BOARD of SUPERVISORS

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MEMORANDUM

TO: José Cisneros, Treasurer, Office of the Treasurer and Tax Collector
Daniel Adams, Director, Mayor's Office of Housing and Community Development
Adam Thongsavat, Liaison to the Board of Supervisors, Mayor's Office

FROM: Brent Jalipa, Assistant Clerk, Budget and Finance Committee

DATE: September 5, 2025

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Budget and Finance Committee has received the following proposed legislation, introduced by Mayor Daniel Lurie:

File No. 250891

Ordinance amending the Business and Tax Regulations Code to exclude from gross receipts tax the gross receipts of low-income housing partnerships received from the lease of residential real estate beginning with the 2026 tax year; suspend the business registration certificate and fee requirements for those partnerships beginning with the registration year commencing April 1, 2026; exempt the City from the commercial vacancy tax retroactive to January 1, 2025; and exempt persons holding property to be used for City-sponsored affordable housing projects from the commercial vacancy tax retroactive to January 1, 2022, and refund commercial vacancy taxes paid by exempt persons.

If you have any comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c. Amanda Kahn Fried, Office of the Treasurer and Tax Collector
Lydia Ely, Mayor's Office of Housing and Community Development
Maria Benjamin, Mayor's Office of Housing and Community Development
Sheila Nickolopoulos, Mayor's Office of Housing and Community Development
Kyra Geithman, Mayor's Office of Housing and Community Development
Julia Sabory, Mayor's Office of Housing and Community Development

[Business and Tax Regulations Code - Tax Exclusion for Low-Income Housing Partnerships; Commercial Vacancy Tax Exemption]

Ordinance amending the Business and Tax Regulations Code to exclude from gross receipts tax the gross receipts of low-income housing partnerships received from the lease of residential real estate beginning with the 2026 tax year; suspend the business registration certificate and fee requirements for those partnerships beginning with the registration year commencing April 1, 2026; exempt the City from the commercial vacancy tax retroactive to January 1, 2025; and exempt persons holding property to be used for City-sponsored affordable housing projects from the commercial vacancy tax retroactive to January 1, 2022, and refund commercial vacancy taxes paid by exempt persons.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in ~~*strikethrough italics Times New Roman font*~~.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Article 6 of the Business and Tax Regulations Code is hereby amended by revising Section 6.8-1, to read as follows:

SEC. 6.8-1. CITY, PUBLIC ENTITY, AND CONSTITUTIONAL EXEMPTIONS.

(a) Nothing in Articles 6, 7, 8, 9, 10, 10B, 11, 12, 12-A-1, 21, 28, 29, 29A , 30, 32, or 33 shall be construed as imposing a tax upon:

(1) The City~~*, except for the Vacancy Tax (Article 29)*~~;

(2) The State of California, or any county, municipal corporation, district, or other political subdivision of the State, except where any constitutional or statutory immunity from taxation is waived or is not applicable;

(3) The United States, or any of its agencies or subdivisions, except where any constitutional or statutory immunity from taxation is waived or is not applicable; or

(4) Any person exempted from the particular tax by the Constitution or statutes of the United States or the Constitution or statutes of the State of California.

* * * *

Section 2. Article 12 of the Business and Tax Regulations Code is hereby amended by revising Section 853, to read as follows:

SEC. 853. REGISTRATION CERTIFICATE – REQUIRED.

* * * *

(f) (1) Beginning with the registration year commencing April 1, 2026, the requirements to obtain a registration certificate and pay a fee under this Article 12 are suspended for Qualified Lessors. For purposes of this subsection (f), the term "Qualified Lessor" has the same meaning as that term is defined in Section 952.3(h) of Article 12-A-1 of the Business and Tax Regulations Code.

(2) The suspension in this subsection (f) shall apply only with respect to the Qualified Lessor's separate filing and payment obligations for its lease of residential real estate units. The suspension shall not apply to any business activity related to any other space, either within the same building or other buildings, that is not residential real estate.

(3) The Board of Supervisors may at any time, by ordinance, terminate the suspension in this subsection (f) without such termination constituting a tax increase under Article XIIIC of the California Constitution.

Section 3. Article 12-A-1 of the Business and Tax Regulations Code is hereby amended by revising Section 952.3, to read as follows:

SEC. 952.3. GROSS RECEIPTS.

* * * *

(h) (1) For tax years beginning on or after January 1, 2026, "gross receipts" shall not include amounts received by a Qualified Lessor. For purposes of this subsection (h), the term "Qualified Lessor" means a lessor of residential real estate, as the term residential real estate is described in Section 954.1(c) of this Article 12-A-1, if the lessor of residential real estate is a limited partnership in which the managing general partner is an eligible nonprofit corporation or eligible limited liability company, meeting all of the requirements of Section 214(g) of the California Revenue and Taxation Code.

(2) The exclusion in this subsection (h) shall apply only with respect to the Qualified Lessor's amounts received for its lease of residential real estate. The exclusion shall not apply to any amounts received from any business activity related to any other space, either within the same building or other buildings, that is not residential real estate.

(3) For purposes of the exclusion in Section 952.3(d) of this Article 12-A-1 providing that "any gross receipts of a pass-through entity which is subject to the gross receipts tax shall not also constitute gross receipts of any owner of that entity," a Qualified Lessor shall be deemed to be subject to the gross receipts tax notwithstanding the exclusion in this Section 952.3(h).

(4) The Board of Supervisors may at any time, by ordinance, terminate the exclusion in this subsection (h) without such termination constituting a tax increase under Article XIIIC of the California Constitution.

