Ordinance amending the Business and Tax Regulations Code to specify processes for the auditing, determination, and collection of real property transfer taxes, including among other things, taxpayer reporting requirements, authority to reject a document for recordation, authority to issue subpoenas for information, audit procedures, issuance of deficiency and jeopardy determinations, additional penalties for fraud or intent to evade taxes, collection of delinquent taxes by the Tax Collector and by liens on the property, and confidentiality of taxpayer information.

NOTE: Unchanged Code text and uncodified text are in plain Arial font. Additions to Codes are in single-underline italics Times New Roman font. Deletions to Codes are in strikethrough italics Times New Roman font. Board amendment additions are in double-underlined Arial font. Board amendment deletions are in strikethrough Arial font. Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

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

Section 1. The Business and Tax Regulations Code is hereby amended by adding Sections 1101.1, 1115.2, 1115.5, 1115.6, 1117, and 1118; deleting existing Section 1111.1 and adding a new Section 1111.1; and revising Sections 1103, 1111, 1113.1, 1115, 1115.1, 1115.3, 1115.4, and 1116, to read as follows:

SEC. 1101.1. DEFINITIONS.

Except where the context otherwise requires, the terms used in this Article 12-C shall have the meanings given to them in Sections 6.2-2 et seq. of the Business and Tax Regulations Code.
SEC. 1103. PAYMENT OF TAX; DUE DATES AND DELINQUENCY DATES.

(a) Any tax imposed pursuant to Section 1102 hereof this Article 12-C 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.

(b) The tax imposed by this Article 12-C 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 30 days later.

(c) The County Recorder may accept partial payments of taxes due. The difference between the amount paid by the person liable for the tax and the total amount due shall be treated as a delinquent tax and shall be subject to penalties and interest on the unpaid balance under Section 1115.2. Partial payments shall be applied first to administrative collection costs, interest, penalties, and other costs and charges, in that order, and the balance, if any, shall be applied to the taxes due.

SEC. 1111. RECORDING PAYMENT OF TAX.

(a) The County Recorder shall collect the tax hereby imposed and deposit the same to the General Fund. The County Recorder shall not record any deed, instrument or writing subject to the tax imposed by this Article 12-C ordinance unless the tax is paid.

(b) A declaration of the amount of the tax due, signed by the party determining the tax or his or her agent, shall appear on the face of every document subject to tax hereunder which is submitted for recordation. The declaration shall include a statement that the consideration or value on which the tax due was computed was not exclusive of the value of liens or encumbrances remaining on the interest or property conveyed at the time of sale.

(c) With every document subject to tax hereunder which is submitted for recordation, there shall also be submitted a separate affidavit stating all relevant information that is necessary for the determination of the proper transfer tax. A form for such affidavit shall be prepared by the County Recorder. The affidavit form shall include the following notice:
“NOTICE: Any material misrepresentation of fact in this affidavit is a misdemeanor under Section 1116 of the Real Property Transfer Tax Ordinance. Any person who makes such a misrepresentation is subject to prosecution for such offense.”

(d) If the deed, instrument or writing by which any lands, tenements, or other realty sold within the City and County of San Francisco is granted, assigned, transferred, or otherwise conveyed is not recorded with the County Recorder’s Office, the person who makes, signs, or issues such document or for whose benefit such document was made, signed, or issued, shall submit to the County Recorder an affidavit stating all relevant information that is necessary for the determination of the proper transfer tax, on the form described in Section 1111(c). Such affidavit must be filed within 30 days from the date the document effecting the transfer is delivered. Such affidavit must be filed regardless of whether any transfer tax is due or paid. Filing an affidavit that the County Recorder determines to be incomplete in any material aspect may be deemed to be a failure to file this affidavit for purposes of the statute of limitations in Section 1115.

(e) In accepting a document for recordation, the County Recorder shall rely upon the declaration of the amount of tax due and upon the affidavit of relevant information accompanying the document if the County Recorder has no reason to believe that the full amount of the tax due has not been paid.

(f) 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 location of the lands, tenements, or other realty described in the document.
SEC. 1111.1. PROOF OF EXEMPTION, CONSIDERATION AND VALUE RECORDS;

INVESTIGATION; SUBPOENAS.

The recorder may require the person submitting any deed, instrument or writing for reoordation, or the person for whom said person is acting as agent, to furnish affidavits, true copies of relevant records or other documentary proof in order to:

(a) Substantiate any claim that the deed, instrument or writing submitted for recordation is not subject to the tax imposed by this ordinance or is exempt therefrom; and

(b) Establish the consideration or value of the interest or property conveyed and the amount of any lien or encumbrance remaining thereon at the time of sale.

(a) Every person liable for the tax imposed by this Article 12-C shall keep and preserve records as may be necessary to determine the amount of tax for which the person may be liable, or whether the person is exempt from the tax. Upon request of the County Recorder, a person liable for the tax imposed by this Article 12-C shall produce such records to the County Recorder. Additionally, the County Recorder may order any person or persons, whether liable for the tax imposed by this Article 12-C or not, to furnish affidavits and produce all books, papers, documents, or any other records that the County Recorder believes may have relevance to enforcing compliance with this Article 12-C.

(b) The County Recorder may order the attendance before the County Recorder of any person or persons, whether liable for the tax imposed by this Article 12-C or not, whom the County Recorder believes may have information relevant to enforcing compliance with this Article 12-C.

