AMENDMENT OF THE WHOLE
FILE NO. 081450
IN BOARD
1/13/09
ORDINANCE NO. 20-09

[Real Property Transfer Tax. Change of delinquency date; substitution of references to current laws; conform partnership rule to state law changes; elimination of tax stamp provision and elimination of Transfer Tax Review Board, operative January 1, 2013]

Ordinance amending Sections 1106, 1108, 1108.4, 1113, 1115, 1115.1, 1115.2 and 1115.3, adding Section 1113.1, and repealing Section 1109 of Article 12-C of the Business and Tax Regulations Code to: (1) change delinquency date; (2) replace references to prior bankruptcy, income tax, and local laws with references to current laws; (3) conform rule for partnership interest transfers to state law changes; (4) refunds permissible without a claim; (45) eliminate obsolete provision regarding documentary tax stamps; and (56) eliminate Transfer Tax Board of Review and references to that Board, operative January 1, 2013.

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

Section 1. Article 12-C of the San Francisco Business and Tax Regulations Code is hereby amended by amending Sections 1106, 1108, 1108.4, and 1113, and adding Section 1113.1 to read as follows:

SEC. 1106. EXCEPTIONS.

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 Title 11 of the United States Code;

 Supervisor Dufty
 BOARD OF SUPERVISORS
(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(e) Approved in any 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)(b) Whereby a mere change in identity, form or place or organization is effected.

Subdivisions (a) to (d) and (b), 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.

SEC. 1108. APPLICATION TO PARTNERSHIPS; TITLE CHANGES NOT AFFECTING OWNERSHIP.

(a) In the case of any realty held by a partnership or other entity treated as a partnership for federal income tax purposes, no levy shall be imposed pursuant to this Article ordinance by reason of any transfer of an interest in a partnership or other entity treated as a partnership for federal income tax purposes or otherwise, if:

(1) Such partnership or other entity treated as a partnership (or another partnership or other entity treated as a partnership) is considered a continuing partnership within the meaning of Section 708 of the Internal Revenue Code of 1954-1986, as amended; and

(2) Such continuing partnership or other entity treated as a partnership continues to hold the realty concerned.

(b) If there is a termination of any partnership or other entity treated as a partnership for federal income tax purposes within the meaning of Section 708 of the Internal Revenue Code of 1954-1986, as amended, for purposes of this ordinance Article, such
partnership or other entity shall be treated as having executed an instrument whereby there was conveyed, for fair market value, all realty held by such partnership or other entity at the time of such termination.

(c) Not more than one tax shall be imposed pursuant to this ordinance Article by reason of a termination described in Subdivision (b), and any transfer pursuant thereto, with respect to the realty held by such partnership or other entity treated as a partnership for federal income tax purposes at the time of such termination.

(d) The tax imposed under this Article shall not apply where the deed, instrument, or other writing transferring title to real property between an individual or individuals and a legal entity or between legal entities that results solely in a change in the method of holding title and in which the proportional ownership interests in the real property, whether represented by stock, membership interest, partnership interest, cotenancy interest, or otherwise, directly or indirectly, remains exactly the same before and after the transfer.

SEC. 1108.4. EXEMPTION; CERTAIN CONVERSIONS OF STOCK COOPERATIVES TO CONDOMINIUM UNITS.

Any tax imposed pursuant to this ordinance Article shall not apply with respect to any deed, instrument, or writing in connection with the conversion to condominium units of the following kind of stock cooperative project: a stock cooperative project (a) which is entitled to an exemption from the annual limitation imposed on the number of conversions and the annual condominium conversion lottery pursuant to Section 1396 of the San Francisco Subdivision Code; and (b) where-in wherein 80 percent or more of the condominium units serve as security for loans in favor of the City and County of San Francisco, pursuant to the Homeownership Assistance Loan Fund (under San Francisco Administrative Code Section 10.117-76 10.100-108) or its predecessor program, as identified by the Mayor's Office of Housing, prior to the conversion.

Supervisor Duffy
BOARD OF SUPERVISORS
SEC. 1113. CLAIMS FOR REFUNDS.

