

## LEGISLATIVE DIGEST

[Business and Tax Regulations Code - Administration of Real Property Transfer Tax]

**Ordinance amending the Business and Tax Regulations Code to specify processes for the auditing, determination, and collection of real property transfer taxes, including among other things, taxpayer reporting requirements, authority to reject a document for recordation, authority to issue subpoenas for information, audit procedures, issuance of deficiency and jeopardy determinations, additional penalties for fraud or intent to evade taxes, collection of delinquent taxes by the Tax Collector and by liens on the property, and confidentiality of taxpayer information.**

### Existing Law and Background Information

Existing law does not specify many of the procedures the County Recorder uses in determining and collecting real property transfer taxes (“transfer taxes”). This ordinance would codify and reorganize many existing procedures, and would incorporate many of the determination and collection procedures from Article 6 of the Business and Tax Regulations Code (“Article 6”), which applies to the City’s business taxes, into Article 12-C of the Business and Tax Regulations Code (“Article 12-C”), which applies to the City’s transfer tax.

### Amendments to Current Law

For documents delivered on or after the effective date of this ordinance, this ordinance would:

- Make the definitions in Article 6 expressly apply to Article 12-C;
- Establish a delinquency date for all purposes in Article 12-C of 30 days after delivery of the document effecting a transfer subject to the transfer tax;
- Expressly grant the Recorder the ability to accept partial payments of transfer taxes;
- Codify the requirement that persons subject to the transfer tax with respect to documents that do not need to be recorded must still file a transfer tax affidavit with the County Recorder within 30 days of delivery of the document;
- Permit the County Recorder to reject the recordation of a document where the County Recorder has reason to believe that the full amount of transfer tax due has not been paid;
- Confirm the County Recorder’s ability to obtain information with respect to enforcing compliance with Article 12-C, and grant the County Recorder subpoena power to do so;
- Specify the period within which the County Recorder may issue a deficiency determination of unpaid transfer taxes, penalties, or interest;
- Permit the County Recorder to issue jeopardy determinations if the County Recorder believes that the collection of transfer tax would be jeopardized by delay;

- Clarify that the County Recorder can initiate lien proceedings with the Board of Supervisors within 1 year from the County Recorder's deficiency determination becoming due and payable;
- Add an additional penalty of 50% of the amount of unpaid transfer tax applicable to persons whose failure to timely pay any transfer tax was due to fraud or an intent to evade the transfer tax;
- Authorize the Tax Collector to collect unpaid transfer taxes, penalties, and interest using similar methods used to collect unpaid business taxes, penalties, and interest under Article 6;
- Update the provision for misdemeanors to reflect the fact that the transfer tax may be imposed on unrecorded documents and documents that transfer ownership interests in legal entities;
- Specify that, unless otherwise provided by law or as otherwise specified in the ordinance, information provided to the County Recorder with respect to the determination of the transfer tax due shall be confidential in the same manner as information provided to the Tax Collector is confidential under Section 6.22-1 of Article 6; and
- Make other, non-substantive changes.

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