

1 [Business and Tax Regulations Code - Transfer Tax Exemption for Affordable Housing]

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3 **Ordinance amending the Business and Tax Regulations Code to temporarily exempt**
4 **transfers of certain rent-restricted affordable housing from the real property transfer**
5 **tax, retroactive to transfers on or after April 12, 2024; and affirming the Planning**
6 **Department’s determination under the California Environmental Quality Act.**

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

11

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

13

14 Section 1. The Planning Department has determined that the actions contemplated in
15 this ordinance comply with the California Environmental Quality Act (California Public
16 Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the
17 Board of Supervisors in File No. 250890 and is incorporated herein by reference. The Board
18 affirms this determination.

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20 Section 2. Article 12-C of the Business and Tax Regulations Code is hereby amended
21 by revising Section 1108.6 to read as follows:

22 **SEC. 1108.6. ~~PARTIAL~~ EXEMPTIONS FOR RENT-RESTRICTED AFFORDABLE**
23 **HOUSING.**

24 * * * *

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1 (b) **Exemptions from ~~Increased Tax Rate.~~** ~~As authorized by the last sentence of~~
2 ~~Section 1102 of this Article 12-C, the increased tax rates imposed by subsections (d), (e), and (f) of~~

3 (1) The tax imposed under Section 1102 shall not apply with respect to any deed,
4 instrument, or writing that effects a transfer of Rent-Restricted Affordable Housing under
5 subsections (2)(A)(i) and (2)(A)(iii) of the definition of Rent-Restricted Affordable Housing in
6 Section 1108.6(a) that are or have been delivered on or after April 12, 2024.

7 (2) The increased tax rates imposed by subsections (d), (e), and (f) of Section 1102 shall
8 not apply with respect to any deed, instrument, or writing that effects a transfer of Rent-Restricted
9 Affordable Housing not fully exempt under subsection (b)(1) of this Section 1108.6. Instead, t~~The~~
10 lower tax rate imposed by subsection (c) of Section 1102 shall apply to the entire
11 consideration or value of the interest or property conveyed by a deed, instrument, or writing
12 that ~~is subject to the exemption in this subsection (b)~~ effects any transfer of Rent-Restricted Affordable
13 Housing not fully exempt under subsection (b)(1) of this Section 1108.6.

14 (c) **Requirements for Exemption.**

15 (1) ~~Except as provided in subsection (e)(2), e~~Every person claiming ~~the~~an exemption
16 under subsection (b) must:

17 (A) Obtain from MOHCD a certificate confirming that the deed,
18 instrument, or writing effects a transfer of Rent-Restricted Affordable Housing. Such certificate
19 shall specify eligibility for the requested exemption by indicating the applicable subsection(s) of the
20 definition of Rent-Restricted Affordable Housing in Section 1108.6 for the interest or property
21 conveyed by the deed, instrument, or writing effecting the transfer.

22 (B) Submit the certificate described in subsection (c)(1)(A) of this
23 Section 1108.6 to the County Recorder at the time such person submits the affidavit
24 described in subsection (c) or (d) of Section 1111.

1 (2) Notwithstanding the requirements in subsection (c)(1), every person
2 claiming the exemption under subsection (b)(1) for a deed, instrument, or writing that effects a
3 transfer of Rent-Restricted Affordable Housing, when that deed, instrument, or writing is
4 delivered on or after ~~January 1, 2017~~April 12, 2024, but prior to ~~July 1, 2024~~December 31, 2025,
5 may do the following in lieu of the procedures described in subsection (c)(1):

6 (A) Obtain from MOHCD a certificate confirming that the deed,
7 instrument, or writing effected a transfer of Rent-Restricted Affordable Housing that contains
8 the information specified in subsection (c)(1)(A).

9 (B) By ~~December 31, 2024~~June 30, 2026, submit the certificate described in
10 subsection (c)(2)(A) of this Section 1108.6 to the County Recorder, along with a request for a
11 refund of the tax paid on, or the cancellation or reduction of any deficiency assessed with
12 respect to, the transfer subject to the certificate ~~that exceeds the rates described in Section~~
13 ~~1102(e)~~. The County Recorder may authorize the Controller to refund these amounts, without
14 interest, without the need for a refund claim.

15 ~~This subsection (c)(2) shall not apply where the deed, instrument, or writing effects a transfer~~
16 ~~under Section 41B.6 of the Administrative Code, as that Section 41B.6 existed as of June 3, 2019.~~

17 (3) Failure to timely satisfy the requirements in this subsection (c) renders the
18 transfer ineligible for the exemption.

19 * * * *

20 (f) **Sunset Date.** This Section 1108.6 shall expire by operation of law on December
21 31, 2030, and shall not apply to any deeds, instruments, or writings that are delivered on or
22 after January 1, 2031.

23 (g) **Penalty Waiver.** The County Recorder shall waive all penalties and interest
24 imposed on transfers qualifying for the exemption in Section 1108.6(b) for deeds, instruments,
25 or writings that effected a transfer of Rent-Restricted Affordable Housing under subsection (2)

1 of the definition of Rent-Restricted Affordable Housing in Section 1108.6(a), when the deed,
2 instrument, or writing was delivered on or after January 1, 2017, but prior ~~to the effective date of~~
3 ~~the ordinance, in Board File No. 231007, adding this subsection (g)~~January 15, 2024. The waiver in
4 this subsection (g) shall include penalties and interest on the portion of the transfer tax not
5 subject to the exemption in Section 1108.6(b). ~~The County Recorder may authorize the Controller~~
6 ~~to refund any penalties or interest qualifying for waiver under this subsection (g), without interest, to~~
7 ~~the person that paid such penalties or interest if such person files a request for refund with the County~~
8 ~~Recorder on or before December 31, 2024.~~

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11 Section 3. Effective Date and Retroactivity.

12 (a) Effective Date. This ordinance shall become effective 30 days after enactment.
13 Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance
14 unsigned or does not sign the ordinance within ten days of receiving it, or the Board of
15 Supervisors overrides the Mayor’s veto of the ordinance.

16 (b) Retroactivity. This ordinance shall be retroactive to April 12, 2024.

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18 APPROVED AS TO FORM:
19 DAVID CHIU, City Attorney

20 By: /s/ Carole F. Ruwart
21 CAROLE F. RUWART
22 Deputy City Attorney

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