



Commercial Vacancy Tax

Office of the Treasurer and Tax
Collector

Commercial Vacancy Tax - the basics



A tax imposed on keeping certain commercial space vacant for more than 182 days in a calendar year.



“Vacant” is defined as unoccupied, uninhabited, or unused for more than 182 days, whether consecutive or nonconsecutive, in a calendar year.



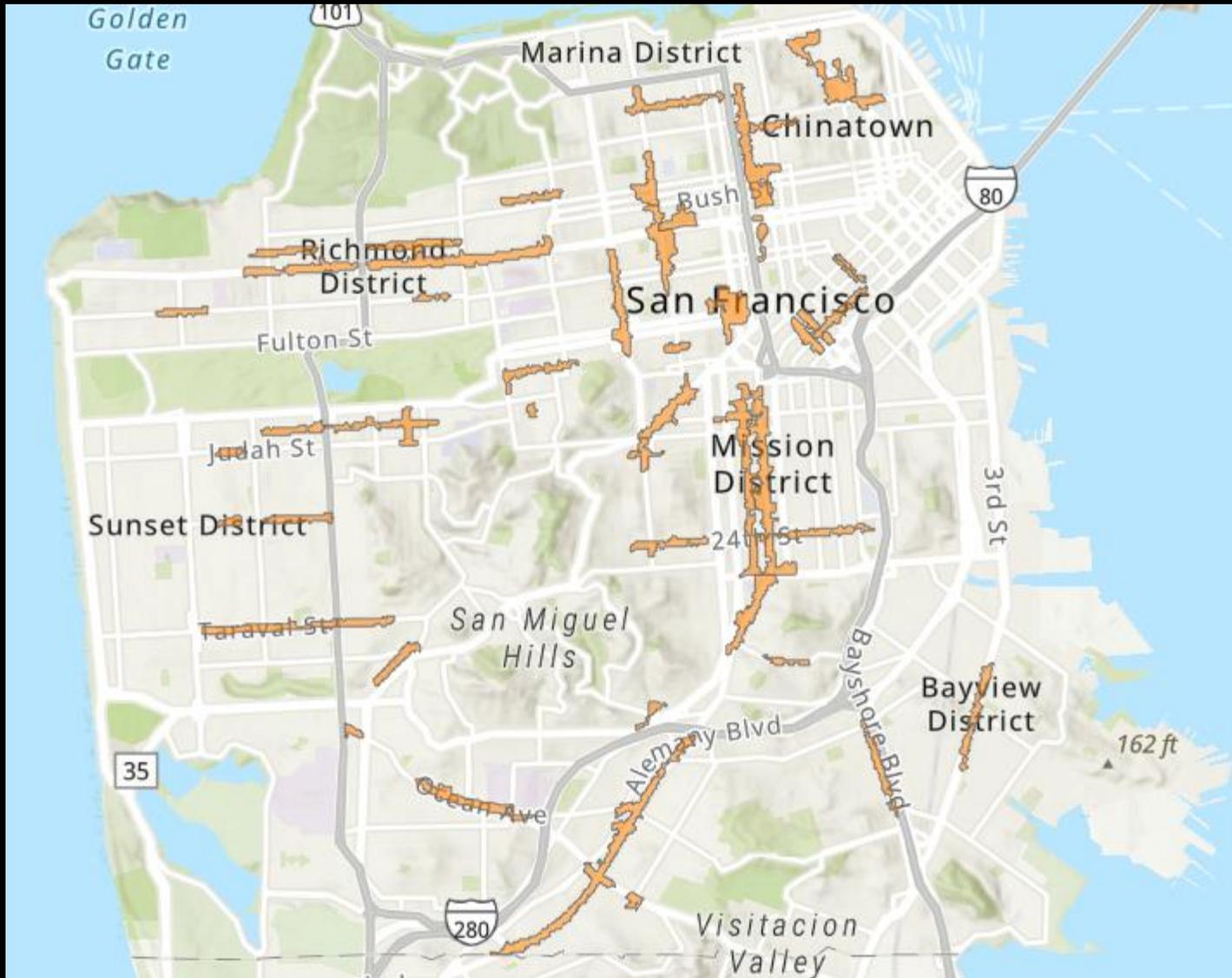
Effective as of January 1, 2022 (delayed one year due to pandemic).

