

BOARD of SUPERVISORS



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## MEMORANDUM

TO: José Cisneros, Treasurer, Office of the Treasurer and Tax Collector  
Carla Short, Director, Public Works  
Dennis Herrera, General Manager, Public Utilities Commission  
Jeffrey Tumlin, Executive Director, Municipal Transportation Agency  
Tom Paulino, Liaison to the Board of Supervisors, Mayor's Office

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

DATE: December 9, 2024

SUBJECT: LEGISLATION INTRODUCED

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The Board of Supervisors' Budget and Finance Committee has received the following proposed legislation, introduced by Supervisor Connie Chan:

**File No. 241172**

**Ordinance amending the Business and Tax Regulations Code to exempt from the commercial vacancy tax beginning on January 1, 2025, any taxable commercial space located in a named neighborhood commercial district or named neighborhood commercial transit district in which a City public infrastructure or construction project has a construction duration of more than 180 days in a calendar year, and from January 1, 2022, through December 31, 2024, any taxable commercial space located in the Taraval Street Neighborhood Commercial District or the Inner Taraval Street Neighborhood Commercial District.**

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  
Davis Steinberg, Public Works  
Ian Schneider, Public Works  
Jeremy Spitz, Public Utilities Commission  
Janet Martinsen, Municipal Transportation Agency  
Joel Ramos, Municipal Transportation Agency  
Andres Power, Mayor's Office

[Business and Tax Regulations Code - Commercial Vacancy Tax Exemption]

**Ordinance amending the Business and Tax Regulations Code to exempt from the commercial vacancy tax beginning on January 1, 2025, any taxable commercial space located in a named neighborhood commercial district or named neighborhood commercial transit district in which a City public infrastructure or construction project has a construction duration of more than 180 days in a calendar year, and from January 1, 2022, through December 31, 2024, any taxable commercial space located in the Taraval Street Neighborhood Commercial District or the Inner Taraval Street Neighborhood Commercial District.**

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 ~~*Times New Roman font*~~. **Board amendment additions** are in Arial font. **Board amendment deletions** are in ~~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 29 of the Business and Tax Regulations Code is hereby amended by adding Section 2905.1, to read as follows:

**SEC. 2905.1. EXEMPTION FOR DISTRICTS WITH MAJOR INFRASTRUCTURE PROJECTS; REFUNDS FOR TAX YEARS 2022, 2023, AND 2024.**

(a) In addition to the exemptions in Section 2905, the following exemptions apply:

1                   (1) Beginning January 1, 2025, any Taxable Commercial Space that is located in a  
2 Temporarily Excluded District during a tax year shall be exempt from the Vacancy Tax for that tax  
3 year.

4                   (2) For tax years 2022, 2023, and 2024, any Taxable Commercial Space located in the  
5 Taraval Street Neighborhood Commercial District or the Inner Taraval Street Neighborhood  
6 Commercial District, listed in Section 201 of the Planning Code, as those districts existed on  
7 March 3, 2020, shall be exempt from the Vacancy Tax.

8                   (b) For purposes of this Section 2905.1:

9                   (1) “Major Public Infrastructure or Construction Project” means a public  
10 infrastructure or construction project by the Department of Public Works, Public Utilities Commission,  
11 or the Municipal Transportation Agency with a construction duration of more than 180 days in a tax  
12 year in a Named Neighborhood Commercial District or Named Neighborhood Commercial Transit  
13 District.

14                   (2) “Named Neighborhood Commercial District” and “Named Neighborhood  
15 Commercial Transit District” are as described under the definition of “Taxable Commercial Space” in  
16 Section 2903 of this Article 29.

17                   (3) “Temporarily Excluded District” means, for a tax year, any Named Neighborhood  
18 Commercial District or Named Neighborhood Commercial Transit District with a Major Public  
19 Infrastructure or Construction Project in that tax year.

20                   (c) For purposes of this Article 29, Taxable Commercial Space shall be deemed not kept  
21 Vacant for the tax year or tax years during which that Taxable Commercial Space is exempt from the  
22 Vacancy Tax under subsection (a) of this Section 2905.1.

23                   (d) Commencing with a report filed no later than December 1, 2025, covering the 2025 tax  
24 year, the Department Head or Department Head’s designee of the Department of Public Works, Public  
25

1 Utilities Commission, and Municipal Transportation Agency shall submit reports annually to the Board  
2 of Supervisors and the Tax Collector for each tax year by December 1 of that tax year, listing:

3 (1) Any Major Public Infrastructure or Construction Projects identified for that tax  
4 year; and

5 (2) Any projects that are projected to meet the requirements of a Major Public  
6 Infrastructure or Construction Project by the end of December 31 of that year.

7 (e) The Tax Collector shall refund, without interest, any overpayments of tax, penalties, and/or  
8 interest under this Article 29 for tax years 2022, 2023, and/or 2024 that result or have resulted from  
9 Taxable Commercial Space being in the Taraval Street Neighborhood Commercial District or the Inner  
10 Taraval Street Neighborhood Commercial District. The Tax Collector shall refund overpayments  
11 under this subsection (e):

12 (1) By June 30, 2025; or

13 (2) Upon request of the person who made the overpayment, if such request is filed in  
14 writing with the Tax Collector by the later of December 31, 2025, or the deadline for requesting  
15 refunds under Business and Tax Regulations Code Article 6, Section 6.15-1(g).

