

ARTICLE IV. DOCUMENTARY TRANSFER TAX¹

Sec. 11-60. Levied; amount²

There is imposed on each deed, instrument or writing by which any lands, tenements or other realty within the county shall be granted, assigned, transferred or otherwise conveyed to or vested in the purchaser or any other person by that persons 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. If the value of the consideration cannot be definitely determined, or is left open to be fixed by future contingencies, "value of the consideration" shall be deemed to mean the fair market value of the property at the time of transfer after deducting the amount of any lien or encumbrance, if any, of a type which would be excluded in determining the value of the consideration.

(Ord. No. 661, §2; Ord. No. 1465, §1)

Sec. 11-61. Persons liable for payment of tax

The tax imposed by section 11-60 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. No. 661, §3; Ord. No. 1465, §1)

Sec. 11-62. Exemptions--Instruments securing debts

The tax imposed pursuant to this article shall not apply to written

- (a) Deeds of trust;
- (b) Mortgages;
- (c) Fee interests by deed when a lender is taking an equity interest in real property in lieu of a note and deed of trust or mortgage; or
- (d) A security agreement given to secure a debt.

(Ord. No. 661, §4; Ord. No. 1465, §1)

Sec. 11-63. Exemptions--governments

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

¹ For state laws to documentary transfer tax, see Revenue and Taxation Code ' ' 11901 et seq.

² For state law authorizing county to levy documentary transfer tax, see Revenue and Taxation Code ' 1191 1.

shall be exempt from any tax imposed pursuant to this article when the exempt agency is acquiring title.

(Ord. No. 661, §5; Ord. No. 778, §1; Ord. No. 1465, §1)

Sec. 11-64. Exemptions-Conveyances to make effective certain reorganizations or adjustments.

The tax imposed pursuant to this article shall not apply to the making, delivering or filing of conveyances to make effective any plan of reorganization or adjustment:

- (a) Conformed 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.
- (d) Whereby a mere change of identity, form or place of organization is effected. Subdivisions (a) to (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. No. 661, §6; Ord. No. 1465, §1)

Sec. 11-65. Same--Certain conveyances to effectuate orders of Securities and Exchange Commission

The tax imposed pursuant to this article 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. No. 661, §7; Ord. No. 1465, §1)

Sec. 11-66. Same--Certain transfers of interest by partnerships

(a) In the case of any realty held by a partnership, no tax shall be imposed pursuant to this article 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 the purposes of this article, such partnership shall be treated as having executed an instrument whereby there was conveyed, for full 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 article by reason of a termination described in subdivision (b) of this section, and any transfer pursuant thereto, with respect to the realty held by such partnership at the time of such on.

(Ord. No. 661, §8; Ord. No. 1465, §1)

Sec. 11-67. Credit for city taxes

If the legislative body of any city in the county imposes a tax pursuant to part 6.7 of division 2 of the Revenue and Taxation Code of the state equal to one-half the amount specified in section 11-60, a credit shall be granted against the taxes due under this article in the amount of the city's tax.

(Ord. No. 661, §9; Ord. No. 1465, §1)

Sec. 11-68. Assessor/Recorder to repurchase unused stamps

The assessor/recorder shall repurchase any unused documentary tax stamps sold by him or her prior to July 1, 1968. The recorder shall accept in payment of the tax any such stamps affixed to a document offered for recordation and shall cancel the stamps so affixed.

(Ord. No. 661, §10; Ord. No. 676, §2; Ord. No. 1465, §1)

Sec. 11-69. Payment prerequisite to recordation, documents to show amount of tax due; documents to show location of lands, etc

(a) The assessor/recorder shall not record any deed, instrument or writing subject to the tax imposed by this article unless the tax is paid. If the party submitting the document so requests, the amount of tax due shall be shown on a separate paper which 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.

(b) Every document subject to tax hereunder which is submitted for recordation shall show on the face of the document or in a separate document the amount of taxes due under this article, and the county assessor/recorder may rely thereon.

(c) Every document subject to tax under this article which is submitted for recordation shall show in the face of the document or in a separate document the location of the lands, tenements or other realty described in the document. If such lands, tenements or other realty are located within a city in the county, the name of the city shall be set forth. If such lands, tenements or other realty are located in the unincorporated area of the county, that fact shall be set forth.

(Ord. No. 661, §12; Ord. No. 676, §4; Ord. No. 1465, §1)

Sec. 11-70. Same--Assessor/Recorder's parcel number

(a) Every document subject to tax under this article which is submitted for recordation shall have noted on its face the assessor/recorder's parcel number. Such number shall be used for administrative and procedural purposes only, and shall not be proof of title to the parcel.

(b) In the event of any conflict between the stated legal description and the assessor/recorder's parcel number, the legal description stated upon the document shall govern.

(c) The validity of any document shall not be affected by the fact that such parcel number is erroneous or omitted, and there shall be no liability attaching to any person for an error in such number or for omission of such number.

(d) It is the intention that the exemptions provided for by Sections 11-62, 11-63, 11-64, 11-65, and 11-66 of this chapter are applicable to this section.

(Ord. No. 1097, §1; Ord. No. 1465, §1)

Sec. 11-71. Repealed by Ordinance No. 676

Sec. 11-72. Claims for refunds

Claims for refunds of taxes imposed pursuant to this article 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. No. 661, §14; Ord. No. 1465, §1)

Sec. 11-73. Interpretation of article

In the administration of this article, the county assessor/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 article, the determination of what constitutes "realty" shall be determined by the definition or scope of that term under state law.

(Ord. No. 661, §15; Ord. No. 1465, §1)

Sec. 11-74. Assessor/Recorder may require true copies of records

Whenever the assessor/recorder has reason to believe that the full amount of tax due under this article has not been paid, the assessor/recorder may, by notice served upon any person liable, require the person to furnish a true copy of the persons records relevant to the amount of the consideration or value of the interest or property conveyed.

(Ord. No. 661, §16; Ord. No. 1465, §1)

Sec. 11-75. Misrepresentation of facts

It shall be unlawful for any person to make, sign, issue or accept or cause to be made, signed, issued or accepted and submit or cause to be submitted for recordation any deed, instrument or writing subject to the tax imposed by this article and make any material misrepresentation of fact for the purpose of avoiding all or any part of the tax imposed by this article.

(Ord. No. 661, §17; Ord. No. 1465, §1)