What is considered Taxable Commercial Space?

Taxable Commercial Space is defined as the ground floor of any building or portion of a building where the ground floor is all of the following:

1. Located in one of the **Named Neighborhood Commercial Districts (NCD)** or **Named Neighborhood Commercial Transit Districts (NCT)**, as they existed on March 3, 2020; and
2. Adjacent or tangent to a Public Right of Way; and
3. Not Residential Real Estate.





Which
Commercial
Spaces does
the
Commercial
Vacancy Tax
apply to?

Named Neighborhood Commercial Districts (NCD)

Broadway
NCD

Castro Street
NCD

Inner
Clement
Street NCD

Outer
Clement
Street NCD

Excelsior
Outer Mission
NCD

Upper
Filmore
Street NCD

Haight Street
NCD

Japantown
NCD

North Beach
NCD

Polk Street
NCD

Sacramento
Street NCD

Union Street
NCD

Lakeside
Village NCD

24th Street -
Noe Valley
NCD

West Portal
Avenue NCD

Inner Sunset
NCD

Pacific
Avenue NCD

Noriega
Street NCD

Irving Street
NCD

Taraval
Street NCD

Judah Street
NCD

Inner Balboa
Street NCD

Outer Balboa
Street NCD

Bayview NCD

Cortland
Avenue NCD

Geary
Boulevard
NCD

Mission
Bernal NCD

San Bruno
Avenue NCD

Cole Valley
NCD

Lower Haight
Street NCD

Lower Polk
Street NCD

Inner Taraval
Street NCD

**Named
Neighborhood
Commercial
Transit
Districts
(NCT)**

Hayes-Gough
NCT

Valencia
Street NCT

24th Street –
Mission NCT

Upper Market
Street NCT

SoMa NCT

Mission
Street NCT

Ocean
Avenue NCT

Glen Park
NCT

Folsom
Street NCT

Regional
Commercial
District

Divisadero
Street NCT

Fillmore
Street



What is Considered Vacant?

Unoccupied, uninhabited, or unused for more than 182 days, whether consecutive or nonconsecutive, in a calendar year, except during the following periods if applicable to you for that space:

- Building Permit Application Period
- Construction Period
- Conditional Use Application Period
- Disaster Period



What Is Not Considered Vacant?

Building Permit Application Period

- The period between the date that the first application for a building permit for repair, rehabilitation, or construction is filed and the date that the Department of Building Inspection grants or denies that application up to a maximum of one year.

Construction Period

- A one-year period after the city issues the first building permit for repair, rehabilitation, or construction with respect to the space.



What Is Not Considered Vacant?

Conditional Use Application Period

- The 183-day period after the first complete application for a conditional use permit is filed. If the Planning Commission has not granted or denied the application within 183 days, this period is extended to December 31 of the year in which 183 days from the application filing date falls.

Disaster Period

- The two-year period after the date that a Commercial Space is severely damaged and made uninhabitable or unusable because of a catastrophic event.



Who Is Required To File The Commercial Vacancy Tax?

Owner

Tenant

Subtenant

All located in the Named Neighborhood Commercial Districts and Named Neighborhood Commercial Transit Districts must file, regardless of whether the commercial property is vacant or not.



Who Is Required To Pay The Commercial Vacancy Tax?

The owner of the space, provided that the space is not leased;

The tenant of the space, provided that the space is not subleased; or

The subtenant of the space if the space is subleased

...only if the commercial property is vacant.

Except:

Any organization that is exempt under Section 501(c)(3).

If you lease or sublease a space from someone else for a period of at least two years and have operated a business in that space for more than 182 consecutive days, you will not be liable for the Commercial Vacancy Tax for the remainder of that lease or sublease.



