

REVISED LEGISLATIVE DIGEST

(7/12/2016, Amended in Board)

[Initiative Ordinance - Business and Tax Regulations Code - Increase Real Property Transfer Tax on Properties of At Least \$5,000,000]

Motion ordering submitted to the voters, at an election to be held November 8, 2016, an ordinance amending the Business and Tax Regulations Code to increase the Real Property Transfer Tax rate from 2% to 2.25% on properties with a consideration or value of at least \$5,000,000 and less than \$10,000,000; from 2.5% to 2.75% on properties with a consideration or value of at least \$10,000,000 and less than \$25,000,000; and from 2.5% to 3% on properties with a consideration or value of at least \$25,000,000, and to clarify the application of the Real Property Transfer Tax to transfers of ownership interests in legal entities; and increasing the City’s appropriations limit by the amount of the tax increase for four years from November 8, 2016.

Existing Law

The City’s Real Property Transfer Tax (Transfer Tax) is imposed on a deed, instrument, or writing that conveys or otherwise transfers realty for consideration or value. The Transfer Tax is a general tax; proceeds are deposited to the General Fund. Existing law imposes the tax at the following rates:

Consideration or Value	\$ of tax per \$500 of consideration or value	Percentage rate
\$100 - \$250,000	\$2.50	0.50%
More than \$250,000 and less than \$1,000,000	\$3.40	0.68%
At least \$1,000,000 and less than \$5,000,000	\$3.75	0.75%
At least \$5,000,000 and less than \$10,000,000	\$10.00	2.00%
At least \$10,000,000 and above	\$12.50	2.50%

The Transfer Tax includes as taxable “realty sold” any acquisition or transfer of ownership interests in a legal entity (e.g., a corporation, partnership, or limited liability company) that would be a change of ownership of real property under California Revenue and Taxation Code Section 64.

Amendments to Current Law

This measure asks the voters to increase the tax rates on higher value properties. The tax on properties from \$5,000,000 but less than \$10,000,000 would increase from \$10.00/\$500 to \$11.25/\$500, a one-quarter percent increase. The tax on properties from \$10,000,000 but less than \$25,000,000 would increase from \$12.50/\$500 to \$13.75/\$500, a one-quarter

percent increase. The tax on properties of \$25,000,000 or more would increase from \$12.50/\$500 to \$15/\$500, a one-half percent increase.

Consideration or Value	\$ of tax per \$500 of consideration or value	Percentage rate
\$100 - \$250,000	\$2.50	0.50%
More than \$250,000 and less than \$1,000,000	\$3.40	0.68%
At least \$1,000,000 and less than \$5,000,000	\$3.75	0.75%
At least \$5,000,000 and less than \$10,000,000	\$11.25	2.25%
At least 10,000,000 and less than \$25,000,000	\$13.75	2.75%
At least \$25,000,000 and above	\$15.00	3.00%

This ordinance would clarify that Business and Tax Regulations Code Section 1108, which describes how the Transfer Tax applies to partnerships, does not exempt from the tax any acquisition or transfer or ownership interests in a legal entity that would be a change of ownership of real property under California Revenue and Taxation Code Section 64. This ordinance would also clarify that, where there is a Section 64 change in ownership, the Transfer Tax applies to the fair market value of all of the real property owned by the legal entity.

Finally, this ordinance would increase the City's annual appropriations limit under Article XIII B of the California Constitution by the aggregate sum collected by the levy of the Real Property Transfer Tax rate increase imposed by the ordinance, and would make non-substantive changes that update the existing code language to current formatting standards.

Background Information

The Transfer Tax may only be increased upon a majority vote of the people. The Transfer Tax rates were last raised in 2010, for properties over \$5,000,000.

This legislative digest reflects amendments made at the Board of Supervisors on July 12, 2016. The amendments clarified that Business and Tax Regulations Code Section 1108, which describes how the Transfer Tax applies to partnerships, does not exempt from the tax any acquisition or transfer or ownership interests in a legal entity that would be a change of ownership of real property under California Revenue and Taxation Code Section 64. The amendments also clarified that, where there is a Section 64 change in ownership, the Transfer Tax applies to the fair market value of all of the real property owned by the legal entity.

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