

1 [Business and Tax Regulations Code - Real Property Transfer Tax Refunds]

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3 **Ordinance amending the Business and Tax Regulations Code to permit the City**
4 **Attorney, with the consent of the County Recorder, to allow or settle real property**
5 **transfer tax claims for refund and lawsuits in excess of \$25,000 for any amount up to**
6 **the amount of transfer tax, penalties, and interest paid that exceeds the amount of**
7 **transfer tax, penalties, and interest that would have been due on the transaction if the**
8 **amount due had been calculated using the value of the real property as finally**
9 **determined by the Assessment Appeals Board.**

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

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

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17 Section 1. Article 12-C of the Business and Tax Regulations Code is hereby amended
18 by revising Section 1113 to read as follows:

19

20 **SEC. 1113. CLAIMS FOR REFUNDS.**

21 (a) Except as otherwise provided in subsection (~~ed~~) of this Section 1113 or as provided
22 in Section 1113.1, the Controller shall refund or cause to be refunded the amount of any tax,
23 interest, or penalty imposed under this Article 12-C that has been overpaid or paid more than
24 once, or has been erroneously or illegally collected or received by the City, provided the
25 person that paid such amount files a claim in writing with the Controller within the later of one

1 year of payment of such amount or the date the tax was due. The claim must state: (1) the
2 specific amount claimed to have been overpaid or paid more than once, or erroneously or
3 illegally collected or received by the City; (2) the date of transfer; and (3) the grounds upon
4 which the claim is founded, with specificity sufficient to enable the responsible City officials to
5 understand and evaluate the claim.

6 (b) Claims for refund shall be made according to California Government Code, Title 1,
7 Division 3.6, Part 3. The Controller shall furnish a form to be used for these claims. The
8 Controller shall enter the claim in the register, and shall forthwith forward it to the City
9 Attorney. The City Attorney is designated to take such actions on claims as authorized by
10 California Government Code, Title 1, Division 3.6, Part 3, Chapter 2, except that the City
11 Attorney's authority with regard to rejecting or allowing claims shall be as provided in this
12 Section 1113. The City Attorney may reject the claim, and shall notify the claimant of such
13 rejection. Except as provided in subsection (c), Allowance or compromise and settlement of
14 claims under this Section 1113 in excess of \$25,000 shall require the written approval of the
15 City Attorney and approval of the Board of Supervisors by resolution. The City Attorney may
16 allow or compromise and settle such claims if the amount is \$25,000 or less. No claim may
17 be paid until the Controller certifies that monies are available from the proper funds or
18 appropriations to pay the claim as allowed or as compromised and settled. If the City
19 approves the claim, the City may refund the excess amount collected or paid, or may credit
20 such amount toward any amount due and payable to the City from the person from whom it
21 was collected or by whom it was paid, and the balance may be refunded to such person, or
22 the person's administrator or executor. For purposes of this Section 1113, a claim shall be
23 deemed to accrue on the later of the date the tax was due or the date the tax was paid.

24 (c) Notwithstanding the \$25,000 limitation on the City Attorney's authority in subsection (b) of
25 this Section 1113, the City Attorney, with the approval of the County Recorder but without the approval

1 of the Board of Supervisors, may allow or compromise and settle claims under this Section 1113, and
2 suits for refund following the denial of claims under this Section 1113, for any amount up to the amount
3 of transfer tax, penalties, and interest paid that exceeds the amount of transfer tax, penalties, and
4 interest that would have been due on a transaction if the amount of transfer tax, penalties, and interest
5 due had been calculated using the value of the real property on the date of the transaction as finally
6 determined by the Assessment Appeals Board of the City and County of San Francisco plus statutory
7 interest under Section 1113.2.

8 (~~ed~~) The City Attorney, in ~~his or her~~ the City Attorney's discretion and upon good cause
9 shown, prior to the expiration of the one-year limitations period, may waive the requirement
10 set forth in subsection (a) of this Section 1113 that a taxpayer file a written claim for a refund
11 in any case in which the County Recorder and City Attorney determine on the basis of the
12 evidence that:

13 (1) an amount of tax, interest, or penalty has been overpaid or paid more than
14 once, or has been erroneously or illegally collected or received by the City; and

15 (2) all other conditions precedent to the payment of a refund to the taxpayer
16 have been satisfied.

17 (~~de~~) If a refund claim is allowed under this Section 1113 or a refund request is allowed
18 under Section 1113.1, the Controller will not pay the refund unless the taxpayer first records a
19 document that reflects payment of tax in an amount reduced by the amount of the refund.

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21 Section 2. Effective Date. This ordinance shall become effective 30 days after
22 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
23 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
24 of Supervisors overrides the Mayor's veto of the ordinance.

