



## ACKNOWLEDGEMENT OF RECEIPT

**Submission of Measures: Ordinance / Declaration of Policy** (CIRCLE ONE)

Initiative Ordinance - Business and Tax Regulations Code - Increase Real Property Transfer Tax on Properties of At Least \$5,000,000.  
(Unofficial Title of Measure)

- 1)  Board of Supervisors
- 2)  Tails
- 3)  Legislative Digest
- 4) **ELECTRONIC COPY OF TEXT**

EMAIL- [publications@sfgov.org](mailto:publications@sfgov.org)


- 5) Contact Person: Alisa Somera

Address: 1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 64102

Phone: 415-554-7711

Date: July 22, 2016

Submitted By: Victor Young (print)

 (sign)

- 6) **COPIES**

John Arntz- Director of Elections, in consultation with the City Attorney, shall forward the measure (within two working days after receipt of the petition) to departments that are effected by the measure.

Publications

Public- copy

Office- original

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2016 JUL 25 AM 9:24  
DEPARTMENT OF ELECTIONS

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. 544-5227

July 22, 2016

**HAND DELIVERED**

John Arntz, Director of Elections  
Department of Elections  
1 Dr. Carlton B. Goodlett Place, Room 48  
San Francisco, CA 94102

Dear Mr. Arntz:

The Board of Supervisors acted on the following Initiative Ordinance on July 19, 2016, and it is now being submitted to the Department of Elections, pursuant to San Francisco Municipal Elections Code, Section 300(a).


Please find attached four (4) certified copies of the following Initiative Ordinance for the November 8, 2016, Ballot as follows:

**Initiative Ordinance - Business and Tax Regulations Code - Increase Real Property Transfer Tax on Properties of At Least \$5,000,000 (File No. 160604)**

Motion ordering submitted to the voters, at an election to be on 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.

The electronic version of this Charter Amendment was e-mailed to your office at [publications@sfgov.org](mailto:publications@sfgov.org) on July 22, 2016.

Sincerely,

  
Angela Calvillo  
Clerk of the Board

Attachments

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City and County of San Francisco

Certified Copy

Motion

SAN FRANCISCO City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

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DEPARTMENT OF ELECTIONS

160604

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

Sponsors: Kim; Campos, Peskin, Mar, Avalos and Yee

Motion ordering submitted to the voters, at an election to be on 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.

7/12/2016 Board of Supervisors - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

Ayes: 11 - Avalos, Breed, Campos, Cohen, Farrell, Kim, Mar, Peskin, Tang, Wiener and Yee

7/12/2016 Board of Supervisors - CONTINUED AS AMENDED

Ayes: 11 - Avalos, Breed, Campos, Cohen, Farrell, Kim, Mar, Peskin, Tang, Wiener and Yee

7/19/2016 Board of Supervisors - APPROVED

Ayes: 10 - Avalos, Breed, Campos, Cohen, Kim, Mar, Peskin, Tang, Wiener and Yee
Noes: 1 - Farrell

STATE OF CALIFORNIA
CITY AND COUNTY OF SAN FRANCISCO

CLERK'S CERTIFICATE

I do hereby certify that the foregoing Motion is a full, true, and correct copy of the original thereof on file in this office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City and County of San Francisco.

July 22, 2016

Date

Handwritten signature of Angela Calvillo

Angela Calvillo
Clerk of the Board

FILE NO. 160604

AMENDED IN BOARD  
7/12/2016

SAN FRANCISCO  
MOTION NO. ~~M16E~~092

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DEPARTMENT OF ELECTIONS

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

3 **Motion ordering submitted to the voters, at an election to be held November 8, 2016, an**  
4 **ordinance amending the Business and Tax Regulations Code to increase the Real**  
5 **Property Transfer Tax rate from 2% to 2.25% on properties with a consideration or**  
6 **value of at least \$5,000,000 and less than \$10,000,000; from 2.5% to 2.75% on**  
7 **properties with a consideration or value of at least \$10,000,000 and less than**  
8 **\$25,000,000; and from 2.5% to 3% on properties with a consideration or value of at least**  
9 **\$25,000,000, and to clarify the application of the Real Property Transfer Tax to transfers**  
10 **of ownership interests in legal entities; and increasing the City's appropriations limit**  
11 **by the amount of the tax increase for four years from November 8, 2016.**

12  
13 **MOVED, That the Board of Supervisors hereby submits the following ordinance to the**  
14 **voters of the City and County of San Francisco, at an election to be held on November 8,**  
15 **2016.**

16  
17 **Ordinance amending the Business and Tax Regulations Code to increase the**  
18 **Real Property Transfer Tax rate from 2% to 2.25% on properties with a consideration or**  
19 **value of at least \$5,000,000 and less than \$10,000,000; from 2.5% to 2.75% on**  
20 **properties with a consideration or value of at least \$10,000,000 and less than**  
21 **\$25,000,000; and from 2.5% to 3% on properties with a consideration or value of at least**  
22 **\$25,000,000, and to clarify the application of the Real Property Transfer Tax to transfers**  
23 **of ownership interests in legal entities; and increasing the City's appropriations limit**  
24 **by the amount of the tax increase for four years from November 8, 2016.**

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1 NOTE: **Unchanged Code text and uncodified text** are in plain font.  
2 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
3 **Deletions to Codes** are in ~~italics Times New Roman font~~.  
4 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code subsections or  
5 parts of tables.

