

Alert | State & Local Tax (SALT)



April 2025

California Bill Proposes a Vacancy Tax on Commercial Real Property

On Feb. 21, 2025, California State Sen. Menjivar introduced [Senate Bill 789 \(SB-789\)](#), proposing a vacancy tax aimed at commercial real property (property) to address prolonged vacancies, incentivize property activation, and generate revenue to support first-time home buyers through the California Dream for All Program. SB-789 is scheduled to become effective on July 1, 2028, with initial annual tax obligations due in 2029.

Summary of SB-789 Changes

Vacancy Tax on Commercial Real Property

SB-789 imposes an annual vacancy tax of \$5 per square foot on properties remaining vacant for 182 or more days, whether consecutive or nonconsecutive, within a calendar year. The tax explicitly excludes residential spaces within mixed-use properties. Revenues collected would be directed exclusively to the California Dream for All Fund, aiding first-time home buyers.

Exemptions

The proposed tax would not apply under the following conditions:

1. Active renovation: Properties undergoing construction or repair pursuant to an approved building permit, with work ongoing for at least 90 consecutive days.
2. Legal or regulatory barriers: Properties subject to litigation, environmental reviews, or permitting delays that prevent occupancy.
3. Natural disasters: Properties affected by natural disasters, including properties state or local authorities deem uninhabitable.

Compliance and Reporting Requirements

Property owners subject to the proposed tax must:

- Register with the California Department of Tax and Fee Administration (CDTFA).
- Electronically file annual returns by March 15 of each year, reporting the prior calendar year's vacancy status, property square footage, and applicable exemptions. Supporting documentation, including lease agreements and utility records, may be required.

Penalties for Non-Compliance

Owners intentionally misstating information or making fraudulent claims would face civil penalties of up to 75% of the total tax liability.

Public Outreach and Reporting

The CDTFA would conduct public outreach to educate property owners on compliance and would publish

- Annual reports that detail revenue, exemptions, and program outcomes.
- Economic evaluations every five years, starting in 2033, that tracks the tax's impact, its effectiveness, and compliance costs.

Potential Constitutional Conflict

The implementation of SB-789 faces potential constitutional challenges arising from pending litigation. Specifically, in *Debbane v. City and County of San Francisco* (Appeal No. A172067), property owners successfully challenged a San Francisco vacancy tax, arguing that it violated the Takings Clause of the U.S. Constitution. The city of San Francisco's appeal of the trial court decision creates legal uncertainty about the constitutionality of vacancy taxes. If the First District Court of Appeal upholds the trial court's ruling, it may set a precedent that prevents SB-789's enactment.

Takeaway

SB-789 represents a shift in California's approach to addressing vacant commercial properties. By imposing a vacancy tax, the bill seeks to revitalize local economies, reduce neighborhood deterioration, and generate funding for housing affordability initiatives. Property owners should familiarize themselves with the new requirements and consult with legal advisors to enhance compliance and understand the potential financial implications.

Authors

This GT Alert was prepared by:

- Bradley R. Marsh | +1 415.655.1252 | Bradley.Marsh@gtlaw.com
- Cris K. O'Neill | +1 949.732.6610 | oneallc@gtlaw.com
- Ruben Sislyan | +1 310.586.7765 | sislyanr@gtlaw.com
- Colin W. Fraser | +1 949.732.6663 | frasercw@gtlaw.com
- Shail P. Shah | +1 415.655.1306 | Shail.Shah@gtlaw.com
- Jennifer A. Vincent | +1 415.655.1249 | vincentj@gtlaw.com
- Bree Burdick | + 949.732.6502 | Bree.Burdick@gtlaw.com
- Samuel Weinstein Astorga | +1 415.655.1269 | Sam.Astorga@gtlaw.com

Greenberg Traurig's State and Local Tax (SALT) Team:

Arizona

- Jake B. Smith | +1 602.445.8334 | Jake.Smith@gtlaw.com

California

- Bradley R. Marsh | +1 415.655.1252 | Bradley.Marsh@gtlaw.com
- G. Michelle Ferreira | +1 415.655.1305 | ferreiram@gtlaw.com
- Colin W. Fraser | +1 949.732.6663 | frasercw@gtlaw.com
- Courtney A. Hopley | +1 415.655.1314 | hopleyc@gtlaw.com
- Cris K. O'Neill | +1 949.732.6610 | oneallc@gtlaw.com
- Shail P. Shah | +1 415.655.1306 | Shail.Shah@gtlaw.com
- Ruben Sislyan | +1 310.586.7765 | sislyanr@gtlaw.com
- Samuel Weinstein Astorga | +1 415.655.1269 | Sam.Astorga@gtlaw.com
- Bree Burdick | + 949.732.6502 | Bree.Burdick@gtlaw.com
- Katy Stone | +1 415.590.5139 | Katy.Stone@gtlaw.com
- Jennifer A. Vincent | +1 415.655.1249 | vincentj@gtlaw.com

Colorado

- Marc J. Musyl | +1 303.572.6585 | Marc.Musyl@gtlaw.com
- Neil Oberfeld | +1 303.685.7414 | oberfeldn@gtlaw.com

