

CITY AND COUNTY OF SAN FRANCISCO

Tax Collector Regulation 2023-1

VACANCY TAX (COMMERCIAL) – GROUND FLOOR COMMERCIAL SPACE;
MULTIPLE RIGHTS OF WAY

San Francisco Business and Tax Regulations Code

(a) Authority. The Tax Collector promulgates this regulation pursuant to the Tax Collector’s authority to adopt rules and regulations under San Francisco Business and Tax Regulations Code section 6.16-1.

(b) Purpose. The Vacancy Tax (Commercial) is a tax on persons keeping vacant certain commercial space in the City. This regulation clarifies the application of the Vacancy Tax to certain situations.

(c) Definitions. For purposes of this regulation, all terms are as defined in Articles 6 and 29 of the Business and Tax Regulations Code.

(d) Ground Floor Commercial Space. The ground floor of a building or structure, or the ground floor of any portion of a building or structure, means the story or stories of that building or structure, or portion thereof, with a floor level that is not more than six feet above or more than six feet below the Public Right of Way adjacent or tangent to the building or structure at any point along that floor level.

(e) Corner Spaces and Multiple Adjacent or Tangent Public Rights of Way. If Vacant Taxable Commercial Space is adjacent or tangent to more than one Public Right of Way, the Vacancy Tax will be calculated based on the Frontage for each adjacent or tangent Public Right of Way.

(f) Examples.

(1) Building A is adjacent to a Public Right of Way, with 20 linear feet of Frontage, and is located in a Named Neighborhood Commercial District. Building A is a two-level building with two units, Unit 1 and Unit 2, both of which are Vacant and are not Residential Real Estate. Unit 1 occupies the lower level, and Unit 2 occupies the upper level. The Unit 1 floor level is eight feet below the Public Right of Way, and the Unit 2 floor level is four feet above that Public Right of Way. Unit 2, and not Unit 1, is “ground floor” because Unit 2’s floor level is not more than six feet above the Public Right of Way, whereas Unit 1’s floor level is more than six feet below the Public Right of Way. Unit 2 is Taxable Commercial Space, and the Vacancy Tax for keeping Unit 2 Vacant is calculated based on 20 linear feet of Frontage.

(2) The facts are the same as in Example (1), except that the Unit 1 floor level is six feet below the adjacent Public Right of Way and the Unit 2 floor level is six feet above the adjacent Public Right of Way. Both Unit 1 and Unit 2 occupy are “ground floor” and are Taxable Commercial Space because the floor level of each unit is not more than six feet above or six feet below the Public Right of Way. The Vacancy Tax for keeping Unit 1 Vacant and keeping Unit 2 Vacant is calculated based on 20 linear feet of Frontage for each unit.

(3) Building B is adjacent to a sloped Public Right of Way, with 20 linear feet of Frontage, and is located in a Named Neighborhood Commercial District. Building B is a multi-unit building, of which only Unit 2 is Vacant and not Residential Real Estate. The Unit 2 floor level is eight feet above the Public Right of Way at the unit’s western edge and five feet above the Public Right of Way at the eastern edge. Unit 2 is “ground floor” and is Taxable

Commercial Space because at least some portion of Unit 2's floor level is not more than six feet above the Public Right of Way. The Vacancy Tax for keeping Unit 2 Vacant is calculated based on 20 linear feet of Frontage.

(4) Taxable Commercial Space is Vacant and is adjacent to both the sidewalk on Street X and the sidewalk on Avenue Y, which intersects Street X. The Street X sidewalk Frontage for that Taxable Commercial Space is 25 linear feet, and the Avenue Y sidewalk Frontage is 20 linear feet. The Vacancy Tax for keeping the Taxable Commercial Space Vacant is calculated based on 45 linear feet of Frontage.

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