[Real Property Transfer Tax]

Ordinance amending Article 12-C of the San Francisco Business and Tax Regulations Code Real Property Transfer Tax Ordinance) to conform and clarify exemptions for transfers of real property between spouses and domestic partners, and to divide assets upon dissolution of marriage or domestic partnership.

Note: Additions are single-underline italics Times New Roman; deletions are strikethrough italics Times New Roman. Board amendment additions are double underlined. Board amendment deletions are strikethrough normal.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The San Francisco Business and Tax Regulations Code is hereby amended by amending Section 1108, and adding Sections 1102.2, 1108.5, of Article 12-C, as follows:

SEC. 1102.2. DOMESTIC PARTNERS. "Domestic partnership" shall mean a domestic partnership created pursuant to Chapter 62 of the Administrative Code, Division 2.5 of the California Family Code, or the laws of another state or political subdivision thereof, and for which a Declaration of Domestic Partnership or similar official record acknowledging the domestic partnership has been filed with the County Clerk pursuant to Chapter 62, or with the public official responsible for the registration of domestic partnerships pursuant to the laws of the jurisdiction under which the domestic partnership was created.

Supervisor Duffy, Ammiano, Daly
BOARD OF SUPERVISORS

Page 1
4/19/04
SEC. 1108.1. EXEMPTION; DISSOLUTION OF MARRIAGE, ETC.

(a) Any tax imposed pursuant to this ordinance Article shall not apply with respect to any deed, instrument, or other writing which purports transfer of real property to transfer, divide, or allocate community, quasi-community, or quasi-marital property assets between spouses for the purpose of effecting a division of community, quasi-community, or quasi-marital property which is required by a judgment decreeing a dissolution of the marriage or legal separation, by a judgment of nullity, or by any other judgment or order rendered pursuant to Part 5 (commencing with Section 4000) of Division 4 6 and 7 of the Civil Family Code, or by written agreement between the spouses, executed in contemplation of any such judgment or order, whether or not the written agreement is incorporated as part of any of those judgments or orders.

(b) Any tax imposed pursuant to this ordinance Article shall not apply with respect to any deed, instrument, or other writing which purports transfer to transfer, divide, or allocate assets held as joint tenants or as tenants-in-common between domestic partners for the purpose of effecting a division of assets upon the dissolution of a domestic partnership. For purposes of this exemption, "domestic partnership" shall mean a domestic partnership that has been created pursuant to Chapter 62 of the Administrative Code and for which a Declaration of Domestic Partnership has been filed with the County Clerk pursuant to such Chapter.

(c) In order to qualify for the exemption provided in Subdivision subsections (a) or (b), the deed, instrument or other writing effecting the transfer shall include a written recital, signed by either spouse or domestic partner, stating that the deed, instrument, or other writing transfer is entitled to the exemption.

(d) Individuals of the same sex who obtain a certificate of marriage or other official government document of any state or political subdivision thereof acknowledging their union in marriage shall be deemed to be or have been in a "domestic partnership" that qualifies for the exemption under...
subsection (b) in the event such individuals are denied the legal status of spouses or former spouses for purposes of the exemption in subsection (a), or the marriage certificate or other official government document acknowledging their marriage is invalidated in a final judgment or by operation of law because such individuals are of the same sex, if: (i) the transfer is for the purpose of effecting a division of assets between such individuals upon the dissolution of their union; (ii) they hold the real property or interest therein as joint tenants or tenants-in-common before the transfer; (iii) the union, regardless of its characterization as an invalid marriage or an informal or unregistered domestic partnership, has been dissolved; and (iv) the written recital signed by either individual pursuant to subsection (c) states the particulars that exempt the transfer under this subsection (d).

SEC. 1108.5. EXEMPTION; TRANSFERS BETWEEN SPOUSES AND TRANSFERS BETWEEN DOMESTIC PARTNERS. (a) The tax imposed under this Article shall not apply to transfers of real property between spouses or between domestic partners.

(b) Individuals of the same sex who obtain a certificate of marriage or other official government document from any state or political subdivision thereof acknowledging their union in marriage shall be deemed to be in a "domestic partnership" that qualifies for the exemption under subsection (a) in the event such individuals are denied the legal status of marriage or the legal rights, privileges and obligations of spouses, or the marriage certificate or other official government document acknowledging their marriage is invalidated or revoked in a final judgment or by operation of law, because such individuals are of the same sex.

(c) In order to qualify for the exemption provided in this Section, the deed, instrument or other writing effecting the transfer of real property shall include a written recital, signed by either spouse or domestic partner, stating that the transfer is entitled to the exemption for spouses and domestic partners.
APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By:  

[Signature]
Dori Roberts
Deputy City Attorney

Supervisor Dufty
BOARD OF SUPERVISORS
Ordinance amending Article 12-C of the San Francisco Business and Tax Regulations Code (Real Property Transfer Tax Ordinance) to conform and clarify exemptions for transfers of real property between spouses and domestic partners, and to divide assets upon dissolution of marriage or domestic partnership.

June 8, 2004  Board of Supervisors — PASSED ON FIRST READING
Ayes: 9 - Alioto-Pier, Ammiano, Daly, Dufty, Gonzalez, Maxwell, McGoldrick, Peskin, Sandoval
Absent: 1 - Ma
Excused: 1 - Hall

June 15, 2004  Board of Supervisors — FINALLY PASSED
Ayes: 10 - Alioto-Pier, Ammiano, Daly, Dufty, Gonzalez, Hall, Ma, Maxwell, Peskin, Sandoval
Absent: 1 - McGoldrick
I hereby certify that the foregoing Ordinance was FINALLY PASSED on June 15, 2004 by the Board of Supervisors of the City and County of San Francisco.

Gloria L. Young
Clerk of the Board

Mayor Gavin Newsom