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

7 Section 1. The Business and Tax Regulations Code is hereby amended by revising  
8 Article 12-C, Sections 1102, 1108, and 1114; and adding Section 1109, to read as follows:

9 **SEC. 1102. TAX IMPOSED.**

10 There is hereby imposed on each deed, instrument or writing by which any lands,  
11 tenements, or other realty sold within the City and County of San Francisco shall be granted,  
12 assigned, transferred or otherwise conveyed to; or vested in, the purchaser or purchasers, or  
13 any other person or persons, by his or her or their direction, when the consideration or value  
14 of the interest or property conveyed (not excluding the value of any lien or encumbrances  
15 remaining thereon at the time of sale) (~~a~~) exceeds \$100.00 but is less than or equal to  
16 \$250,000.00, a tax at the rate of \$2.50 for each \$500.00 or fractional part thereof; or (~~b~~) more  
17 than \$250,000.00 and less than \$1,000,000.00, a tax at the rate of \$3.40 for each \$500.00 or  
18 fractional part thereof for the entire value or consideration, including, but not limited to, any  
19 portion of such value or consideration that is less than \$250,000.00; or (~~c~~) at least  
20 \$1,000,000.00 and less than \$5,000,000.00, a tax at the rate of \$3.75 for each \$500.00 or  
21 fractional part thereof for the entire value or consideration, including, but not limited to, any  
22 portion of such value or consideration that is less than \$1,000,000.00; or (~~d~~) at least  
23 \$5,000,000.00 and less than \$10,000,000.00, a tax at the rate of ~~\$10.00~~ \$11.25 for each  
24 \$500.00 or fractional part thereof for the entire value or consideration, including, but not limited  
25 to, any portion of such value or consideration that is less than \$5,000,000.00; or (~~e~~) at least  
\$10,000,000.00 and ~~above-less than \$25,000,000~~, a tax at the rate of ~~\$12.50~~ \$13.75 for each

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DEPARTMENT OF ELECTIONS

1 \$500.00 or fractional part thereof for the entire value or consideration, including but not limited  
2 to, any portion of such value or consideration that is less than \$10,000,000.00; or (f) at least  
3 \$25,000,000, a tax at the rate of \$15 for each \$500 or fractional part thereof for the entire value or  
4 consideration, including but not limited to, any portion of such value or consideration that is less than  
5 \$25,000,000. The People of the City and County of San Francisco authorize the Board of  
6 Supervisors to enact ordinances, without further voter approval, that will exempt rent-  
7 restricted affordable housing, as the Board may define that term, from the increased tax rate  
8 in subsections (div), ~~and (ev)~~, and (f).

9  
10 **SEC. 1108. APPLICATION TO PARTNERSHIPS: ~~TITLE CHANGES NOT AFFECTING~~**  
11 **~~OWNERSHIP.~~**

12 (a) In the case of any realty held by a partnership or other entity treated as a  
13 partnership for federal income tax purposes, no levy shall be imposed pursuant to this Article  
14 by reason of any transfer of an interest in a partnership or other entity treated as a partnership  
15 for federal income tax purposes or otherwise, if:

16 (1) Such partnership or other entity treated as a partnership (or another  
17 partnership or other entity treated as a partnership) is considered a continuing partnership  
18 within the meaning of Section 708 of the Internal Revenue Code of 1986, as amended; and

19 (2) Such continuing partnership or other entity treated as a partnership  
20 continues to hold the realty concerned.

21 (b) If there is a termination of any partnership or other entity treated as a partnership  
22 for federal income tax purposes within the meaning of Section 708 of the Internal Revenue  
23 Code of 1986, as amended, for purposes of this Article, such partnership or other entity shall  
24 be treated as having executed an instrument whereby there was conveyed, for fair market  
25 value, all realty held by such partnership or other entity at the time of such termination.

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DEPARTMENT OF ELECTIONS

1 (c) Not more than one tax shall be imposed pursuant to this Article by reason of a  
2 termination described in Subdivision (b), and any transfer pursuant thereto, with respect to the  
3 realty held by such partnership or other entity treated as a partnership for federal income tax  
4 purposes at the time of such termination.

5 (d) Notwithstanding any other language in this Section 1108, nothing in this Section shall  
6 exempt from the tax imposed under this Article 12-C any "realty sold" as described in Section 1114(b).

