

## TEXT OF PROPOSED ORDINANCE PROPOSITION C

### [Local Transactions and Use Tax]

**LEVYING A ONE-HALF OF ONE PERCENT TRANSACTIONS AND USE TAX, SAID LEVY BEING CONDITIONED ON THE FAILURE OF SENATE CONSTITUTIONAL AMENDMENT NUMBER ONE IMPOSING A STATEWIDE ONE-HALF OF ONE PERCENT SALES AND USE TAX TO BE SUBMITTED TO THE STATE ELECTORATE AT THE STATE SPECIAL ELECTION TO BE HELD ON NOVEMBER 2, 1993.**

Be it ordained by the People of the City and County of San Francisco:

Section 1.  
Subject to the approval by the qualified electors of the City and County of San Francisco, Part III of the San Francisco Municipal Code is hereby amended by adding a new Article 16 which shall contain the following sections:

**SEC. 1601. TITLE.** This ordinance shall be known as the "San Francisco County Transactions and Use Tax" which establishes and implements a transactions and use tax.

**SEC. 1602. DEFINITIONS.** For purposes of this ordinance the following words shall have the meanings ascribed to them by this section.

"District" shall mean the City and County of San Francisco.

"Operative date" shall mean January 1, 1994 in the event that Senate Constitutional Amendment Number One imposing a statewide one-half of one percent sales and use tax fails to be approved by the state electorate at the state special election to be held on November 2, 1993. In the event that State Constitutional Amendment Number One is approved, this tax shall not become operative.

"Effective date" shall mean the date of adoption of this ordinance which shall take effect at the close of the polls on the day of election at which the proposition is adopted by the legally required percentage of qualified voters voting on the measure.

**SEC. 1603. PURPOSE.** This ordinance should be interpreted so as to achieve the purposes set forth herein:

(a) to impose a transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) and Part 1.7 (commencing with Section 7285) of Division 2 of the California Revenue and Taxation Code.

(b) to incorporate provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

(c) to impose a transactions and use tax and provide a measure therefor that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Tax.

(d) to authorize administration of a transactions and use tax in a manner that will, to the highest degree possible be consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes and at the same time minimize the burden of record-keeping upon persons subject to taxation under the provisions of this ordinance.

(e) to provide financial assistance for the general purposes of the District.

(f) to increase the California Constitution Article XIII B expenditure limit for the District by an amount equal to the revenues derived from the transactions and use tax for the same fiscal year.

**SEC. 1604. AUTHORITY.** Upon the effective date of this ordinance, the District shall exercise all powers necessary to perform collection, administration, and allocation duties with respect to the transactions and use tax, in a manner consistent with Part 1.6 (commencing with Section 7251) and Part 1.7 (commencing with 7285) of Division 2 of the Revenue and Taxation Code.

**SEC. 1605. CONTRACT WITH STATE.** Prior to the operative date of this ordinance, the District shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this transactions and use tax; provided that, if the District shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such contract.

**SEC. 1606. TRANSACTIONS TAX AND RATE OF ONE-HALF OF ONE PERCENT.** For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in this District at the rate of one-half of one percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this District on and after the operative date.

**SEC. 1607. PLACE OF SALE.** For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the state or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

**SEC. 1608. USE TAX AND RATE OF ONE-HALF OF ONE PERCENT.** An excise tax is hereby imposed on the storage, use or other consumption in this District of tangible personal property purchases from any retailer on or after the operative date for storage, use or other consumption in this District at the rate of one-half of one percent of the sales price of the property. The

sales price shall include delivery when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

**SEC. 1609. ADOPTION OF PROVISIONS OF STATE LAW.** Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 of Division 2 of the Revenue and Taxation Code (commencing with Section 6001) are hereby adopted and made a part of this ordinance as though fully set forth herein.

**SEC. 1610. LIMITATIONS ON ADOPTION OF PROVISIONS OF STATE LAW AND COLLECTION OF USE TAXES.** In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, wherever the State of California is named or referred to as the taxing agency, the name of the District shall be substituted therefor. The substitution, however, shall not be made when the word "State" is used as part of the title of the State Controller, the State Treasurer, the State Board of Control, the State Board of Equalization, the State Treasury, or the Constitution of the State of California, the substitution would require action to be taken by or against the District or any agency, officer or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this ordinance; the substitution shall not be made in those sections, including, but not necessarily limited to, sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remains subject to tax by the state under the said provisions of that code; the substitution shall not be made in sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 or the Revenue and Taxation Code. The name of the District shall be substituted for the word "state" in the phrase "retailer engaged in business in this state" in Section 6203 and in the definition of that phrase in Section 6203.