Delaware

- Jonathan I. Lessner | +1 302.661.7363 | lessnerj@gtlaw.com

Florida

- [Marvin A. Kirsner](#) | +1 954.768.8224 | kirsnerm@gtlaw.com
- [Joel D. Maser](#) | +1 954.765.0500 | Joel.Maser@gtlaw.com

Illinois

- [Lawrence H. Brenman](#) | +1 312.456.8437 | brenmanl@gtlaw.com

Massachusetts

- [Brian Gaudet](#) | +1 617.310.6000 | Brian.Gaudet@gtlaw.com
- [James P. Redding](#) | +1 617.310.6061 | reddingj@gtlaw.com
- [Robert C. Ross](#) | +1 617.310.5299 | bob.ross@gtlaw.com

New Jersey

- [Martin L. Lepelstat](#) | +1 973.443.3501 | lepelstatm@gtlaw.com

New York

- [Scott E. Fink](#) | +1 212.801.6955 | finks@gtlaw.com
- [Barbara T. Kaplan](#) | +1 212.801.9250 | kaplanb@gtlaw.com
- [Ivy J. Lapidés](#) | +1 212.801.9208 | Ivy.Lapides@gtlaw.com
- [Glenn Newman](#) | +1 212.801.3190 | newmang@gtlaw.com
- [Shira Peleg](#) | +1 212.801.6754 | pelegs@gtlaw.com

Northern Virginia

- [Richard J. Melnick](#) | +1 703.903.7505 | melnickr@gtlaw.com

Oregon

- [Nikki E. Dobay](#) | +1 916.868.0616 | Nikki.Dobay@gtlaw.com

Texas

- [Josh Prywes](#) | +1 214.665.3626 | Josh.Prywes@gtlaw.com
- [Catalina Baron](#) | +1 713.374.3656 | Catalina.Baron@gtlaw.com

Washington, D.C.

- [DeAndré R. Morrow](#) | +1 202.533.2317 | morrowde@gtlaw.com
- [Samantha K. Trencs](#) | +1 202.331.3100 | Samantha.Trencs@gtlaw.com

Albany. Amsterdam. Atlanta. Austin. Berlin.~ Boston. Charlotte. Chicago. Dallas. Delaware. Denver. Fort Lauderdale. Houston. Kingdom of Saudi Arabia.* Las Vegas. London.* Long Island. Los Angeles. Mexico City.+ Miami. Milan.* Minneapolis. Munich~. New Jersey. New York. Northern Virginia. Orange County. Orlando. Philadelphia. Phoenix. Portland. Sacramento. Salt Lake City. San Diego. San Francisco. São Paulo.> Seoul.* Shanghai. Silicon Valley. Singapore.* Tallahassee. Tampa. Tel Aviv.^ Tokyo.* United Arab Emirates.< Warsaw.~ Washington, D.C.. West Palm Beach. Westchester County.

This Greenberg Traurig Alert is issued for informational purposes only and is not intended to be construed or used as general legal advice nor as a solicitation of any type. Please contact the author(s) or your Greenberg Traurig contact if you have questions regarding the currency of this information. The hiring of a lawyer is an important decision. Before you decide, ask for written information about

*the lawyer's legal qualifications and experience. Greenberg Traurig is a service mark and trade name of Greenberg Traurig, LLP and Greenberg Traurig, P.A. ¬Greenberg Traurig's Berlin and Munich offices are operated by Greenberg Traurig Germany, an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. *Operates as a separate UK registered legal entity. «Greenberg Traurig operates in the Kingdom of Saudi Arabia through Greenberg Traurig Khalid Al-Thebity Law Firm, a professional limited liability company, licensed to practice law by the Ministry of Justice. +Greenberg Traurig's Mexico City office is operated by Greenberg Traurig, S.C., an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. »Greenberg Traurig's Milan office is operated by Greenberg Traurig Studio Legal Associato, an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. ›Greenberg Traurig's São Paulo office is operated by Greenberg Traurig Brazil Consultores em Direito Estrangeiro – Direito Estadunidense, incorporated in Brazil as a foreign legal consulting firm. ∞Operates as Greenberg Traurig LLP Foreign Legal Consultant Office. ¯Greenberg Traurig's Singapore office is operated by Greenberg Traurig Singapore LLP which is licensed as a foreign law practice in Singapore. ^Greenberg Traurig's Tel Aviv office is a branch of Greenberg Traurig, P.A., Florida, USA. ¨Greenberg Traurig's Tokyo Office is operated by GT Tokyo Horitsu Jimusho and Greenberg Traurig Gaikokuhojimubengoshi Jimusho, affiliates of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. ‹Greenberg Traurig's United Arab Emirates office is operated by Greenberg Traurig Limited. ~Greenberg Traurig's Warsaw office is operated by GREENBERG TRAURIG Nowakowska-Zimoch Wysokiński sp.k., an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. Certain partners in GREENBERG TRAURIG Nowakowska-Zimoch Wysokiński sp.k. are also shareholders in Greenberg Traurig, P.A. Images in this advertisement do not depict Greenberg Traurig attorneys, clients, staff or facilities. No aspect of this advertisement has been approved by the Supreme Court of New Jersey. ©2025 Greenberg Traurig, LLP. All rights reserved.*