

ORDINANCE NO. _____

ORDINANCE ADDING ARTICLE IX TO CHAPTER 32 OF THE REDWOOD CITY MUNICIPAL CODE TO CLARIFY THE REQUIREMENT THAT A TAX FIRST MUST BE PAID BEFORE FILING FOR A REFUND OR JUDICIAL RELIEF

WHEREAS, California Constitution Article XIII, Section 32 requires that a taxpayer must first pay a tax before seeking a refund or judicial relief; and

WHEREAS, the courts have consistently held that this “pay first, litigate later” rule was applicable to both the State and local entities; and

WHEREAS, in a recent California Court of Appeal case it was held that Article XIII, Section 32 applies to the State but not to local entities; and

WHEREAS, adoption of a clear “pay first, litigate later” rule in the City’s best interests;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF REDWOOD CITY ORDAIN AS FOLLOWS:

SECTION 1. Article IX is added to Chapter 32 to read as follows:

ARTICLE IX. TAXES PAID PRIOR TO SEEKING REFUND OR JUDICIAL RELIEF

Section 32.1 PAYMENT OF TAXES PRIOR TO REFUND OR JUDICIAL RELIEF.

No legal or equitable process shall be issued in any proceeding in any court against the City or any officer to prevent or enjoin the collection of any tax. After payment of a tax claimed to be illegal, not due and/or owing, and/or incorrectly calculated, an action may be maintained to recover the tax paid, provided that prior to any judicial action all administrative remedies shall be exhausted.

SECTION 2. This ordinance shall be effective thirty (30) days from the date of its adoption.

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