Claims for refunds of taxes imposed pursuant to this ordinance shall be governed by the provisions of Sections 6.15-1, 6.15-3, and 6.15-4 of the San Francisco Business and Tax Regulations Code, as those sections currently read and as they may be amended, or interpreted by regulations, in the future. The references in those sections to a "return" shall mean the transfer tax affidavit and, the references to "tax period" shall mean date of transfer, and the references to the "Tax Collector" shall mean the Recorder. Chapter 5 (commencing with Section 5096) of Part 9 of Division 1 of the Revenue and Taxation Code, except that in the event of any conflict with the provisions of this ordinance, the ordinance provisions shall control. Claims for refunds shall be presented in writing to the County Recorder within one year from and after the date of making the payment that is sought to be refunded and any claim not presented within said one year period shall be forever barred. The County Recorder shall investigate each claim and determine whether the claim should be approved or denied. The County Recorder shall serve notice of his determination, personally or by mail, on the person or persons who filed the claim for refund. Forms for refund claims shall be provided by the County Recorder. If a refund claim is allowed under this section or Section 1113.1, the Controller will not pay the refund unless the taxpayer first records a document that reflects payment of tax in an amount reduced by the amount of the refund. This requirement does not apply if the taxpayer elected to record the deed in accordance with Section 1111 without any statement of transfer tax paid.

SEC. 1113.1. REFUNDS PERMISSIBLE WITHOUT A CLAIM.

The Recorder may authorize the Controller to refund transfer tax payments, without the need for a refund claim, if the Recorder determines:

(a) the tax was paid more than once;

(b) the amount paid exceeds the amount due as a result of an arithmetic or clerical error; or

Supervisor Duffy
BOARD OF SUPERVISORS
(c) the tax was paid on a type of transaction that is exempt from the tax.

The Recorder may authorize such a refund no later than one year after payment of the tax.

Section 2. The San Francisco Business and Tax Regulations Code is hereby amended by amending Sections 1115, 1115.1, and 1115.3, to read as follows, operative until January 1, 2013:

SEC. 1115. DELINQUENCY TAXES.

(a) Delinquency Penalties. The tax imposed by this ordinance is due and payable at the time the deed, instrument or writing effecting a transfer subject to the tax is delivered, and is delinquent if unpaid at the time of recordation thereof: thirty days later. In the event that tax is not paid prior to becoming delinquent, a delinquency penalty of 25 percent of the amount of tax due shall accrue. In the event only a portion of the tax is unpaid prior to becoming delinquent, the penalty shall accrue only as to the portion remaining unpaid. An additional penalty of 10 percent shall accrue if the tax remains unpaid in the ninetieth day following the date of the original delinquency except that the additional penalty shall not accrue during the pendency of a taxpayer’s appeal before the Transfer Tax Review Board and, in such event, the additional penalty shall accrue if the tax remains unpaid on the ninetieth day following service or mailing of notice of the ruling of the Review Board. Interest shall accrue at the rate of one percent a month, or fraction thereof, on the amount of delinquent tax, exclusive of penalties, from the date the tax becomes delinquent to the date of payment. Interest and penalties accrued shall become part of the tax.

(b) Post-Recording Audits. The County Recorder shall adopt and implement a post-recording may audit any procedure which shall provide for a review of at least five percent of those documents recorded each month transferring an interest in real property, the said documents..
to be selected at random, and, in addition, for a review of any other documents which the County
Recorder has reason to believe may have been recorded without full payment of the tax and for a
review of those documents where the tax is likely to be before or after any recording any deed,
instrument or other writing effecting the transfer, to determine if the transfer is exempt from the tax
under this Article or is unpaid or underpaid. The rules, procedures and criteria for conducting
such audits shall be prepared by the County Recorder within 90 days of the effective date of
this ordinance and promptly thereafter submitted to the Transfer Tax Review Board for review
and approval. The County Recorder may adopt and implement necessary and appropriate audit
procedures.

(c) Delinquency Determination. Whenever the County Recorder, as the result of a post-recording audit or otherwise, has reason to believe that the full amount of tax due under this ordinance was not paid before recordation, the County Recorder may, by notice served upon any person liable therefor, require him to furnish affidavits, true copies of relevant records or other documentary proof sufficient to establish the amount of the consideration or value of the interest or property conveyed and including the amount of any lien or encumbrance remaining thereon at the time of sale; and, if it was claimed that the previously recorded deed, instrument or other writing was not subject to this tax or was exempt therefrom, the County Recorder may, by such notice, require any person liable for the tax to furnish affidavits, true copies of relevant records or other documentary proof to substantiate such claim. On the basis of the proof so submitted and any other available evidence, the County Recorder shall determine whether the full amount of tax due under this ordinance was paid before recordation and, if it was not, the County Recorder shall determine the amount of tax which was not paid and is delinquent.

