

1 [Business and Tax Regulations Code - Transfer Tax Recording Requirements]

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3 **Ordinance amending the Business and Tax Regulations Code to require the amount of**
 4 **real property transfer tax paid to be shown on the face of a recorded document, and to**
 5 **conform the declaration of tax owed to existing law, by requiring a declaration that the**
 6 **tax was computed without excluding the value of existing liens and encumbrances**
 7 **remaining on the property.**

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

12

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

14

15 Section 1. The Business and Tax Regulations Code is hereby amended by revising
 16 Sections 1111 and 1113, to read as follows:

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18 **SEC. 1111. RECORDING PAYMENT OF TAX.**

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The Recorder shall collect the tax hereby imposed and deposit the same to the
 20 General Fund. The Recorder shall not record any deed, instrument or writing subject to the
 21 tax imposed by this ordinance unless the tax is paid.

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A declaration of the amount of the tax due, signed by the party determining the tax or
 23 his agent shall appear on the face of every document subject to tax hereunder which is
 24 submitted for recordation, ~~or if the party submitting the document for recordation so requests, the~~
 25 ~~declaration may be placed on a separate paper.~~ The declaration shall include a statement that the

1 consideration or value on which the tax due was computed was, ~~or that it was~~ not, exclusive of
2 the value of liens or encumbrances remaining on the interest or property conveyed at the time
3 of sale. ~~If the party submitting the document for recordation has requested that the declaration be~~
4 ~~placed upon a separate paper, the separate paper shall be affixed to the document by the Recorder~~
5 ~~after the permanent record is made and before the original is returned as specified in Section 27321 of~~
6 ~~the Government Code.~~

7 With every document subject to tax hereunder which is submitted for recordation, there
8 shall also be submitted a separate affidavit stating all relevant information that is necessary
9 for the determination of the proper transfer tax. A form for such affidavit shall be prepared by
10 the County Recorder. The affidavit form shall include the following notice: "NOTICE: Any
11 material misrepresentation of fact in this affidavit is a misdemeanor under Section 1116 of the
12 Real Property Transfer Tax Ordinance. Any person who makes such a misrepresentation is
13 subject to prosecution for such offense."

14 In accepting a document for recordation, the County Recorder shall rely upon the
15 declaration of the amount of ~~Tax~~ tax due and upon the affidavit of relevant information
16 accompanying the document.

17 Every document subject to tax hereunder which is submitted for recordation shall show
18 on the face of the document, or in a separate document the location of the lands, tenements
19 or other realty described in the document.

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21 **SEC. 1113. CLAIMS FOR REFUNDS.**

22 Claims for refunds of taxes imposed pursuant to this ordinance shall be governed by
23 ~~the provisions of~~ Sections 6.15-1, 6.15-3, and 6.15-4 of the ~~San Francisco~~ Business and Tax
24 Regulations Code, as those sections currently read and as they may be amended, or
25 interpreted by regulations, in the future. The references in those sections to a "return" shall

1 mean the transfer tax affidavit, the references to "tax period" shall mean date of transfer, and
2 the references to the "Tax Collector" shall mean the Recorder. If a refund claim is allowed
3 under this section or Section 1113.1, the Controller will not pay the refund unless the taxpayer
4 first records a document that reflects payment of tax in an amount reduced by the amount of
5 the refund. ~~This requirement does not apply if the taxpayer elected to record the deed in accordance~~
6 ~~with Section 1111 without any statement of transfer tax paid.~~

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

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13 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
14 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
15 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
16 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
17 additions, and Board amendment deletions in accordance with the "Note" that appears under
18 the official title of the ordinance.

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20 APPROVED AS TO FORM:
21 DENNIS J. HERRERA, City Attorney

22 By: _____
23 Carole F. Ruwart
24 Deputy City Attorney

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