

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

2

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.**

8 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 ~~italics Times New Roman font~~.
11 **Board amendment additions** are in double-underlined Arial font.
12 **Board amendment deletions** are in ~~Arial font~~.
13 **Asterisks (* * * *)** indicate the omission of unchanged Code
14 subsections or parts of tables.

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

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

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

19 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.

22 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.

20 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

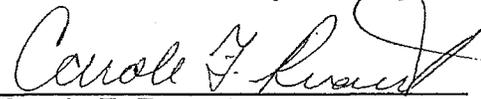
1 mean the transfer tax affidavit, the references to "tax period" shall mean date of transfer, and
2 the references to the "Tax Collector" shall mean the Recorder. If a refund claim is allowed
3 under this section or Section 1113.1, the Controller will not pay the refund unless the taxpayer
4 first records 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.~~

7
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.

12
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.

19
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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LEGISLATIVE DIGEST

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

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

Existing Law

Article 12-C of the City's Business and Tax Regulations Code imposes the City's "transfer tax" with respect to deeds and other specified instruments that transfer interests in real property. The Assessor-Recorder administers the transfer tax. The Code requires the location of the property to be shown on the face of the document being recorded. The amount of tax due must also be shown, either on the face of the document being recorded, or, at the request of the party submitting the document for recordation, on a separate paper affixed to the document after the document is imaged for the public record and before it is returned to the person requesting recordation.

The transfer tax is computed on the consideration or value of the property conveyed, without excluding the value of any liens or encumbrances remaining on the property. The Code requires a signed declaration indicating whether the amount of tax due was computed either excluding, or not excluding, the value of any liens or encumbrances remaining on the property.

Amendments to Current Law

This ordinance would delete the requirement that, upon request, the amount of tax due be shown on a separate paper affixed to the document, and would conform the declaration requirement to existing law. This ordinance would clarify that the taxpayer must declare that the tax was computed by not excluding the value of any liens or encumbrances remaining on the property.

Background Information

AB 1888 (Stats. 2014, Ch. 20) eliminated the option to place the amount of transfer tax paid on a separate sheet, for transfer tax ordinances enacted by general law cities and counties. This state law amendment does not automatically apply to San Francisco because San Francisco is a charter city and a city and county. The amount of transfer tax paid is a public record. Eliminating the optional separate statement makes it easier for the public to know the amount of transfer tax paid.

The Code prohibits the Assessor-Recorder from recording any deed, instrument, or writing subject to the tax, unless the proper amount of tax is paid. Requiring a declaration that the amount of tax has been computed without excluding the value of liens and encumbrances remaining on the property would assist the Assessor-Recorder in ensuring that the proper amount of tax has been paid.

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Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment)
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [] inquires"
- 5. City Attorney request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Question(s) submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Form.

Sponsor(s):

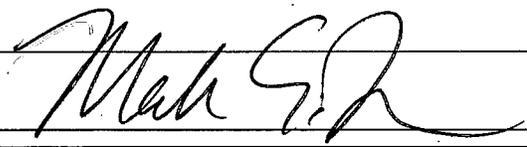
Supervisor Mark Farrell

Subject:

Business and Tax regulations Code - Transfer Tax Recording Requirements

The text is listed below or attached:

Attached.

Signature of Sponsoring Supervisor: 

For Clerk's Use Only:

150495

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Jose Cisneros, Treasurer, Office of the Treasurer & Tax Collector
Carmen Chu, Assessor-Recorder, Office of the Assessor-Recorder

FROM: Linda Wong, Assistant Clerk, Budget and Finance Committee, Board of Supervisors

DATE: June 3, 2015

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS

The Board of Supervisors' Budget and Finance Sub-Committee has received the following proposed legislation, introduced by Supervisor Farrell:

File No. 150495

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

If you have any additional comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Amanda Kahn Fried, Office of the Treasurer & Tax Collector
Edward McCaffrey, Office of the Assessor-Recorder

Wong, Linda (BOS)

From: Wong, Linda (BOS)
Sent: Wednesday, June 03, 2015 3:51 PM
To: Cisneros, Jose (TTX); Chu, Carmen (ASR)
Cc: Fried, Amanda (TTX); Mccaffrey, Edward
Subject: BOS File No. 150495 - Referral
Attachments: 150495.pdf

Good afternoon,

Attached is a referral for BOS File No. 150495, which is being sent to you for informational purposes.

If you have any comments or reports to be included with the file, please respond to this email or forward them to me at the address listed below.

Thank you for your attention.

Sincerely,

Linda Wong
Board of Supervisors
1 Dr. Carlton B. Goodlett Place, City Hall, Room 244
San Francisco, CA 94102-4689
Phone: 415.554.7719 | Fax: (415) 554-5163
Linda.Wong@sfgov.org | www.sfbos.org

Please complete a Board of Supervisors Customer Service Satisfaction form by clicking [here](#).

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

Disclosures: Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.

BOS II, COB, Leg Dep,
B+F, Dep CA, mayors
office

President, District 5
BOARD of SUPERVISORS



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RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

MAY 27 PM 3:11

BJ

London Breed

PRESIDENTIAL ACTION

Date: May 27, 2015

To: Angela Calvillo, Clerk of the Board of Supervisors

Madam Clerk,

Pursuant to Board Rules, I am hereby:

- Waiving 30-Day Rule (Board Rule No. 3.23)

File No. 150495 Farrell
(Primary Sponsor)

Title. Business and Tax Regulations Code - Transfer

- Transferring (Board Rule No. 3.3)

File No. _____
(Primary Sponsor)

Title. _____

From: _____ Committee

To: _____ Committee

- Assigning Temporary Committee Appointment (Board Rule No. 3.1)

Supervisor _____

Replacing Supervisor _____

For: _____ Meeting
(Date) (Committee)

London Breed, President
Board of Supervisors