Scenario 1

Craig Walters is the owner of the multi-story property at 2 Stockton Street, not located in an Named Neighborhood Commercial District (NCD) or Named Neighborhood Commercial Transit District (NCT). He leases the ground floor to a retail store which is currently vacant.

Who will need to file the Commercial Vacancy Tax?

- A. Craig Walters
- B. Retail store
- C. Neither A nor B, the space is not within NCD or NCT**
- D. Both A and B

Who will need to pay the Commercial Vacancy Tax?

- A. Craig Walters
- B. Retail Store
- C. Neither A nor B, the space is not within NCD or NCT**
- D. Both A and B



Scenario 2

Barbara Jones owns the property at 2199 Market Street within a Named Neighborhood Commercial District (NCD). She operates Parents Corner on the ground floor, facing the street, but leases the 2nd floor to Juno's Delicacies which has been vacant for 7 months.

Who will need to file the Commercial Vacancy Tax?

- A. Barbara Jones**
- B. Juno's Delicacies**
- C. Neither A nor B**
- D. Both A and B**

Who will need to pay the Commercial Vacancy Tax?

- A. Barbara Jones**
- B. Juno's Delicacies**
- C. Neither A nor B, the space vacant is not on the ground floor**
- D. Both A and B**



Scenario 3

2160 Mission Street is within a Named Neighborhood Commercial Transit District (NCT). It is a storefront on the ground floor and adjacent to a public right of way.

Juan Rodriguez is the owner of the property. He has leased the property to Mi Casa Bonita since 2018, but due to some hardship, Mi Casa Bonita went out of business 7 months ago after operating for several years.

Who will need to file the Commercial Vacancy Tax?

- A. Juan Rodriguez
- B. Mi Casa Bonita
- C. Neither A nor B, the space is not vacant
- D. Both A and B**

Who will need to pay the Commercial Vacancy Tax?

- A. Juan Rodriguez
- B. Mi Casa Bonita
- C. Neither A nor B, if a tenant has operated a business in a commercial space for more than 182 consecutive days during a lease of at least two years, the tenant will not be liable for the Commercial Vacancy Tax for the remainder of that lease, regardless of whether the space is vacant**
- D. Both A and B



Scenario 4

550 Broadway is within a Named Neighborhood Commercial District (NCD). It is a storefront on the ground floor, and adjacent to a public right of way.

Bob Smith is the owner of the property. He leases it to Gaga's Books (since 2010) which during the tax year at issue operated in half the space. Gaga's Books subleased the other half of the space to Mike Vasel for the entire tax year at issue, but Mike Vasel has not yet started operating his business.

Who will need to file the Commercial Vacancy Tax?

- A. Bob Smith
- B. Gaga's Books
- C. Mike Vasel
- D. Neither A, B nor C
- E. All of the Above**

Who will need to pay the Commercial Vacancy Tax?

- A. Bob Smith
- B. Gaga's Books
- C. Mike Vasel**
- D. Neither A, B nor C
- E. All of the Above



When Do I Have To File And Pay?

- For most entities, filing and payment of the Commercial Vacancy Tax will begin in 2023.
- Filing and Payment due annually by the last day of February (for the prior year)



How Is The Commercial Vacancy Tax Calculated?

Calendar Years Vacant	Rate Per Linear Foot of Frontage
1st year*	\$250
2nd year	\$500
3rd year or more	\$1000

*beginning in 2022

A building's frontage (the total length of commercial space facing the Public Right of Way).

The number of consecutive calendar years beginning in 2022 that the Commercial Space is kept vacant by any person for more than 182 days.



Public Data

The Office of the Treasurer and Tax Collector will disclose certain Commercial Vacancy Tax information to the public. The following information collected from the Commercial Vacancy Tax return will be made available via DataSF:

- Name of the person(s) required to file a Commercial Vacancy Tax and whether each person filed;
- Name of the person(s) required to pay the Commercial Vacancy Tax;
- The address and block and lot number of the taxable commercial space;
- If the taxable commercial space was kept vacant during a tax year; and
- The commercial vacancy tax rate that applies to the space for a given tax year.



Thank You!