



REYNOLDS & BROWN



Date: April 11, 2025

To: Members, Senate Revenue and Taxation Committee

From: Robert Gutierrez, President & CEO, California Taxpayers Association
Matthew Hargrove, President & CEO, California Business Properties Association

Subject: OPPOSITION to SB 789 (Menjivar), as amended on March 27, 2025

The California Taxpayers Association, California Business Properties Association, and the organizations listed below respectfully oppose SB 789, which seeks to impose a \$5-per-square-foot annual tax on vacant commercial property – defined as property that remains unused for 182 consecutive or nonconsecutive days – beginning July 1, 2028. Additionally, the bill would impose a 75 percent penalty on taxpayers liable for making an intentional misstatement or fraudulent claim.

California's commercial real estate market continues to grapple with the lasting impacts of the pandemic, including widespread adoption of remote work, corporate downsizing, and the departure of several major employers from the state. These shifts have contributed to commercial property vacancy rates exceeding 20 percent in some regions, according to county assessors. SB 789 would worsen these challenges by increasing the financial burden on property owners already struggling to lease space in a historically difficult and evolving market.

Further, SB 789 represents a fundamental shift in the commercial real estate landscape, that will have long-lasting consequences for property tax revenue derived from the commercial real estate sector.

The California Taxpayers Association, California Business Properties Association, and the signatories to this letter oppose SB 789 for the following reasons:

Reduced Property Values Will Negatively Impact Cities, Counties, Schools and Local Governments. SB 789 poses a significant risk to local property tax revenue by diminishing the market value of commercial real estate. Commercial properties, which are taxed under Proposition 13, require complex appraisals to determine their value. Since the income-producing potential of these properties directly impacts the purchase price and assessed value of commercial real estate, any reduction in income potential leads to a decrease in market value – and subsequently, a reduction in property tax revenue for cities, counties, schools, and other local governments.

SB 789 will have a lasting impact on commercial real estate valuations. Under California law, a property's assessed value is established at the time of purchase. As investors evaluate new acquisition opportunities, a vacancy tax will reduce income-generating potential for investment properties. This will exert downward pressure on market values and result in lower base-year values for newly acquired commercial properties.

Because base-year values are constitutionally established under Proposition 13, the resulting decline will lead to a permanent, long-term reduction in property tax revenue from the commercial real estate sector.

Undermines a Revenue Source Reserved for Local Government. For over a century, revenue from real property taxation has primarily supported local governments. From 1880 to 1910, property taxes were the main revenue source for the state. However, following significant tax reforms in 1910, the benefit of taxing real property shifted to local governments, where it has remained ever since. SB 789 threatens this long-standing framework by undermining the authority of local governments to serve as the primary beneficiaries of taxes on real property.

Vacancy Taxes Have Not Been Proven Effective. Currently, only a handful of municipalities nationwide have imposed taxes on vacant commercial properties – including Oakland, San Francisco, and Washington, D.C. In all of these jurisdictions, the tax has not resulted in a measurable reduction in commercial vacancies. Ted Egan, chief economist with the City and County of San Francisco, commented that his city’s tax “hasn’t been a panacea for commercial vacancy in the city,” and that the municipality cannot solve its commercial vacancy problem with onerous tax increases.

Additionally, a trial court judge has ruled that San Francisco’s tax is unconstitutional, and the important legal issues – which likely would apply to the statewide tax proposed by SB 789 – have not yet been resolved in the appellate process. San Francisco has suspended its tax pending the outcome of the case. It would be imprudent for the Legislature to move forward with a similarly structured statewide tax when the constitutionality of the tax is in serious question.

Rather than adopting a discriminatory tax increase on business owners that has not been proven effective and could be unconstitutional, California should adopt incentives that encourage commercial development, including grant programs for property improvements, supportive services for commercial property owners, and reduced timelines for permitting.

