

Documentary Transfer Tax

Documentary Transfer Tax is an excise tax imposed on the transfer of real property under the Revenue & Taxation Code section 11911 and San Mateo County Ordinance 2.93.

Transfer Tax applies to all transfers “when the consideration or value of the interest or property conveyed (exclusive of any lien or encumbrance remaining thereon at the time of sale) exceeds one hundred dollars (\$100)”. R&T Code § 11911.

Transfer Tax must be paid on all transfers at the time of recording unless an exemption applies. To determine whether an exemption applies to your transfer, you should consult with a lawyer or real estate professional. The Recorder does not offer legal advice or advisory opinions regarding the payment of transfer tax. You must fill out a Transfer Tax Affidavit detailing any claim to an exemption.

Exemptions

Some common exemptions contained in the Revenue & Taxation Code section 11921 through 11930 recognized by the Recorder are as outlined below.

- **Gift deed:** Any inter vivos gift (between living persons) or gift transfer as a result of a death. R&T Code § 11930. Please note that you may have an obligation to report any gift transfers to the federal government.
- **Dissolution of Marriage:** An allocation of real property pursuant to a judgment of dissolution of marriage, or an agreement in contemplation of such judgment. R&T Code § 11927
- **Certain Trust Transfers:** A deed that transfers the grantor’s interest to or from a revocable trust, & statement is made that the trust is for the benefit of the grantor, and the transfer is not pursuant to a sale. R&T Code § 11930.
- **Certain Court Ordered Conveyances:** If a court orders that property be conveyed for no consideration. R&T Code § 11923
- **Conveyance which confirms a Name Change:** This applies to a change in the name of the entity or person holding title – grantor & grantee are the same party. Name changes relating to a marriage or a corporate name change are examples. R&T Code §§ 11925(d) or 11923(a)(4).
- **Changes in the method of holding title:** In which the grantor & grantee remain the same and the proportionate interest in the realty remains the same after the transfer; whether represented by stock, membership interest, partnership interest, co-tenancy interest, or LLC. Can include conveyances made solely for the purpose of cancellation & retirement of corporation capital stock. R&T Code § 11925(d).
- **Certain Leases and Assignments of Leases:** Leases and assignments of leases that have a term, plus options for renewal, of less than 35 years. *Thrifty Corp. v. County of Los Angeles* (1989) 210 Cal.App.3d 881.
- **Deed to a Public Entity:** Any deed to a political subdivision of the United States. R&T Code § 11922.
- **Conveyance made in lieu of foreclosure:** Applies where consideration is less than the unpaid debt. (Must clarify whether grantee is the foreclosing beneficiary). R&T Code § 11926.