(d) Delinquency Notices. Promptly after making his or her delinquent tax determination, the County Recorder shall record a notice of delinquent tax which shall include:
(1) The amount of delinquent tax;
(2) The interest that shall accrue on the delinquent tax;
(3) The delinquency penalty then due;
(4) The additional penalty that shall accrue if the tax is not promptly paid;
(5) A description of the real property that was transferred by the document recorder without full payment of tax; and
(6) A notice that if the tax, penalties and interest are not paid within 30 days, proceeding will be taken at a noticed hearing before the Board of Supervisors to impose a lien for the unpaid tax, together with penalties and interest, against the real property described in the delinquency notice; and
(7) A notice of the taxpayer's right to appeal the delinquency tax determination to the Transfer Tax Review Board.

The County Recorder shall also serve or mail copies of the notice of delinquent tax to the person liable for the tax and to the owner or owners of the real property described in the notice, as said owners are shown on the records of the County Tax Collector.

(e) The provisions of this Section shall only apply until January 1, 2013, when the alternate version of Section 1115 adopted in Ordinance No. 20-09 shall take effect.

SEC. 1115.1. LIEN PROCEEDINGS.

(a) Initiating Lien Proceedings. If the full amount of the delinquent tax, penalties and interest is not paid within 30 days following mailing of the delinquency notice or, in the event of an appeal to the Transfer Tax Review Board, within 10 days following service or mailing of the Review Board's ruling, the County Recorder, within one year after recordation
of the document that was recorded without full payment of when the tax became delinquent, shall report the delinquency to the Board of Supervisors ("the Board") and request the Board to initiate proceedings to impose a lien for the total unpaid balance against the real property that was transferred by the document delivered recorded without full payment of tax. Said report shall, for each delinquent account, contain the names of the persons liable for the tax, the total amount due, including delinquent taxes, penalties and interest, and a description of the real property that was transferred by the document recorded delivered without full payment of tax. Upon receipt of such report the Board shall fix a time and place for hearing the report and any protests or objections thereto and shall cause notice of the hearing to be mailed not less than 10 days prior to the date of hearing to each person liable for the tax and to the owner or owners of the real property described in the recorded notice of delinquent tax.

(b) Hearing. At the time so fixed, the Board shall meet to hear the report and any protests or objections thereto. The Board may make such revisions, corrections or modifications of the report as it may deem just; and in the event that the Board is satisfied with the correctness of the report (as submitted or as revised, corrected or modified), it shall be confirmed. The decision of the Board on the report and on all protests or objections thereto shall be final and conclusive; provided, however, any delinquent account may be removed from the report by payment in full at any time prior to confirmation of the report. The Clerk of the Board shall cause the confirmed report to be verified in form sufficient to meet recording requirements.

(c) Special Assessment Lien. Upon confirmation of the report by the Board, the unpaid balance reported therein, including tax, penalties and interest, shall constitute a special assessment against the real property that was transferred by the document recorded delivered without full payment of tax; provided, however, that the special assessment, and the lien created thereby, shall attach only to interests in the property that were held, on the date
the notice of delinquent tax was recorded, by persons liable for the tax. Each such
assessment shall be subordinate to all existing special assessment liens previously imposed
upon such parcels and paramount to all other liens except those for State, County and
municipal taxes with which it shall be in parity. The lien shall continue until the assessment
and all interest and penalties due and payable thereon are paid. All laws applicable to the
levy, collection and enforcement of municipal taxes shall be applicable to said special
assessment. The Clerk of the Board shall give notice of the confirmation of the report to each
person liable for the tax and to the owners of owners of the real property described in the
recorded notice of delinquent tax and shall cause the confirmed and verified report to be
recorded in the County Recorder's office and the special assessment lien on each parcel of
property described in the report shall thereupon secure an additional charge for administrative
expenses of $50 or 10 percent of the unpaid balance, whichever is higher. An action to set
aside the special assessment and the lien created thereby shall be commenced within one
year from and after the date that notice of the confirmation of the report was given to the
persons liable for the tax and to the property owners.

