

Article 7: Documentary Transfer Tax on The Sale of Real Property

(“*Documentary Transfer Tax on The Sale of Real Property*”
added 12–12–1967 by O–9727 N.S.)

Division 1: Documentary Transfer Tax On The Sale Of Real Property

(*Editors note: Division 1 added 8–24–1988 for clarity.*)

§37.0101 Title — Purpose and Intent

This ordinance shall be known as the “Real Property Transfer Tax Ordinance of The City of San Diego.” It is the purpose and intent of this ordinance to impose a tax upon the transfer of real property within the City of San Diego in conformity with 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.

(“*Title — Purpose and Intent*” added 12–12–1967 by O–9727 N.S.)

§37.0102 Tax Imposed

There is hereby imposed on each deed, instrument or writing by which any lands, tenements, or other realty sold within the City of San Diego 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 (\$100), a tax at the rate of Twenty–Seven and One–Half Cents (\$0.275) for each Five Hundred Dollars (\$500) or fractional part thereof.

(“*Tax Imposed*” added 12–12–1967 by O–9727 N.S.)

§37.0103 Persons Liable

Any tax imposed pursuant to Section 37.0102 hereof 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.

(“*Persons Liable*” added 12–12–1967 by O–9727 N.S.)

§37.0104 Exemption — Security Instrument

Any tax imposed pursuant to this ordinance shall not apply to any instrument in writing given to secure a debt.

(“*Exemption — Security Instrument*” added 12-12-1967 by O-9727 N.S.)

§37.0105 Exemption — Governmental Agencies

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 ordinance when the exempt agency is acquiring title.

(Amended 3-31-1970 by O-10258 N.S.)

§37.0106 Exemption — Reorganization or Adjustment

Any tax imposed pursuant to this ordinance 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. 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 (5) years from the date of such confirmation, approval or change.

(“*Exemption — Reorganization or Adjustment*” added 12-12-1967 by O-9727 N.S.)

§37.0107 Exemption — Certain Securities and Exchange Commission Transactions

Any tax imposed pursuant to this ordinance 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.
(“Exemption — Certain Securities and Exchange Commission Transactions” added 12-12-1967 by O-9727 N.S.)

§37.0108 Exemption — Certain Partnership Transactions

- (a) In the case of any realty held by a partnership, no levy shall be imposed pursuant to this ordinance 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 such 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.
(“Exemption — Certain Partnership Transactions” added 12-12-1967 by O-9727 N.S.)

§37.0109 Administration

The County Recorder shall administer this ordinance 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.

(“Administration” added 12-12-1967 by O-9727 N.S.)

§37.0110 Refunds

Claims for refund of taxes imposed pursuant to this ordinance 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.

(“Refunds” added 12-12-1967 by O-9727 N.S.)

§37.0111 Operative Date

This ordinance shall take effect and be in force on and after the thirty-first day from and after its passage, or on and after 12:01 a.m. on January 1, 1968, whichever is later; provided, however, that this ordinance shall not become effective until the effective date of any ordinance adopted by the County of San Diego pursuant to Part 6.7 (commencing with Section 11901) of Division 2 of the Revenue and Taxation Code of the State of California.

(“Operative Date” added 12-12-1967 by O-9727 N.S.)