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## Chapter 160 [Real Property Transfer Tax](#)

- **Section 010 [Title](#)**
  - This chapter shall be known as the real property transfer tax ordinance of the county. It is adopted pursuant to Part 6.7 (commencing with Section 11901) of Division 2 of the Revenue and Taxation Code. (Ord. 515 § 1, 1969.)
- **Section 020 [Tax Imposed](#)**
  - There is imposed on each deed, instrument or writing by which any lands, tenements, or other realty sold within the county shall be granted, assigned, transferred, or otherwise conveyed to or vested in the purchaser or purchasers or any other person or persons by his or their direction when the consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrances remaining thereon at the time of sale) exceeds one hundred dollars, a tax at the rate of fifty-five cents for each five hundred dollars or fractional part thereof. (Ord. 515 § 2, 1969.)
- **Section 030 [Payment of Tax](#)**
  - The tax imposed by Section 4.16.020 shall be paid by any person who makes, signs, or issues any document or instrument subject to the tax, or for whose use or benefit the same is made, signed or issued. (Ord. 515 § 3, 1969.)
- **Section 040 [Exemption--Instrument to Secure Debt](#)**
  - The tax imposed, pursuant to Section 4.16.020, shall not apply to any instrument in writing given to secure a debt. (Ord. 515 § 4, 1969.)
- **Section 050 [Exemption--Government Agency](#)**
  - The United States or any agency or instrumentality thereof, any state or territory, or political subdivision thereof, shall not be liable for any tax imposed pursuant to this chapter with respect to any deed, instrument or writing to which it is a party, but the tax shall be collected from any other party liable therefor. Any deed, instrument, or writing to which the United States or any agency or instrumentality thereof, any state or territory, or political subdivision thereof, is a party shall be

exempt from any tax imposed pursuant to this chapter when the exempt entity of government is acquiring title. (Ord. 515 § 5, 1969.)

• **Section 060 Exemption--Conveyances & Instruments of Transfer**

- The tax imposed, pursuant to this chapter, shall not apply to the making, delivering or filing of conveyances to make effective any plan of reorganization or adjustment:
  - A. Confirmed under the Federal Bankruptcy Act, as amended;
  - B. Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in subdivision(m) of Section 205 of Title 11 of the United States Code, as amended;
  - C. Approved in an equity receivership proceeding in a court involving a corporation, as defined in subdivision(3) of Section 506 of Title 11 of the United States Code, as amended; or
  - D. Whereby a mere change in identity, form or place of organization is effected.

Subsections A through D, inclusive, of this section shall only apply if the making, delivery or filing of instruments of transfer or conveyances occurs within five years from the date of such confirmation, approval or change. (Ord. 515 § 6, 1969.)

• **Section 070 Exemption--Conveyance to effectuate Order of Securities & Exchange Commission**

- The tax imposed pursuant to this chapter shall not apply to the making or delivery of conveyances to make effective any order of the Securities and Exchange Commission, as defined in subdivision (a) of Section 1083 of the Internal Revenue Code of 1954; but only if:
  - A. The order of the Securities and Exchange Commission in obedience to which such conveyance is made, recites that such conveyance is necessary or appropriate to effectuate the provisions of Section 79k of Title 15 of the United States Code, relating to the Public Utility Holding Company Act of 1935;
  - B. Such order specifies the property which is ordered to be conveyed;
  - C. Such conveyance is made in obedience to such order.  
(Ord. 515 § 7, 1969.)

• **Section 080 Exemption--Partnership Transfer of Interest**

- A. In the case of any realty held by partnership, no tax shall be imposed pursuant to this chapter by reason of any transfer of an interest in the partnership or otherwise, if:
  - 1. Such partnership (or other partnership) is considered a continuing partnership within the meaning of Section 708 of the Internal Revenue Code of 1954; and
  - 2. Such continuing partnership continues to hold the realty concerned.

B. If there is a termination of any partnership within the meaning of Section 708 of the Internal Revenue Code of 1954, for purposes of this chapter, such partnership shall be treated as having executed an instrument whereby there was conveyed, for fair market value (exclusive of the value of any lien or encumbrance remaining thereon), all realty held by such partnership at the time of such termination.

C. Not more than one tax shall be imposed pursuant to this chapter by reason of a termination described in subsection B, and any transfer pursuant thereto, with respect to the realty held by such partnership at the time of such termination.  
(Ord. 515 § 8, 1969.)

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#### **Section 090 City Tax Payment Credit**

- If the legislature body of any city in the county imposes a tax pursuant to Part 6.7 of Division 2 of the Revenue and Taxation Code equal to one-half the amount specified in Section 4.16.020, a credit shall be granted against the taxes due under this chapter in the amount of the city's tax. (Ord. 515 § 9, 1969.)

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#### **Section 100 Unredeemed Documentary Tax Stamps Void**

- Any and all unused documentary tax stamps sold by the county recorder prior to July 1, 1968, but unredeemed under the provisions of this chapter since that date are declared to be void and of no value. The balance of funds presently on deposit in the transfer tax trust fund shall forthwith be transferred to the county general fund. (Ord. 560 § 1, 1973; Ord. 515 § 10, 1969.)