(d) Filing with Controller and Tax Collector. The Clerk of the Board shall file a
certified copy of each confirmed report with the Controller and Tax Collector within 10 days
after confirmation of the report, whereupon it shall be the duty of said officers to add the
amount of each special assessment to the next regular bill for taxes levied for municipal
purposes against the respective parcels of property described in the confirmed report.

(e) Payment of Special Assessment. On payment to the Tax Collector of the
special assessment, including delinquent taxes, accrued penalties, interest and the
administrative expense charge authorized by Subdivision (c) above, the Tax Collector shall
cause a Release of Lien to be recorded with the County Recorder and shall pay the statutory
recording fee from the administrative expense charge. Except for the fee paid to record the
Release of Lien, all sums collected by the Tax Collector pursuant to this ordinance shall be deposited to the General Fund.

(f) The provisions of this Section shall only apply until January 1, 2013, when the alternative version of Section 1115.1 adopted in Ordinance No. 20-09 shall take effect.

SEC. 1115.3. MANNER OF GIVING NOTICE.

Any notice required to be given hereunder by the County Recorder the Board of Supervisors, the Transfer Review Board or the Review Board to any person shall be sufficiently given or served if it is personally served upon such person or if it is deposited, postage prepaid, in a post office letter box addressed to the person at the address for such person given on a refund claim form, a Petition for Review or written protests or objections to a report of delinquency filed for or on behalf of the person or, if no such address is available, to the person at the official address maintained by the Tax Collector for mailing of tax bills levied against the real property that was transferred by document recorded without full payment of tax or, if no such address is available, to the person at the address of said real property.

The provisions of this Section shall only apply until January 1, 2013, when the alternate version of Section 1115.3 adopted in Ordinance No. 20-09 shall take effect.

Section 3. The San Francisco Business and Tax Regulations Code is hereby amended by amending Sections 1115, 1115.1, and 1115.3 to read as follows, operative on or after January 1, 2013:

SEC. 1115. DELINQUENCY TAXES.

(a) Delinquency Penalties. The tax imposed by this ordinance is due and payable at the time the deed, instrument or writing effecting a transfer subject to the tax is delivered, and is delinquent if unpaid at the time of recordation thereof: thirty days later.
event that tax is not paid prior to becoming delinquent, a delinquency penalty of 25 percent of
the amount of tax due shall accrue. In the event only a portion of the tax is unpaid prior to
becoming delinquent, the penalty shall accrue only as to the portion remaining unpaid. An
additional penalty of 10 percent shall accrue if the tax remains unpaid in the ninetieth day
following the date of the original delinquency except that the additional penalty shall not accrue
during the pendency of a taxpayer's appeal before the Transfer Tax Review Board and, in such event,
the additional penalty shall accrue if the tax remains unpaid on the ninetieth day following service or
mailing of notice of the ruling of the Review Board. Interest shall accrue at the rate of one percent
a month, or fraction thereof, on the amount of delinquent tax, exclusive of penalties, from the
date the tax becomes delinquent to the date of payment. Interest and penalties accrued shall
become part of the tax.

(b) Post-Recording Audits. The County Recorder shall adopt and implement a
post-recording may audit any procedure which shall provide for a review of at least five percent of
those documents recorded each month transferring an interest in real property, the said documents
to be selected at random, and, in addition, for a review of any other documents which the County
Recorder has reason to believe may have been recorded without full payment of the tax and for a
review of those documents where the tax is likely to be before or after any recording any deed,
instrument or other writing effecting the transfer, to determine if the transfer is exempt from the tax
under this Article or is unpaid or underpaid. The rules, procedures and criteria for conducting
such audits shall be prepared by the County Recorder within 90 days of the effective date of
this ordinance and promptly thereafter submitted to the Transfer Tax Review Board for review
and approval. The County Recorder may adopt and implement necessary and appropriate audit
procedures.