**SEC. 1611. PERMIT NOT REQUIRED.** If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this ordinance.

**SEC. 1612. EXEMPTIONS, EXCLUSIONS AND CREDITS.**

(a) There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

(b) There are exempted from the computation of the amount of transactions tax gross receipts when they are from:

(Continued on next page)

## LEGAL TEXT OF PROPOSITION C (Continued)

(1) Sales of tangible personal property to operators of aircraft to be used or consumed principally outside of the District and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.

(2) Sales of property to be used outside the District which is shipped to a point outside the District, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the District shall be satisfied:

i) with respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Chapter 2 of Division 3.5 (commencing with Section 9850) of the Vehicle Code by registration to an out-of-District address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his principal place of residence.

ii) with respect to commercial vehicles by registration to a place of business out-of-District, and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

(3) the sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4) a lease of tangible personal property which is a continuing sale of such property for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this ordinance.

5) for the purposes of subsections (4) and (5), the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract upon notice, whether or not such right is exercised.

(c) There is exempted from the use tax imposed by this ordinance the storage, use or other consumption in this District of tangible personal

property:

1) the gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

2) purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire of compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government. This exemption is in addition to the exemption provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3) if the purchaser is obligated to purchase the property for a fixed price pursuant to contract entered into prior to the operative date of this ordinance.

4) or the possession of, or the exercise of any right or power over, tangible personal property under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this ordinance.

5) for the purpose of subsections (3) and (4), storage, use or other consumption, or possession, or exercise of any right to power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time during which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6) Except as provided in subparagraph (7), a retailer engaged in business in the District shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the District or participates within the District in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the canvasser, solicitor, subsidiary, or person in the District under the authority of the retailer.

7) "A retailer engaged in business in the District" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft

licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Chapter 2 of Division 3.5 (commencing with Section 9850) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the District.

(d) Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district or retailer imposing a transactions tax pursuant to part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property, the storage, use or other consumption of which is subject to the use tax.

**SEC. 1613. EXPENDITURE LIMIT.** The California Constitution Article XIII B expenditure limit for the District for each fiscal year of the tax shall increase in an amount equal to the revenues derived from this transactions and use tax for the same year.

**SEC. 1614. AMENDMENTS.** All amendments to Part 1 of Division 2 of the Revenue and Taxation Code made subsequent to the effective date of this ordinance which relate to sales and use taxes and which are not inconsistent with Part 1.6 of Division 2 of the Revenue and Taxation Code and all amendments to Part 1.6 of Division 2 of the Revenue and Taxation Code, and all amendments to part 1.6 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this ordinance; provided, however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

**SEC. 1615. PENALTIES.** Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars (\$500.00) or by imprisonment for a period of not more than six months, or by both such fine and imprisonment.

**SEC. 1616. SEVERABILITY.** If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby. □

## TEXT OF PROPOSED CHARTER AMENDMENT PROPOSITION D

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco to amend the Charter of said city and county by adding Section 8.517-4 thereto, providing for early service retirement for police officers and firefighters.

The Board of Supervisors of the City and County of San Francisco hereby submits to the qualified electors of said city and county at an election to be held therein on November 2, 1993, a proposal to amend the charter of said city and county by adding Section 8.517-4 to read as follows:

NOTE: The entire section is new.

### 8.517-4 EARLY SERVICE RETIREMENT

(a) The retirement board shall provide an incentive for members under sections 8.559, 8.585, 8.586 and 8.588 to retire early for service by increasing the member's age and credited service for both qualification and benefit computation purposes by two (2) years.

(b) The early retirement benefits under this section shall only apply to members who retire with an effective date of service retirement on or after January 1, 1994 and on or before January 1, 1995.

(c) The early retirement benefits under this section shall be limited by the maximum percent-

age limitations in charter sections 8.559-2, 8.585-2, 8.586-2 and 8.588-2. The early retirement benefits offered under this section shall not apply if a member returns to membership status in the retirement system.

(d) The early retirement benefits under this section will be limited by section 415 of the Internal Revenue Code of 1986, as amended from time to time, and no early retirement benefits under this section will be effective if they have an adverse effect on the tax qualified status of the retirement system under section 401 of the Internal Revenue Code of 1986, as amended from time to time. □