7  
8 **SEC. 1109. TITLE CHANGES NOT AFFECTING OWNERSHIP.**

9 ~~(d)~~ The tax imposed under this Article shall not apply where the deed, instrument, or  
10 other writing transferring title to real property between an individual or individuals and a legal  
11 entity or between legal entities ~~that~~ results solely in a change in the method of holding title and  
12 in which the proportional ownership interests in the real property, whether represented by  
13 stock, membership interest, partnership interest, cotenancy interest, or otherwise, directly or  
14 indirectly, remains exactly the same before and after the transfer.

15  
16 **SEC. 1114. ADMINISTRATION AND INTERPRETATION.**

17 (a) In the administration of this ordinance the recorder shall interpret its provisions  
18 consistently with those Documentary Stamp Tax Regulations adopted by the Internal  
19 Revenue Service of the United States Treasury Department which relate to the Tax on  
20 Conveyances and are identified as Sections 47.4361-1, 47.4361-2 and 47.4362-1 of Part 47  
21 of Title 26 of the Code of Federal Regulations, as the same existed on November 8, 1967,  
22 except that for the purposes of this ordinance, the determination of what constitutes "realty"  
23 shall be determined by the definition or scope of that term under state law.

24 (b) Notwithstanding subsection (a) ~~the preceding sentence~~, "realty sold" includes any  
25 acquisition or transfer of ownership interests in a legal entity that would be a change of

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1 ownership of ~~the entity's~~ real property under California Revenue ~~&and~~ Taxation Code ~~§~~Section  
2 64. In such cases, there shall be deemed to have been an instrument executed whereby there was  
3 conveyed, for fair market value, all real property that experienced a change of ownership under  
4 California Revenue and Taxation Code Section 64.

5  
6 Section 2. Scope of Ordinance. In enacting this ordinance, the People of the City and  
7 County of San Francisco intend to amend only those words, phrases, paragraphs,  
8 subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other  
9 constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions  
10 or deletions, in accordance with the "Note" that appears under the official title of the  
11 ordinance.

12  
13 Section 3. Severability. If any section, subsection, sentence, clause, phrase, or word  
14 of this ordinance, or any application thereof to any person or circumstance, is held to be  
15 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision  
16 shall not affect the validity of the remaining portions or applications of the ordinance. The  
17 people of the City and County of San Francisco hereby declare that they would have passed  
18 this ordinance and each and every section, subsection, sentence, clause, phrase, and word  
19 not declared invalid or unconstitutional without regard to whether any other portion of this  
20 ordinance or application thereof would be subsequently declared invalid or unconstitutional.

21  
22 Section 4. Appropriations Limit Increase. Pursuant to California Constitution Article  
23 XIII B and applicable laws, for four years from November 8, 2016, the appropriations limit for  
24 //



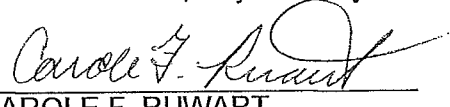
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DEPARTMENT OF ELECTIONS

1 the City shall be increased by the aggregate sum collected by the levy of the Real Property  
2 Transfer Tax rate increase imposed by this ordinance.

3  
4 APPROVED AS TO FORM:  
5 DENNIS J. HERRERA, City Attorney

6 By:   
7 CAROLE F. RUWART  
8 Deputy City Attorney

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**REVISED LEGISLATIVE DIGEST**

(7/12/2016, Amended in Board)

DEPARTMENT OF ELECTIONS

[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

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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.

DEPARTMENT OF ELECTIONS

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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City and County of San Francisco

Tails

Motion: M16-092

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FILED  
2016 JUL 25 AM 9:24  
City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

File Number: 160604

Date Passed: July 19, 2016

Motion ordering submitted to the voters, at an election to be on 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.

June 29, 2016 Budget and Finance Committee - RECOMMENDED

July 12, 2016 Board of Supervisors - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

Ayes: 11 - Avalos, Breed, Campos, Cohen, Farrell, Kim, Mar, Peskin, Tang, Wiener and Yee

July 12, 2016 Board of Supervisors - CONTINUED AS AMENDED

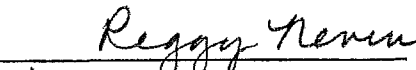
Ayes: 11 - Avalos, Breed, Campos, Cohen, Farrell, Kim, Mar, Peskin, Tang, Wiener and Yee

July 19, 2016 Board of Supervisors - APPROVED

Ayes: 10 - Avalos, Breed, Campos, Cohen, Kim, Mar, Peskin, Tang, Wiener and Yee  
Noes: 1 - Farrell

File No. 160604

I hereby certify that the foregoing Motion was APPROVED on 7/19/2016 by the Board of Supervisors of the City and County of San Francisco.

  
for Angela Calvillo  
Clerk of the Board