Section 4. Article 29 of the Business and Tax Regulations Code is hereby amended by revising Section 2905, to read as follows:

SEC. 2905. EXEMPTIONS AND EXCLUSIONS.

(a) For only so long as and to the extent that the City is prohibited from imposing the Vacancy Tax, any person upon whom the City is prohibited under the Constitution or laws of the State of California or the Constitution or laws of the United States from imposing the Vacancy Tax shall be exempt from the Vacancy Tax.

* * * *

(c) The City shall ~~*not*~~ be exempt from the Vacancy Tax.

* * * *

(e) For tax years beginning on or after January 1, 2022, persons that own commercial property subject to a recorded restrictive covenant enforced by the Mayor's Office of Housing and Community Development ("MOHCD") for the purpose of developing affordable housing thereon shall be exempt from the Vacancy Tax with respect to that commercial property. If a person that qualifies for the exemption under this subsection (e) pays or has paid the Vacancy Tax, the Tax Collector shall refund or cause to be refunded the amount of that tax and any penalties, without interest, upon request of that person. Such request for refund must be accompanied by a copy of the recorded restrictive covenant and a certification by MOHCD. Any refund request under this subsection must be filed in writing on a form prescribed by the Tax Collector within the later of (1) one year of payment of the tax or penalty, as applicable, or (2) June 30, 2026.

Section 5. Effective Date; Retroactivity.

(a) This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor’s veto of the ordinance.

(b) Upon the effective date of this ordinance, this ordinance shall be (1) retroactive to January 1, 2025, insofar as it relates to the amendments to Section 6.8-1 of Article 6 of the Business and Tax Regulations Code and Section 2905(c) of Article 29 of that Code, and (2) retroactive to January 1, 2022, insofar as it relates to the addition of Section 2905(e) of Article 29 of the Business and Tax Regulations Code.

Section 6. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the “Note” that appears under the official title of the ordinance.

Section 7. Severability. If any section, subsection, sentence, clause, phrase, or word of this ordinance, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of the ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this ordinance or application thereof would be subsequently declared invalid or unconstitutional.

Section 8. Supermajority Vote Required. In accordance with Section 2811 of Article 28 of the Business and Tax Regulations Code and Section 2909 of Article 29 of the Business and Tax Regulations Code, passage of this ordinance by the Board of Supervisors requires an affirmative vote of two-thirds of the Board of Supervisors.

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

By: /s/
KERNE H. O. MATSUBARA
Deputy City Attorney

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FILE NO. 250891

LEGISLATIVE DIGEST

[Business and Tax Regulations Code - Tax Exclusion for Low-Income Housing Partnerships; Commercial Vacancy Tax Exemption]

Ordinance amending the Business and Tax Regulations Code to exclude from gross receipts tax the gross receipts of low-income housing partnerships received from the lease of residential real estate beginning with the 2026 tax year; suspend the business registration certificate and fee requirements for those partnerships beginning with the registration year commencing April 1, 2026; exempt the City from the commercial vacancy tax retroactive to January 1, 2025; and exempt persons holding property to be used for City-sponsored affordable housing projects from the commercial vacancy tax retroactive to January 1, 2022, and refund commercial vacancy taxes paid by exempt persons.

Existing Law

Businesses engaging in business within the City generally must register with the Tax Collector and are subject to registration fees and gross receipts and other taxes. Certain organizations that are exempt from income taxation under the California Revenue and Taxation Code or the Internal Revenue Code are exempt from the City's registration fees and gross receipts taxes. The City also imposes a commercial vacancy tax, which is an annual excise tax on persons keeping ground floor commercial space in certain neighborhood commercial districts and certain neighborhood commercial transit districts vacant, to fund assistance to small businesses. The City is not exempt from the commercial vacancy tax.

Amendments to Current Law

For tax years beginning on or after January 1, 2026, and registration years beginning on or after April 1, 2026, this ordinance would exclude from gross receipts tax the gross receipts of low-income housing partnerships received from leasing of residential real estate, and suspend the business registration certificate and fee requirements for those partnerships. Qualifying partnerships would be limited partnerships that lease residential real estate and whose managing general partner is a nonprofit corporation or limited liability company that meets the requirements of the welfare exemption for low-income rental housing in Section 214(g) of the California Revenue and Taxation Code. The gross receipts exclusion would only apply to the qualifying partnership's receipts from the lease of residential real estate.

Retroactive to January 1, 2025, this ordinance would exempt the City from the commercial vacancy tax. Retroactive to January 1, 2022, this ordinance would exempt persons holding property to be used for City-sponsored affordable housing projects from the commercial vacancy tax. This ordinance also would authorize refunds, without interest, of commercial vacancy taxes, penalties, and interest paid to the City that were overpaid as a result of the retroactive application of this ordinance.

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OFFICE OF THE MAYOR
SAN FRANCISCO

DANIEL LURIE
MAYOR

TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: Adam Thongsavat, Liaison to the Board of Supervisors
RE: Business and Tax Regulations Code - Tax Exclusion for Low-Income Housing Partnerships; Commercial Vacancy Tax Exemption
DATE: September 2, 2025

Ordinance amending the Business and Tax Regulations Code to exclude from gross receipts tax the gross receipts of low-income housing partnerships received from the lease of residential real estate beginning with the 2026 tax year; suspend the business registration certificate and fee requirements for those partnerships beginning with the registration year commencing April 1, 2026; exempt the City from the commercial vacancy tax retroactive to January 1, 2025; and exempt persons holding property to be used for City-sponsored affordable housing projects from the commercial vacancy tax retroactive to January 1, 2022, and refund commercial vacancy taxes paid by exempt persons.

Should you have any questions, please contact Adam Thongsavat at adam.thongsavat@sfgov.org

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