

Updates

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San Francisco Adopts Vacancy Tax Ordinance

Seeking to preserve the vitality of commercial corridors and reduce retail vacancies, San Francisco voters approved the Vacancy Tax Ordinance, which authorizes a tax assessment on vacant retail space beginning January 1, 2021.

San Francisco neighborhood commercial districts "prioritize street-level, customer-facing businesses as a means of stimulating bustling, pedestrian-friendly urban environment." The city determined that it must not only "reinvigorate commercial corridors, but also stabilize commercial rents" to allow new small business to open and thrive.

The vacancy tax applies to "taxable commercial space," which is defined as any ground floor space of a building or structure that is:

1. Adjacent or tangent to a street or public right of way
2. Located in either the "Named Neighborhood Commercial Districts" or the "Named Neighborhood Commercial Transit Districts" listed in [Section 201 of the Planning Code](#)
3. Not residential real estate defined in the Vacancy Tax Ordinance as property where the primary use is for dwelling, sleeping, or lodging, but not hotels, motels, or other short-term accommodations

Taxable commercial space is considered "vacant" if "unoccupied, uninhabited, or unused for more than 182 days whether consecutive or non-consecutive in a tax year." There are time exceptions including one year for obtaining a building permit or construction of tenant improvements, two years for improvements following a damage or casualty event, and six months for time spent obtaining a conditional use permit. The vacancy tax is based on the amount of "frontage"—the taxable commercial space that is adjacent to a street or public right of way.

The amount of the vacancy tax is calculated based on the number of tax years the taxable commercial space is vacant, as described in the following:

- Beginning with the 2021 tax year, if the taxable commercial space is considered vacant for one tax year, the vacancy tax is \$250.00 per linear foot of frontage.
- Beginning with the 2022 tax year, if the taxable commercial space is considered vacant for two consecutive tax years, the vacancy tax is \$500 per linear foot of frontage.
- Beginning with the 2023 tax year and each subsequent tax year, if the taxable commercial space is considered vacant for three consecutive tax years, the vacancy tax is \$1,000 per linear foot of frontage.

The vacancy tax is imposed on owners of vacant taxable commercial space. If the taxable commercial space is leased or subleased and the tenant or subtenant keeps the taxable commercial space vacant, then the vacancy tax is assessed against the applicable tenant or subtenant, not the building owner. The vacancy tax does not apply to tax-exempt entities.

The Vacancy Tax Ordinance provides that all "persons" including "related persons," (i.e., any spouse, domestic partner, child, parent, or siblings) and "affiliates" (i.e., entities of common ownership or control) are liable for the vacancy tax if they kept the taxable commercial space vacant.

All monies collected under the Vacancy Tax Ordinance will go to the Small Business Assistance Fund to assist and provide relief to small businesses "adversely affected by blight, crime, and other negative impacts caused by

vacant storefronts in San Francisco."

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