~ businesses with between \$1-2 million in San Francisco gross receipts ~~that would benefit from being exempted from the gross receipts tax.~~

For the gross receipts tax, Proposition__ would:

- ~~Reduce tax rates for certain industries, including retail, accommodations, and food services for 2021-2024.~~
- ~~Between~~ In calendar years ~~2021-24~~, phase in increased gross receipts tax rates for some industries; and from calendar years 2022-2024 phase in increases for some industries based on economic recovery criteria;
- ~~Expand the existing exemption to cover more small businesses-Exempt all small businesses making under \$2 million;~~ and
- Eliminate the credit for businesses that pay a similar tax to another jurisdiction.

For the administrative office tax, Proposition__ would phase in increased tax rates between calendar years 2022-24.

The City would delay for one year some of the changes to the gross receipts and administrative office tax rates ~~for most industries~~ for calendar years 2023 and 2024 if ~~total gross receipts to the City do not meet certain levels~~ ~~City businesses do not generate a specific level of total San Francisco gross receipts.~~

If the City loses the lawsuit regarding the Childcare Tax ~~and the Homelessness Tax~~, Proposition __ would require the City to collect ~~replacement taxes. a new tax on the gross receipts from the lease of certain commercial space. If the City loses the lawsuit regarding the Homelessness Tax, Proposition would further increase gross receipts and administrative office tax rates on certain businesses. Proposition would~~ The revenue from the replacement taxes would be excluded from the calculation ~~revenues from the tax rate increases and taxes that apply only if the City loses the lawsuits regarding the Homelessness Tax or the Childcare Tax from the revenue~~ used to determine the amount of funding for the Baseline Funds.

~~Proposition would also increase the limit on the City's annual tax revenue spending by total revenues collected under the gross receipts tax and the total revenues collected under the proposed new tax that would become effective if the City loses the lawsuit relating to the Childcare Tax. The increased limit would last for four years.~~

A "YES" Vote Means: If you vote "yes," you want to:

- Eliminate the City's payroll expense tax;
- ~~Exempt small businesses under \$2 million from the gross receipts tax;~~
- ~~Reduce business taxes for some small businesses; and~~
- ~~Phase in~~ increases of gross receipts and administrative office taxes ~~for some industries;~~
- ~~Reduce or eliminate business taxes for some small businesses; and~~
- ~~Impose a replacement tax~~ ~~Further increase the City's business taxes~~ if the City loses either of the lawsuits regarding the Early Care and Education Commercial Rents Tax or the Homelessness Gross Receipts Tax, but exclude revenues from these increases for purposes of determining guaranteed spending on other City services.

A "NO" Vote Means: If you vote "no," you do not want to make these changes.