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#### **Section 110 Administration--Allocation**

- A. The county recorder shall administer this chapter and shall also administer any ordinance adopted by any city in the county pursuant to Part 6.7 (commencing with Section 11901) of Division 2 of the Revenue and Taxation Code imposing a tax for which a credit is allowed by this chapter.  
  
B. On or before the fifteenth day of the month the recorder shall report to the county auditor the amounts of taxes collected during the preceding month pursuant to this chapter and each such city ordinance. The auditor shall allocate and distribute monthly, the taxes as follows:
  1. All moneys which relate to transfers of real property, located in the unincorporated territory of the county, shall be allocated to the county.
  2. All moneys which relate to transfers of real property located in a city in the county which has imposed a tax pursuant to said Part 6.7 shall be allocated one-half to such city and one-half to the county.
  3. All moneys which relate to transfers of real property located in a city in the county which imposes a tax on transfers of real property not in conformity with said Part 6.7 shall be allocated to the county.

4. All moneys which relate to transfers of real property in a city in the county which does not impose a tax on transfers of real property shall be allocated to the county.

(Ord. 515 § 11, 1969.)

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**Section 120 Recordation of Documents**

○ A. The recorder shall not record any deed, instrument or writing subject to the tax imposed by this chapter unless the tax is paid at the time of recording.

B. A declaration of the amount of the tax due, signed by the party determining the tax or his agent, shall appear on the face of every document subject to the tax hereunder which is submitted for recordation, or if the party submitting the document for recordation so requests, the declaration may be placed on a separate paper. The recorder may rely on the declaration; provided he has no reason to believe that the full amount of the tax due has not been paid. The declaration shall include a statement that the consideration or value on which the tax due was computed, was, or that it was not, exclusive of the value of a lien or encumbrance remaining on the interest or property conveyed at the time of sale.

C. If the party submitting the document for recordation has requested that the declaration be placed upon a separate paper, the separate paper shall be affixed to the document by the recorder after the permanent record is made and before the original is returned as specified in Section 27321 of the Government Code.

D. In the case of any deed, instrument or writing relating to any parcel of real property which lies partially in the county and partially in an adjacent county, the declaration shall state the amount of the tax imposed by this chapter attributable to that portion of the property within the county, and the county recorder shall record the document upon payment of the tax due as stated in the declaration. The amount of the tax stated in the declaration shall be based upon the ratio between the value of that portion of the property within the county and the value of the entire parcel of real property to be conveyed pursuant to the document submitted for recordation. An affidavit or further reasonable documentary proof may be required by the county recorder to substantiate the foregoing computation.

E. Every document subject to tax hereunder which is submitted for recordation shall show on the face of the document, the location of the lands, tenements or other realty described in the document. If the lands, tenements or other realty are located within a city in the county, the name of the city shall be set forth. If the lands, tenements or other realty are located in the unincorporated area of the county, that fact shall be set forth on the face of the document submitted for recordation.

(Ord. 515 § 12, 1969.)

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**Section 130 Claims for Refunds**

○ Claims for refunds of taxes imposed pursuant to this chapter shall be governed by the provisions of Chapter 5 (commencing with Section 5096) of Part 9 of Division 1 of the Revenue and Taxation Code. (Ord. 515 § 13, 1969.)

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## **Section 140 Interpretation of Chapter**

- In the administration of this chapter the recorder shall interpret its provisions consistently with those documentary stamp tax regulations adopted by the Internal Revenue Service of the United States Treasury Department which relate to the Tax on Conveyances and identified as Sections 47.4361-1, 47.4361-2 and 47.4362-1 of Part 47 of Title 26 of the Code of Federal Regulations, as the same existed on November 8, 1967, except that for the purposes of this chapter, the determination of what constitutes "realty" shall be determined by the definition or scope of that term under state law. (Ord. 515 § 14, 1969.)

## **Section 150 Nonpayment or Exemption--Documentary proof**

- A. Whenever the county recorder has reason to believe that the full amount of tax due under this chapter has not been paid, he may, by notice served upon any person liable therefor, require him to furnish a true copy of his records relevant to the amount of the consideration or value of the interest or property conveyed.
- B. Whenever it is claimed that the deed, instrument or writing to be recorded is not subject to the tax imposed by this chapter or is exempt therefrom, the recorder may require the person filing same to furnish reasonable documentary proof to substantiate such claim.  
(Ord. 515 § 15, 1969.)

## **Section 160 Misrepresentation a Misdemeanor**

- Any person or persons who makes, signs, issues or accepts or causes to be made, signed, issued or accepted and who submits or causes to be submitted for recordation any deed, instrument or writing subject to the tax imposed by this chapter and makes any material misrepresentation of fact for the purpose of avoiding all or any part of the tax imposed by this chapter is guilty of a misdemeanor.  
(Ord. 515 § 16, 1969.)

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