16 (f) Notwithstanding Business and Tax Regulations Code Article 6, Section 6.9-1(j)(2), persons  
17 exempt under this Section 2905.1 for a tax year shall not be required to file a Vacancy Tax return for  
18 that tax year. Persons exempt under this Section for a tax year also shall not be subject to  
19 Section 6.9-1(j)(3) for that tax year.

20  
21 Section 2. Effective Date; Retroactivity.

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

1 (b) Retroactive Date. This ordinance shall be retroactive to January 1, 2022, insofar  
2 as it relates to tax years 2022, 2023, and 2024 for the Taraval Street Neighborhood  
3 Commercial District and Inner Taraval Street Neighborhood Commercial District. This  
4 ordinance shall otherwise be retroactive to January 1, 2025.

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6 Section 3. Supermajority Vote Required. In accordance with Section 2909 of  
7 Article 29 of the Business and Tax Regulations Code, passage of this ordinance by the Board  
8 of Supervisors requires an affirmative vote of two-thirds of the Board of Supervisors.

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10 APPROVED AS TO FORM:  
11 DAVID CHIU, City Attorney

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

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**LEGISLATIVE DIGEST**

[Business and Tax Regulations Code - Commercial Vacancy Tax Exemption]

**Ordinance amending the Business and Tax Regulations Code to exempt from the commercial vacancy tax beginning on January 1, 2025, any taxable commercial space located in a named neighborhood commercial district or named neighborhood commercial transit district in which a City public infrastructure or construction project has a construction duration of more than 180 days in a calendar year, and from January 1, 2022, through December 31, 2024, any taxable commercial space located in the Taraval Street Neighborhood Commercial District or the Inner Taraval Street Neighborhood Commercial District.**

Existing Law

Beginning January 1, 2022, the City imposes a commercial vacancy tax (“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 Vacancy Tax is based on (1) the number of linear feet of ground-level street-facing commercial space that is kept vacant and (2) the number of years that space has been kept vacant. Commercial space is kept “vacant” if it is unoccupied, uninhabited, or unused for more than 182 days, whether consecutive or nonconsecutive, in a calendar year. Certain periods during which commercial space is under construction, is subject to pending building permit and other applications, or has experienced damage from certain disasters are disregarded for purposes of determining whether the commercial space has been kept vacant.

Amendments to Current Law

Beginning January 1, 2025, this ordinance would exempt from the Vacancy Tax commercial space located in districts that have a public infrastructure or construction project by the Department of Public Works, Public Utilities Commission, or Municipal Transportation Agency with a construction duration of more than 180 days in the calendar year. This ordinance would require the above departments to submit reports annually to the Board and the Tax Collector by December 1 of each tax year listing any projects that meet or are projected to meet the 180-day criteria for that tax year, beginning with the report due by December 1, 2025, for the 2025 tax year.

Retroactive to January 1, 2022, this ordinance would exempt from the Vacancy Tax for tax years 2022, 2023, and 2024 commercial space located in the Taraval Street Neighborhood Commercial District or the Inner Taraval Street Neighborhood Commercial District. This ordinance also would require the Tax Collector to refund, without interest, any taxes,

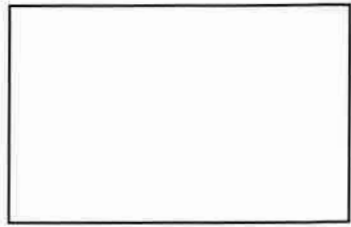
FILE NO. 241172

penalties, and interest paid to the City that were overpaid as a result of the retroactive application of this ordinance.

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## Introduction Form

*(by a Member of the Board of Supervisors or the Mayor)*



I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee (Ordinance, Resolution, Motion or Charter Amendment)
- 2. Request for next printed agenda (For Adoption Without Committee Reference)  
*(Routine, non-controversial and/or commendatory matters only)*
- 3. Request for Hearing on a subject matter at Committee
- 4. Request for Letter beginning with "Supervisor \_\_\_\_\_ inquires..."
- 5. City Attorney Request
- 6. Call File No. \_\_\_\_\_ from Committee.
- 7. Budget and Legislative Analyst Request (attached written Motion)
- 8. Substitute Legislation File No. \_\_\_\_\_
- 9. Reactivate File No. \_\_\_\_\_
- 10. Topic submitted for Mayoral Appearance before the Board on \_\_\_\_\_

The proposed legislation should be forwarded to the following (please check all appropriate boxes):

- Small Business Commission     Youth Commission     Ethics Commission
- Planning Commission     Building Inspection Commission     Human Resources Department

General Plan Referral sent to the Planning Department (proposed legislation subject to Charter 4.105 & Admin 2A.53):

- Yes                       No

*(Note: For Imperative Agenda items (a Resolution not on the printed agenda), use the Imperative Agenda Form.)*

Sponsor(s):

Chan

Subject:

Business and Tax Regulations Code - Commercial Vacancy Tax Exemption

Long Title or text listed:

Ordinance amending the Business and Tax Regulations Code to exempt from the commercial vacancy tax beginning on January 1, 2025, any taxable commercial space located in a named neighborhood commercial district or named neighborhood commercial transit district in which a City public infrastructure or construction project has a construction duration of more than 180 days in a calendar year, and from January 1, 2022 to December 31, 2024, any taxable commercial space located in the Taraval Street Neighborhood Commercial District or the Inner Taraval Street Neighborhood Commercial District.

Signature of Sponsoring Supervisor: 