The “One Size Fits All” Approach Harms California Businesses. SB 789 takes a “one-size-fits-all” approach that does not account for the multitude of reasons a property may be vacant. For example, SB 789 provides limited exemptions to property that is being actively renovated, has pending environmental reviews, or has been affected by a natural disaster. However, prolonged commercial vacancies can occur for legitimate reasons beyond these limited exemptions, including:

- **Recession.** During periods of economic contraction or recession, there is an associated increase in commercial vacancies as businesses shutter, and these vacancies can persist even as the broader economy improves. For example, commercial vacancy rates during the height of the Great Recession reached peaks of 16.3 percent across the United States. California is continuing to grapple with the impact of the COVID-19 recession, with commercial vacancy rates in the San Francisco Bay Area, Silicon Valley, and Los Angeles exceeding 20 percent.
- **Tenant Negotiations.** Commercial lease negotiations often span several quarters as property owners and potential tenants negotiate rent caps, repair obligations, income-sharing agreements, provisions requiring tenants to pay any property tax increases imposed during the lease, and other factors common in California commercial leases. Commercial lease negotiations frequently exceed the 182-day requirement set by SB 789. The bill would penalize property owners for using due diligence and participating in negotiations with potential small business owners and other tenants who are seeking the most favorable terms, and would increase the costs for commercial leases.

- **Zoning Restrictions.** Across California, municipalities have adopted a patchwork of zoning laws that restrict the types of businesses that can operate in certain neighborhoods. These zoning restrictions contribute to the difficulty in finding tenants for commercial properties.

In contrast with the tax proposed by SB 789, existing local commercial vacancy taxes are paired with associated incentives for property owners. Washington, D.C. adopted a grant program to provide financial support for the general maintenance of commercial properties located in low- and moderate-income neighborhoods. Oakland adopted matching funds capped at \$15,000 to reduce commercial blight and encourage economic development. San Francisco approved grant funding for specified tenant improvement projects. SB 789 would use a “stick” without an associated “carrot.” For the average commercial property in California, business owners can expect an \$80,000 tax increase under this legislation, which will increase the costs of commercial rent, reduce business investments in the state, and decrease affordability.

Agency With No Property Tax Expertise Required to Administer Tax. SB 789 requires the California Department of Tax and Fee Administration – an agency with no expertise or understanding of property tax or appraisals, and no existing relationships with county assessors’ offices – to administer the commercial vacancy tax. Mandating an agency that lacks property tax staff and expertise to collect a first-of-its-kind tax on vacant property would create unnecessary administrative issues, burdening the taxpayer community.

For these reasons, the signatories to this letter must oppose SB 789

On behalf of...

California Taxpayers Association	Elk Grove Chamber of Commerce
California Business Properties Association	Extra Space Storage
Apartment Association of Greater Los Angeles	Family Business Association of California
BOMA San Diego	Federal Realty Investment Trust
California Alliance of Taxpayer Advocates	Folsom Chamber of Commerce
California Apartment Association	Greater Concord Chamber of Commerce
California Association of Realtors	Howard Jarvis Taxpayers Association
California Builders Alliance	Inland Empire Economic Partnership
California Building Industry Association	Kern County Taxpayers Association
California Business Roundtable	Lincoln Area Chamber of Commerce
California Hotel and Lodging Association	Los Angeles Area Chamber of Commerce
California Mortgage Bankers Association	NAIOP San Diego
California Rental Housing Association	National Federation of Independent Businesses
California Retailers Association	Orange County Taxpayers Association
Contra Costa Taxpayers Association	Rancho Cordova Chamber of Commerce
Council on State Taxation	Reynolds & Brown
East Bay Leadership Council	Rocklin Chamber of Commerce
El Dorado County Chamber of Commerce	Roseville Area Chamber of Commerce
El Dorado Hills Chamber of Commerce	Sacramento Regional Builders Exchange

The California Taxpayers Association is a nonpartisan, nonprofit association formed to support good tax policy, oppose unnecessary taxes and promote government efficiency. Established in 1926, CalTax is the oldest and largest group representing California taxpayers.

San Diego Regional Chamber of Commerce
San Gabriel Valley Economic Partnership
Silicon Valley Leadership Group
Single Springs/Cameron Park Chamber of
Commerce
Solano County Taxpayers Association

Southern California Leadership Council
Supply Chain Federation
United Chamber Advocacy Network
Walnut Creek Chamber of Commerce &
Visitors Bureau
Yuba-Sutter Chamber of Commerce

The California Taxpayers Association is a nonpartisan, nonprofit association formed to support good tax policy, oppose unnecessary taxes and promote government efficiency. Established in 1926, CalTax is the oldest and largest group representing California taxpayers.