



May 25, 2010

Mr. Ben Rosenfield
Controller
City Hall, Room 316
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: Report on Improving San Francisco's Business Tax

Dear Mr. Rosenfield:

On behalf of the owners and operators of 75 million square feet of commercial office space in San Francisco, and the tens of thousands of tenants - mostly small businesses - that derive their livelihoods from the work they do in that space, we thank you for the opportunity to comment on your May 11, 2010 report and analysis of tax alternatives. We do not believe either of the alternatives proposed in your interim report is an improvement over the present payroll tax.

We understand that you believe your proposal would have three advantages over the current system:

- Create incentives for job creation and economic growth;
- Offer a more stable and diversified source of revenue;
- Broaden the base of taxpayers, particularly incorporating employers that the City is not currently taxing.

These advantages do not exist.

Shifting a tax that 'may' impact hiring to a tax that will impact occupancy costs hurts local commerce. Converting the methodology of the tax burden on business from a payroll tax to a gross receipts tax will not encourage economic growth. The burden on business remains. The calculation and application may be different but the consequence is the same: it will impede economic growth and job growth.

Secondly, the assertion that a tax on commercial rent is a more stable and predictable revenue stream for the city is erroneous. National investors identify San Francisco among the most volatile markets in the country for both rent and occupancy. One only needs to review occupancy and rent rates over the past ten years to see that tax revenues dependent upon rent would be highly unpredictable.

Your third presumed advantage -- broadening the base of taxpayers, would certainly be achieved, but in a very problematic way. Since only 'renters' would pay a commercial rent tax, the system would establish an unequal playing field with two distinct classes: owner-occupied space users that would be exempt from the tax, and companies that rent their space being liable for the tax. There are at least 44 owner occupied

Mr. Ben Rosenfield
Page two

buildings of over 25,000 square feet in the City, comprising more than 10 million square feet of rentable office space in aggregate. That's a fairly sizeable group to exclude, and will invite a challenge on unequal "nexus".

And of course, under either proposal, a new tax burden would be shifted onto thousands of small businesses and non-profits in the City.

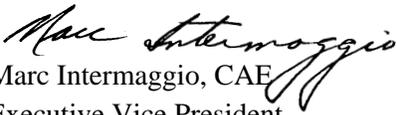
There are other problems with your alternative tax proposals.

A local rent tax would disadvantage the San Francisco employment marketplace. Unlike other areas of the country that have a tax on rents, such a tax is applied at the state level, so as not to create competitive disadvantages between local marketplaces. As proposed, this new tax burden would be applied at the local level, which would render our local market less competitive than the other office submarkets in the San Francisco metropolitan area. It would provide businesses – especially the aforementioned small businesses, with another reason to locate or remain located outside the boundaries of the City in order to reduce occupancy costs. This will further hamper job growth in San Francisco.

States in which the landlord is responsible for collecting a tax on rents allow the landlord to retain a portion of the tax collected since they are providing an administrative service to the state. No such mechanism to cover the landlord's new administrative burden is evident in the current proposal. What is the compensation for the landlord acting as agent for the Tax Collector?

In sum, the shortcomings of the current payroll tax would simply be reconstituted into the rent tax, be inequitably applied and place San Francisco at competitive disadvantage to neighboring markets. The proposal is deeply flawed and we would be welcome the opportunity to discuss these issues and concerns in more detail at your convenience.

Sincerely,


Marc Intermaggio, CAE
Executive Vice President

Cc: Mayor Gavin Newsom
Supervisor David Chiu, President, Board of Supervisors
Ted Egan