(c) Delinquency Determination. Whenever the County Recorder, as the result
of a post-recording audit or otherwise, has reason to believe that the full amount of tax due
under this ordinance was not paid before recordation, the County Recorder may, by notice
served upon any person liable therefor, require him to furnish affidavits, true copies of relevant
records or other documentary proof sufficient to establish the amount of the consideration or
value of the interest or property conveyed and including the amount of any lien or
encumbrance remaining thereon at the time of sale; and, if it was claimed that the previously
recorded deed, instrument or other writing was not subject to this tax or was exempt therefrom
the County Recorder may, by such notice, require any person liable for the tax to furnish
affidavits, true copies of relevant records or other documentary proof to substantiate such
claim. On the basis of the proof so submitted and any other available evidence, the County
Recorder shall determine whether the full amount of tax due under this ordinance was paid
before recordation and, if it was not, the County Recorder shall determine the amount of tax
which was not paid and is delinquent.

(d) Delinquency Notices. Promptly after making his or her delinquent tax
determination, the County Recorder shall record a notice of delinquent tax which shall include:

(1) The amount of delinquent tax;
(2) The interest that shall accrue on the delinquent tax;
(3) The delinquency penalty then due;
(4) The additional penalty that shall accrue if the tax is not promptly
   paid;
(5) A description of the real property that was transferred by the
document recorder without full payment of tax; and
(6) A notice that if the tax, penalties and interest are not paid within 30
days, proceeding will be taken at a noticed hearing before the Board of Supervisors to impose
a lien for the unpaid tax, together with penalties and interest, against the real property
described in the delinquency notice.
(7) A notice of the taxpayer's right to appeal the delinquency tax determination to the Transfer Tax Review Board.

The County Recorder shall also serve or mail copies of the notice of delinquent tax to the person liable for the tax and to the owner or owners of the real property described in the notice, as said owners are shown on the records of the County Tax Collector.

SEC. 1115.1. LIEN PROCEEDINGS.

(a) Initiating Lien Proceedings. If the full amount of the delinquent tax, penalties and interest is not paid within 30 days following mailing of the delinquency notice or, in the event of an appeal to the Transfer Tax Review Board, within 10 days following service or mailing of the Review Board's ruling, the County Recorder, within one year after recordation of the document that was recorded without full payment of when the tax became delinquent, shall report the delinquency to the Board of Supervisors ("the Board") and request the Board to initiate proceedings to impose a lien for the total unpaid balance against the real property that was transferred by the document delivered recorded without full payment of tax. Said report shall, for each delinquent account, contain the names of the persons liable for the tax, the total amount due, including delinquent taxes, penalties and interest, and a description of the real property that was transferred by the document recorded delivered recorded without full payment of tax. Upon receipt of such report the Board shall fix a time and place for hearing the report and any protests or objections thereto and shall cause notice of the hearing to be mailed not less than 10 days prior to the date of hearing to each person liable for the tax and to the owner or owners of the real property described in the recorded notice of delinquent tax.

(b) Hearing. At the time so fixed, the Board shall meet to hear the report and any protests or objections thereto. The Board may make such revisions, corrections or modifications of the report as it may deem just; and in the event that the Board is satisfied with

Supervisor Duffy

BOARD OF SUPERVISORS
the correctness of the report (as submitted or as revised, corrected or modified), it shall be confirmed. The decision of the Board on the report and on all protests or objections thereto shall be final and conclusive; provided, however, any delinquent account may be removed from the report by payment in full at any time prior to confirmation of the report. The Clerk of the Board shall cause the confirmed report to be verified in form sufficient to meet recording requirements.

(c) Special Assessment Lien. Upon confirmation of the report by the Board, the unpaid balance reported therein, including tax, penalties and interest, shall constitute a special assessment against the real property that was transferred by the document "recorded delivered" without full payment of tax; provided, however, that the special assessment, and the lien created thereby, shall attach only to interests in the property that were held, on the date the notice of delinquent tax was recorded, by persons liable for the tax. Each such assessment shall be subordinate to all existing special assessment liens previously imposed upon such parcels and paramount to all other liens except those for State, County and municipal taxes with which it shall be in parity. The lien shall continue until the assessment and all interest and penalties due and payable thereon are paid. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to said special assessment. The Clerk of the Board shall give notice of the confirmation of the report to each person liable for the tax and to the owners or owners of the real property described in the recorded notice of delinquent tax and shall cause the confirmed and verified report to be recorded in the County Recorder's office and the special assessment lien on each parcel of property described in the report shall thereupon secure an additional charge for administrative expenses of $50 or 10 percent of the unpaid balance, whichever is higher. An action to set aside the special assessment and the lien created thereby shall be commenced within one
year from and after the date that notice of the confirmation of the report was given to the persons liable for the tax and to the property owners.

