

LEGISLATIVE DIGEST

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

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

Existing Law

Under current law, the Board of Supervisors has delegated to the City Attorney authority to approve refunds of overpayments to the City, including of the City's real property transfer tax, up to \$25,000. Refunds in excess of \$25,000 must be approved by the Board of Supervisors.

Amendments to Current Law

This ordinance would permit the City Attorney, in limited circumstances, to grant refunds of transfer tax and associated penalties and interest in excess of \$25,000 without Board of Supervisors approval. A refund in excess of \$25,000 would be permitted where the City's independent Assessment Appeals Board has valued the property for property tax purposes. The maximum refund allowed under this ordinance would be based on the Assessment Appeals Board's value; any greater refund would have to be approved by the Board of Supervisors. The refund would also have to be approved by the County Recorder (a function of the City's Assessor-Recorder's office).

Background Information

The City's real property transfer tax generally is based on the price paid or the value of the real property transferred or deemed transferred, depending on the circumstances. The independent Assessment Appeals Board may hear a taxpayer's property tax appeal, and determine the value of the property for property tax purposes. If the City Attorney and the Recorder agree that the value determined by the Assessment Appeals Board is fair and should also govern for transfer tax purposes, this ordinance would permit the City to more efficiently settle transfer tax claims on that basis, without expending Board of Supervisors resources to evaluate an issue that has already been decided by an independent body.