

**CITY OF SAN MATEO**  
**RESOLUTION NO. \_\_\_\_ (2020)**

**APPROVING BUSINESS TAX APPORTIONMENT RULES**

WHEREAS, Section 5.09.020 (c) of the San Mateo Municipal Code authorizes the Business Tax Collector (Tax Collector) to promulgate rules and regulations regarding enforcement of the Business License Tax; and

WHEREAS, the proposed Business Tax Apportionment Rules (Rules), attached herein as Exhibit A, follow apportionment methodology and guidance from the League of California Cities; and

WHEREAS, the Rules are in compliance with the four-part test set forth in *Complete AutoTransit, Inc. v. Brady*, and make the City's business tax apportionment methodology more transparent, efficient, and equitable.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN MATEO, CALIFORNIA, HEREBY RESOLVES that:

1. Approves the Business Tax Apportionment Rules attached herein as Exhibit A.

## **EXHIBIT A**

### **Apportionment Rules – City of San Mateo**

The San Mateo Municipal Code (“SMMC”) provides the Business Tax Collector the authority to promulgate rules and regulations regarding enforcement of the Business License Tax. (SMMC 5.09.020(c)). These rules and regulations shall be enforceable as part of the SMMC once the City Council has approved of such rules and regulation by resolution.

#### **A. Apportionment**

The City of San Mateo (“City”) regards gross receipts as taxable when derived from the taxpayer’s place of business in the City, or from the taxpayer’s business operations performed in the City, as recorded on the records of the business. If a portion of such receipts are derived from business conducted outside City limits, the taxpayer may apportion its receipts between the jurisdictions in which it does business when the following conditions are met:

- 1) The activity or portion of activity for which apportionment is requested is part of the business’ own operations and it is conducted internally by this business completely outside the City limits; and
- 2) The taxpayer’s business records support with clarity the place of such outside activity and the receipts connected therewith.

#### **B. Apportionment Factors**

Recipients are apportioned with emphasis on different aspects of a taxpayer’s operations. The taxpayer’s business can be divided into as many of the eight economic components as apply to the taxpayer’s activity.

The taxpayer should note that if one applies the maximum percentage to all the economic components, one will account for more than 100% of the value of gross receipts. But by their terms, some of the components apply to only retailers, service providers, and other types of business entities. Therefore, no taxpayer will apply the maximum of each component to its gross receipts.

An apportioning taxpayer may reduce its total receipts from its operation of its City business or from work done in the City by the percentage (not exceeding the cap) reflecting various kinds of activity that occur outside the City: (1) if the relevant sales or a portion thereof are negotiated or solicited elsewhere, the taxpayer may reduce its base up to 25%; (2) if the sales office or the place where contracts or orders are accepted and/or processed is elsewhere, the taxpayer may reduce its base up to 15%; (3) if the merchandise was stored elsewhere immediately prior to delivery, the taxpayer may reduce its base by up to 20%; (4) in the case of service providers, if the location of the principal place of business of the service providers who actually worked on the project is outside the City, the taxpayer may reduce its base up to 30%; (5) if the ultimate point of delivery is out of the City, the taxpayer may reduce its base by up to 10%; (6) if the service is actually performed outside the City, the taxpayer may reduce its base by up to 30%; (7) if the billing office is outside the City, the taxpayer may reduce its base by up to 5%; and (8) if the collections office is elsewhere, the taxpayer may reduce its base by up to 5%.

These factors are set forth in the following table:

| <b><u>Factor</u></b>                                                          | <b><u>Range</u></b> |
|-------------------------------------------------------------------------------|---------------------|
| Point of Sale                                                                 | 1% up to 25%        |
| Sales Office or Place Where Contracts or Orders Are Accepted And/or Processed | 1% up to 15%        |
| Warehouse Location                                                            | 1% up to 20%        |
| The Service Providers' Principal Place                                        | 1% up to 20%        |

|                                  |              |
|----------------------------------|--------------|
| of Business                      |              |
| Place Where Goods Are Delivered  | 1% up to 10% |
| Place Where Service Is Performed | 1% up to 30% |
| Location of Billing Office       | 1% up to 5%  |
| Location of Collections Office   | 1% up to 5%  |

### C. Definitions

**Point of Sale:** The location where the sales were negotiated or solicited by the taxpayer, through his or her physical presence or the presence of an employee, representative, or agent.

**Sales Office Or Place Where Contracts Or Orders Are Accepted And/or Processed:** The sales office(s) that served as the base of operations for sales activities, or if there is no such sales, the office(s) from which sales activities were internally directed or controlled, or where orders, contracts, etc. were received, accepted, or approved at a level above the sales level.

**Warehouse Location:** This component applies only to retailers and other sellers of goods to whom the business license tax applies. It refers to the facility or facilities, internally controlled and operated, where the goods, wares, or merchandise were stored immediately prior to shipment or delivery.

**Service Provider's Principal Place of Business:** This component applies only to service providers to whom the business license tax applies. It refers to the location(s) of the principal place of business of the service providers who generated the taxable receipts.

**Place Where Goods Are Delivered:** This component applies only to retailers and other sellers of goods to whom the business license tax applies. It refers to the place(s) where goods, wares, merchandise, or services were delivered if the ultimate delivery point is outside the City.

**Place Where Services Are Performed:** This component applies only to service providers to whom the business license tax applies. It refers to the location(s) at which the service providers actually perform their work.

**Location of Billing Office:** The place(s) where the taxpayer internally performed billing activity.

**Location of Collections Office:** The place(s) where the taxpayer internally performed its revenue collection activity.