(d) Filing with Controller and Tax Collector. The Clerk of the Board shall file a certified copy of each confirmed report with the Controller and Tax Collector within 10 days after confirmation of the report, whereupon it shall be the duty of said officers to add the amount of each special assessment to the next regular bill for taxes levied for municipal purposes against the respective parcels of property described in the confirmed report.

(e) Payment of Special Assessment. On payment to the Tax Collector of the special assessment, including delinquent taxes, accrued penalties, interest and the administrative expense charge authorized by Subdivision (c) above, the Tax Collector shall cause a Release of Lien to be recorded with the County Recorder and shall pay the statutory recording fee from the administrative expense charge. Except for the fee paid to record the Release of Lien, all sums collected by the Tax Collector pursuant to this ordinance shall be deposited to the General Fund.

SEC. 1115.3. MANNER OF GIVING NOTICE.

Any notice required to be given hereunder by the County Recorder or the Board of Supervisors, the Transfer Review Board or the Review Board to any person shall be sufficiently given or served if it is personally served upon such person or if it is deposited, postage prepaid, in a post office letter box addressed to the person at the address for such person given on a refund claim form, a Petition for Review or written protests or objections to a report of delinquency filed for or on behalf of the person or, if no such address is available, to the person at the official address maintained by the Tax Collector for mailing of tax bills levied against the real property that was transferred by document recorded without full payment of tax or, if no such address is available, to the person at the address of said real property.
Section 4. Article 12-C of the San Francisco Business and Tax Regulations Code is hereby amended by repealing Sections 1109 in its entirety.

SEC. 1109. DOCUMENTARY STAMPS.

The County Recorder shall purchase any unused documentary tax stamps sold by him 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.

Section 5. The San Francisco Business and Tax Regulations Code is hereby amended by amending Section 1115.2, to read as follows, operative until January 1, 2013:

SEC. 1115.2. TRANSFER TAX REVIEW BOARD.

(a) Review Board. A Transfer Tax Review Board (the "Review Board"), consisting of the Controller, the Director of Property and the Tax Collector or their designated representatives, is hereby created. The Review Board shall select from its members a Chairperson who shall serve at its pleasure. A majority of the members of the Review Board shall constitute a quorum. The Review Board shall keep a record of its transactions. The Review Board shall be deemed to be situated in the office of the Controller, shall meet and keep its files in the Controller's office and all filing with the Board relating to appeals or otherwise shall be made at such office. Neither the members of the Review Board nor their designated representatives shall receive any compensation for their services on the said Board.

(b) Appeals Permitted. Provided a Petition for Review is filed with the Review Board within the designated time period, a taxpayer shall have the right to appeal the following actions by the Assessor-Recorder to the Review Board:

(1) A determination of tax made prior to recording of a document may be appealed if the Petition for Review is filed within 10 days following the Assessor-Recorder's determination of tax and refusal to record without payment of such tax.
(2) A denial of refund claim may be appealed if the Petition for Review is filed within 10 days following service or mailing of notice of claim denial to the taxpayer.

(3) A determination of delinquent taxes may be appealed if the Petition for Review is filed within 10 days following service or mailing of the delinquency notice to the taxpayer.

Rulings of the Review Board on determinations of tax made prior to recording of documents or on denials of refund claims are final and conclusive. An action to set aside such a ruling of the Review Board shall be commenced within one year from and after the date that notice of the Review Board's ruling was personally served upon or mailed to the taxpayer.

Rulings of the Review Board on delinquent tax determinations are subject to review by the Board of Supervisors in connection with the Board's hearing of the Assessor-Recorder's report of delinquency pursuant to Section 1115.1 of this ordinance.

Forms for Petitions for Review shall be provided by the Review Board.

