

1 [Payroll Expense Tax Biotechnology Exclusion Amendment.]

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3 **Ordinance amending Section 906.1 of the San Francisco Business and Tax Regulations**  
4 **Code to clarify the definition of "biotechnology business" and to allow applicants to**  
5 **claim the biotechnology exclusion for seven and one half years irrespective of the**  
6 **application date.**

7 NOTE: Additions are single-underline italics Times New Roman;  
8 deletions are ~~strike-through italics Times New Roman~~.  
9 Board amendment additions are double-underlined;  
Board amendment deletions are ~~strikethrough normal~~.

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

11 Section 1. The San Francisco Business and Tax Regulations Code is hereby amended  
12 by amending Section 906.1 to read as follows:

13 SEC. 906.1. BIOTECHNOLOGY EXCLUSION.

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

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

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

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

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

21           (f) The biotechnology exclusion authorized under this Section shall expire on the  
22 tenth anniversary date of the effective date of this Section. ~~A person may not use or claim any~~  
23 ~~unused portion of the seven and one-half year biotechnology exclusion after the expiration date of this~~  
24 ~~Section.~~ Unless exempted under Sections 906 of this Article, every person engaging in the  
25 biotechnology business in the City shall pay the tax imposed under this Article on the full

1 amount of the person's payroll expense attributable to the City from and after the expiration of  
2 this Section.

3 (dg) If a person's calculated liability for the Payroll Expense Tax does not exceed  
4 \$2,500 for the tax year after applying the biotechnology exclusion under this Section, the  
5 person shall be exempt from payment of the Payroll Expense Tax for that tax year as provided  
6 in Section 905-A.

7 [(eh) Reserved. ]

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

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

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

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

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4 APPROVED AS TO FORM:  
5 DENNIS J. HERRERA, City Attorney

6 By: Carol A. Boardman  
7 Carol A. Boardman  
8 Deputy City Attorney  
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**LEGISLATIVE DIGEST**

[Payroll Expense Tax Biotechnology Exclusion Amendment]

**Ordinance amending Section 906.1 of the San Francisco Business and Tax Regulations Code to clarify the definition of "biotechnology business" and to allow applicants to claim the biotechnology exclusion for seven and one half years irrespective of the application date.**

**Existing Law**

A payroll expense tax is currently imposed upon every person engaging in business in San Francisco. A biotechnology exclusion from the payroll expense tax may be claimed by businesses that engage in qualifying activities for seven and one half years from the date of their application for the exclusion. But under current law, the period of eligibility for the exclusion may not extend beyond the expiration date of the biotech exclusion itself, and the biotechnology exclusion is scheduled to expire on August 12, 2014.

**Amendments to Current Law**

This amendment clarifies the definition of "biotechnology business" and allows the biotechnology exclusion for seven and one half years irrespective of the application date.

**Background Information**

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. In order to encourage biotechnology businesses to locate and do business in the City, help revive the local economy, create jobs, and generate an increase in property tax revenue to the City, in 2004 the Board of Supervisors approved an exclusion from the payroll expense tax for qualifying biotechnology businesses. The exclusion is available for the first seven and one half years the biotechnology business is in operation in the City. Under current law, a person may not use or claim any unused portion of the seven and one half year biotechnology exclusion after the biotechnology exclusion expires. Since the biotechnology exclusion is scheduled to expire on August 12, 2014, some businesses will not receive the benefit of the exclusion for an entire seven and one half year period. This amendment would allow all qualifying businesses to claim the exclusion for seven and one half years. This amendment also clarifies the definition of the term "biotechnology business".