

## Chapter 3.12

### DOCUMENTARY STAMP TAX<sup>1</sup>

#### Sections:

3.12.010	Short title
3.12.020	Stamp tax
3.12.030	Persons liable.
3.12.040	Debt exemption.
3.12.050	Governmental exemption.
3.12.060	Reorganization exemption.
3.12.070	Securities exchange commission exemption.
3.12.080	Exemption for certain partnerships.
3.12.090	Administration.
3.12.100	Refunds.

3.12.010 Short title. This chapter shall be known as the "Real Property Transfer Law" of the town. It is adopted pursuant to the authority contained in Part 6.7 (commencing with Section 11901) of Division 2 of the Revenue and Taxation Code of the state of California. (Ord. 263 §1(part), 1967: prior code §8400).

3.12.020 Stamp tax. There is hereby imposed on each deed, instrument or writing by which any lands, tenements, or other realty sold within the town 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 twenty-seven and one-half cents for each five hundred dollars or fractional part thereof. (Ord. 268 §1(part), 1967: prior code §8405).

3.12.030 Persons liable. Any tax imposed pursuant to Section 3.12.020 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. 268 §1(part), 1967: prior code §8410).

3.12.040 Debt exemption. Any tax imposed pursuant to this chapter shall not apply to any instrument in writing given to secure a debt. (Ord. 268 §1(part), 1967: prior code §8415).

3.12.050 Governmental exemption. The United States or any agency or instrumentality thereof, any state or territory, or political subdivision thereof, or the District of Columbia shall

---

<sup>1</sup> For statutory provisions authorizing the levy of this tax, see Rev. & Tax C.A. §§11901—11935.

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 may be collected by assessment from any other party liable therefor. (Ord. 268 §1(part), 1967: prior code §8420).

3.12.060 Reorganization exemption. Any tax imposed pursuant to this chapter shall not apply to the making, delivering or filing of conveyances to make effective any plan or reorganization or adjustment:

- (1) Confirmed under the Federal Bankruptcy Act, as amended;
- (2) 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;
- (3) 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
- (4) Whereby a mere change in identity, form or place of organization is effected.

Subdivisions (1) to (4), inclusive, of this section shall only apply if the making, delivery or filing of instruments or transfer or conveyances occurs within five years from the date of such confirmation, approval or change. (Ord. 268 §1(part), 1967: prior code §8425).

3.12.070 Securities exchange commission exemption. Any 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:

- (1) The order of the Securities and Exchange Commission in obedience to which the 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;
- (2) Such order specifies the property which is ordered to be conveyed;
- (3) Such conveyance is made in obedience to such order. (Ord. 268 §1(part), 1967: prior code §8430).

3.12.080 Exemption for certain partnerships. (a) In the case of any realty held by a partnership, no levy shall be imposed pursuant to this chapter by reason of any transfer of an interest in a partnership or otherwise, if:

(1) Such partnership (or another 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 ordinance, 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 the partnership at the time of such termination.

(c) Not more than one tax shall be imposed pursuant to this ordinance by reason of a termination described in subdivision (b), and any transfer pursuant thereto, with respect to the realty held by such partnership at the time of such termination. (Ord. 268 §1(part), 1967: prior code §8435).

3.12.090 Administration. The county recorder shall administer this chapter in conformity with the provisions of Part 6.7 of Division 2 of the Revenue and Taxation Code and the provisions of any county ordinance adopted pursuant thereto. (Ord. 268 §1(part), 1967: prior code §8440).

3.12.100 Refunds. Claims for refund 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 of the state of California. (Ord. 268 §1(part), 1967: prior code §8445).