(c) Powers of Review Board. The Review Board shall have power, and it shall be its duty:

(1) To conduct public hearings for the purpose of reviewing and making its ruling upon any Petition for Review. As to any question of fact upon which the Assessor-Recorder's decision was based, including any questions involving taxability or penalties, the Review Board may modify or revoke the decision of the Assessor-Recorder, or it may affirm such decision and dismiss the Petition. The Review Board shall not make any ruling inconsistent with the requirements of this ordinance, nor is the Review Board authorized to relieve any taxpayer by reason of hardship alone from tax properly due under this ordinance but it may, upon showing of good cause, relieve a taxpayer by reason of hardship from delinquency penalties accrued hereunder. The Review Board shall prescribe such forms, rules and regulations relating to appeals as it may deem necessary. In the review of the

Supervisor Dufty

BOARD OF SUPERVISORS
Assessor-Recorder's decision, the Review Board shall not be limited to a review of the evidence upon which the Assessor-Recorder made his decision, but may take such evidence and make such investigation as it may be deemed necessary. It shall serve notice of its ruling, personally or by mail, on the petitioning taxpayer, any other person liable for the tax and the owner or owners of the real property described in the recorded notice of delinquent tax and shall file a copy of each such ruling with the Assessor-Recorder with certification thereon of the date and service thereof;

(2) To approve, modify, or disapprove all forms, rules and regulations prescribed by the Assessor-Recorder in the administration and enforcement of this ordinance and such forms, rules and regulations shall be subject to, and become effective only on such approval; provided, however, any rules and regulations adopted by the Assessor-Recorder shall also be approved by the City Attorney, and further provided that any modification determined by the Review Board shall be approved as to legal form by the City Attorney before becoming effective;

(3) To hear and determine in such manner as shall be just, any protest which may be made by any person who may be interested to any form, rule or regulation approved or prescribed by the Review Board.

(d) The provisions of this Section shall only apply until January 1, 2013, when the alternate version of Section 1115.2, adopted in Ordinance No. 20-09, shall take effect.

Section 6. The San Francisco Business and Tax Regulations Code is hereby amended by amending Section 1115.2, to read as follows, operative on and after January 1, 2013:

SEC. 1115.2. TRANSFER TAX REVIEW BOARD.

(a) Review Board. A Transfer Tax Review Board (the "Review Board"), consisting of the Controller, the Director of Property and the Tax Collector or their designated representatives, is

Supervisor Duffy
BOARD OF SUPERVISORS
hereby created. The Review Board shall select from its members a Chairperson who shall serve at its
pleasure. A majority of the members of the Review Board shall constitute a quorum. The Review Board
shall keep a record of its transactions. The Review Board shall be deemed to be situated in the office of
the Controller, shall meet and keep its files in the Controller's office and all filing with the Board
relating to appeals or otherwise shall be made at such office. Neither the members of the Review Board
nor their designated representatives shall receive any compensation for their services on the said
Board:

(b) — Appeals Permitted. Provided a Petition for Review is filed with the Review Board
within the designated time period, a taxpayer shall have the right to appeal the following actions by the
Assessor-Recorder to the Review Board:

(1) — A determination of tax made prior to recording of a document may be appealed if the Petition for Review is
filed within 10 days following the Assessor-Recorder's
determination of tax and refusal to record without payment of such tax.

(2) — A denial of refund claim may be appealed if the Petition for Review is
filed within 10 days following service or mailing of notice of claim denial to the taxpayer.

(3) — A determination of delinquent taxes may be appealed if the Petition for
Review is filed within 10 days following service or mailing of the delinquency notice to the taxpayer.

Rulings of the Review Board on determinations of tax made prior to recording of
documents or on denials of refund claims are final and conclusive. An action to set aside such a ruling
of the Review Board shall be commenced within one year from and after the date that notice of the
Review Board's ruling was personally served upon or mailed to the taxpayer. Rulings of the Review
Board on delinquent tax determinations are subject to review by the Board of Supervisors in connection
with the Board's hearing of the Assessor-Recorder's report of delinquency pursuant to Section 1115.1
of this ordinance.

