

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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