

1 [Real Property Transfer Tax]

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3 **Ordinance amending Article 12-C of the San Francisco Business and Tax Regulations**
4 **Code Real Property Transfer Tax Ordinance) to conform and clarify exemptions for**
5 **transfers of real property between spouses and domestic partners, and to divide assets**
6 **upon dissolution of marriage or domestic partnership.**

7 Note: Additions are *single-underline italics Times New Roman*;
8 deletions are *strikethrough italics Times New Roman*.
9 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

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

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12 Section 1. The San Francisco Business and Tax Regulations Code is hereby amended
13 by amending Section 1108, and adding Sections 1102.2, 1108.5, of Article 12-C, as follows:

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16 SEC. 1102.2. DOMESTIC PARTNERS. "Domestic partnership" shall mean a domestic
17 partnership created pursuant to Chapter 62 of the Administrative Code, Division 2.5 of the California
18 Family Code, or the laws of another state or political subdivision thereof, and for which a Declaration
19 of Domestic Partnership or similar official record acknowledging the domestic partnership has been
20 filed with the County Clerk pursuant to Chapter 62, or with the public official responsible for the
21 registration of domestic partnerships pursuant to the laws of the jurisdiction under which the domestic
22 partnership was created.

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1 SEC. 1108.1. EXEMPTION; DISSOLUTION OF MARRIAGE, ETC.

2 (a) Any tax imposed pursuant to this ~~ordinance~~ Article shall not apply with respect to
3 any ~~deed, instrument, or other writing which purports transfer of real property~~ to transfer, divide, or
4 allocate community, quasi-community, or quasi-marital property assets between spouses for
5 the purpose of effecting a division of community, quasi-community, or quasi-marital property
6 which is required by a judgment decreeing a dissolution of the marriage or legal separation,
7 by a judgment of nullity, or by any other judgment or order rendered pursuant to ~~Part 5~~
8 ~~(commencing with Section 4000)~~ of Division s 4 6 and 7 of the ~~Civil~~ Family Code, or by written
9 agreement between the spouses, executed in contemplation of any such judgment or order,
10 whether or not the written agreement is incorporated as part of any of those judgments or
11 orders.

12 (b) Any tax imposed pursuant to this ~~ordinance~~ Article shall not apply with respect to
13 any ~~deed, instrument, or other writing which purports transfer~~ to transfer, divide, or allocate assets
14 held as joint tenants or as tenants-in-common between domestic partners for the purpose of
15 effecting a division of assets upon the dissolution of a domestic partnership. ~~For purposes of~~
16 ~~this exemption, "domestic partnership" shall mean a domestic partnership that has been created~~
17 ~~pursuant to Chapter 62 of the Administrative Code and for which a Declaration of Domestic~~
18 ~~Partnership has been filed with the County Clerk pursuant to such Chapter.~~

19 (c) In order to qualify for the exemption provided in ~~Subdivision~~ subsections (a) or (b),
20 the deed, instrument or other writing effecting the transfer shall include a written recital, signed
21 by either spouse or domestic partner, stating that the ~~deed, instrument, or other writing transfer~~ is
22 entitled to the exemption.

23 (d) Individuals of the same sex who obtain a certificate of marriage or other official government
24 document of any state or political subdivision thereof acknowledging their union in marriage shall be
25 deemed to be or have been in a "domestic partnership" that qualifies for the exemption under

1 subsection (b) in the event such individuals are denied the legal status of spouses or former spouses for
2 purposes of the exemption in subsection (a), or the marriage certificate or other official government
3 document acknowledging their marriage is invalidated in a final judgment or by operation of law
4 because such individuals are of the same sex, if: (i) the transfer is for the purpose of effecting a division
5 of assets between such individuals upon the dissolution of their union; (ii) they hold the real property
6 or interest therein as joint tenants or tenants-in-common before the transfer; (iii) the union, regardless
7 of its characterization as an invalid marriage or an informal or unregistered domestic partnership, has
8 been dissolved; and (iv) the written recital signed by either individual pursuant to subsection (c) states
9 the particulars that exempt the transfer under this subsection (d).

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11 SEC. 1108.5. EXEMPTION; TRANSFERS BETWEEN SPOUSES AND TRANSFERS
12 BETWEEN DOMESTIC PARTNERS. (a) The tax imposed under this Article shall not apply to
13 transfers of real property between spouses or between domestic partners.

14 (b) Individuals of the same sex who obtain a certificate of marriage or other official
15 government document from any state or political subdivision thereof acknowledging their union in
16 marriage shall be deemed to be in a “domestic partnership” that qualifies for the exemption under
17 subsection (a) in the event such individuals are denied the legal status of marriage or the legal rights,
18 privileges and obligations of spouses, or the marriage certificate or other official government
19 document acknowledging their marriage is invalidated or revoked in a final judgment or by operation
20 of law, because such individuals are of the same sex.

21 (c) In order to qualify for the exemption provided in this Section, the deed, instrument or
22 other writing effecting the transfer of real property shall include a written recital, signed by either
23 spouse or domestic partner, stating that the transfer is entitled to the exemption for spouses and
24 domestic partners.

1 APPROVED AS TO FORM:
2 DENNIS J. HERRERA, City Attorney

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4 By: _____
5 Dorji Roberts
6 Deputy City Attorney

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