Forms for Petitions for Review shall be provided by the Review Board.
(e) — Powers of Review Board. The Review Board shall have power, and it shall be its
duty:

(1) — To conduct public hearings for the purpose of reviewing and making its
ruling upon any Petition for Review. As to any question of fact upon which the Assessor-Recorder's
decision was based, including any questions involving taxability or penalties, the Review Board may
modify or revoke the decision of the Assessor-Recorder, or it may affirm such decision and dismiss the
Petition. The Review Board shall not make any ruling inconsistent with the requirements of this
ordinance, nor is the Review Board authorized to relieve any taxpayer by reason of hardship alone
from tax properly due under this ordinance but it may, upon showing of good cause, relieve a taxpayer
by reason of hardship from delinquency penalties accrued hereunder. The Review Board shall
prescribe such forms, rules and regulations relating to appeals as it may deem necessary. In the review
of the Assessor-Recorder's decision, the Review Board shall not be limited to a review of the evidence
upon which the Assessor-Recorder made his decision, but may take such evidence and make such
investigation as it may be deemed necessary. It shall serve notice of its ruling, personally or by mail, on
the petitioning taxpayer, any other person liable for the tax and the owner or owners of the real
property described in the recorded notice of delinquent tax and shall file a copy of each such ruling
with the Assessor-Recorder with certification thereon of the date and service thereof;

(2) — To approve, modify, or disapprove all forms, rules and regulations
prescribed by the Assessor-Recorder in the administration and enforcement of this ordinance and such
forms, rules and regulations shall be subject to, and become effective only on such approval; provided,
however, any rules and regulations adopted by the Assessor-Recorder shall also be approved by the
City Attorney, and further provided that any modification determined by the Review Board shall be
approved as to legal form by the City Attorney before becoming effective;
(3) — To hear and determine in such manner as shall be just, any protest which may be made by any person who may be interested to any form, rule or regulation approved or prescribed by the Review Board.

The Transfer Tax Review Board's authority to accept new Petitions for Review and to review the Recorder's procedural rules and forms expired on January 1, 2013. The Review Board shall promptly determine all petitions pending on January 1, 2013 in accordance with this Section 1115.2 as it read immediately before that date.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By:
Michael Slattery
Deputy City Attorney
Ordinance amending Sections 1106, 1108, 1108.4, 1113, 1115, 1115.1 and 1115.3, adding Section 1113.1, and deleting Sections 1109, and 1115.2 of Article 12-C of the Business and Tax Regulations Code to (1) change delinquency date; (2) replace references to prior bankruptcy, income tax, and local laws with references to current laws; (3) conform rule for partnership interest transfers to state law changes; (4) refunds permissible without a claim; (45) eliminate obsolete provision regarding documentary tax stamps; and (56) eliminate Transfer Tax Board of Review and references to that Board, operative by January 1, 2013.

December 9, 2008 Board of Supervisors — CONTINUED ON FIRST READING
Ayes: 11 - Alioto-Pier, Campos, Chu, Daly, Dufty, Elsbernd, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval

December 16, 2008 Board of Supervisors — PASSED ON FIRST READING
Ayes: 8 - Campos, Daly, Elsbernd, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval
Noes: 3 - Alioto-Pier, Chu, Dufty

January 6, 2009 Board of Supervisors — FINALLY PASSED
Ayes: 6 - Daly, Elsbernd, Maxwell, McGoldrick, Mirkarimi, Peskin
Noes: 4 - Alioto-Pier, Campos, Chu, Dufty

January 6, 2009 Board of Supervisors — PREVIOUS VOTE RESCINDED
Ayes: 8 - Alioto-Pier, Campos, Chu, Dufty, Elsbernd, McGoldrick, Mirkarimi, Peskin
Noes: 2 - Daly, Maxwell

January 6, 2009 Board of Supervisors — CONTINUED ON FINAL PASSAGE
Ayes: 10 - Alioto-Pier, Campos, Chu, Daly, Dufty, Elsbernd, Maxwell, McGoldrick, Mirkarimi, Peskin

January 13, 2009 Board of Supervisors — AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE
Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell, Mirkarimi

January 13, 2009 Board of Supervisors — PASSED ON FIRST READING AS AMENDED
Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell, Mirkarimi
January 27, 2009  Board of Supervisors — FINALLY PASSED
Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar,
Maxwell, Mirkarimi

File No. 081450

I hereby certify that the foregoing Ordinance was FINALLY PASSED on January 27, 2009 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

2/5/09
Date Approved

Mayor Gavin Newsom