(c) If the taxpayer does not maintain records that are adequate to determine liability under this Article 12-C, or following a request by the County Recorder fails to produce such records in a timely fashion, the County Recorder may determine the person's liability based upon any information in the County Recorder's possession, or that may come into the County Recorder's possession. Such determination shall be prima facie evidence of the person's liability in any subsequent administrative or judicial proceeding.
(d) The County Recorder may issue and serve subpoenas to carry out these provisions, and may adopt and implement necessary and appropriate audit procedures.

SEC. 1113.1. REFUNDS PERMISSIBLE WITHOUT A CLAIM.

The County Recorder may authorize the Controller to refund transfer tax payments, without the need for a refund claim, if the County 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
(c) the tax was paid on a type of transaction that is exempt from the tax.

The County Recorder may authorize such a refund no later than one year after payment of the tax. The statute of limitations for filing a claim for refund under Section 1113(a) shall not be tolled and shall continue to run while a person's request for refund under this Section 1113.1 is pending.

SEC. 1115. DELINQUENCY TAXES: DEFICIENCY DETERMINATIONS; JEOPARDY DETERMINATIONS.

(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 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 on the ninetieth day following the date of the original delinquency. 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) Audits. The County Recorder may audit any documents transferring an interest in real property before or after any transfer, to determine if the transfer is exempt from the tax under this Article or is unpaid or underpaid. The County Recorder may adopt and implement necessary and appropriate audit procedures:

(c) Delinquency Determination. Deficiency Determinations. Whenever the County Recorder has reason to believe that a person has failed to pay or has underpaid the tax imposed by this Article 12-C, the County Recorder may compute and determine any tax, penalty, or interest deficiency upon the basis of any information within the County Recorder’s possession or that may come into the County Recorder’s possession. The County Recorder may make one or more deficiency determinations for the same deed, instrument or writing by which any lands, tenements, or other realty sold within the City and County of San Francisco is granted, assigned, transferred, or otherwise conveyed, the full amount of tax due under this ordinance was not paid, 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 including the amount of any lien or encumbrance remaining thereon at the time of sale; and, if it was claimed that the 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;

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.

(b) Deficiency Determinations: Notice. Upon making a determination pursuant to this Section 1115, the County Recorder shall record the notice of deficiency determination, and shall give to the person or persons 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 Assessor, written notice of the County Recorder’s determination. Except in the case of fraud, intent to evade the tax imposed by this Article 12-C, or the failure to either record the deed, instrument or writing effecting a transfer subject to the tax or file the affidavit required under Section 1111(d), in which case there is no statute of limitations, and unless the person liable for the tax has agreed in writing to extend the period for service of a notice of deficiency determination prior to such period expiring, every notice of a deficiency determination shall be served, in the manner provided by Section 1115.3, within three years after the later of:
1 (1) The date the tax became delinquent:

2 (2) The date the person liable for the tax recorded the deed, instrument or writing

3 effecting a transfer subject to the tax with the County Recorder’s Office, if such document was

4 recorded; or

5 (3) The date the person liable for the tax furnished to the County Recorder the affidavit

6 required under Section 1111(d), if the deed, instrument or writing effecting a transfer subject to the tax

7 was not recorded with the County Recorder’s Office.

8 (c) Deficiency Determinations; Content. The County Recorder’s notice of deficiency

9 determination shall include the following information:

10 (1) The amount of delinquent tax;

11 (2) The interest that has accrued and shall continue to accrue on the delinquent tax;

12 (3) The delinquency penalty then due;

13 (4) The additional penalty that shall accrue if the tax is not paid by the date the

14 deficiency determination is due and payable;

15 (5) A description of the lands, property, or other realty sold that was transferred

16 without full payment of tax; and

17 (6) A notice that if the tax, penalties, and interest are not paid within 30 days after

18 service of the notice of deficiency determination upon the person liable for the tax, the County Recorder

19 may commence collection actions for the tax, including, but not limited to, the lien proceedings under

20 Section 1115.1.

21 (d) Deficiency Determinations; Due and Payable. The County Recorder’s deficiency

22 determination shall be due and payable 30 days after service of the notice of deficiency determination

23 upon the person liable for the tax.
(e) Jeopardy Determinations.

(1) Duty of County Recorder. If the County Recorder believes that the collection of any tax imposed by this Article 12-C will be jeopardized, in whole or in part, by delay, the County Recorder shall serve notice upon the person determined to be liable therefor of his or her determination of jeopardy and of the tax required to be paid to the City, and demanding immediate payment thereof, together with any interest and penalty determined to be due. The County Recorder may consider all facts and circumstances relevant to determining whether the collection of any tax will be jeopardized by delay, including but not limited to indications that the person liable for the tax intends or is taking action to discontinue business activities in the City, dissipate or otherwise remove assets from the City, or sell, exchange, assign, or otherwise dispose of personal or business income or property. The County Recorder also may consider whether the person liable for the tax is insolvent or likely to become insolvent after the taxes at issue are assessed or collected; and whether the person liable for the tax is or has been uncooperative or unresponsive in connection with any investigation, examination, audit, deficiency determination, assessment, or collection action or procedure undertaken by the County Recorder or Tax Collector.

(2) When Due and Payable. A jeopardy determination of tax, interest, or penalty is immediately due and payable upon the service of the notice of jeopardy determination on the person determined to be liable therefor. Prior to service of such notice, the County Recorder or Tax Collector may, notwithstanding the provisions of Section 1115.4, record a lien in the amount due as set forth in the notice of jeopardy determination. Immediately upon service of such notice, the Tax Collector may, notwithstanding the provisions of Section 1115.4, commence lien proceedings under Section 1115.1, seek summary judgment pursuant to Section 1115.5, and/or may commence a collection action in any court having jurisdiction over the matter.

(3) Service of Notice. Service of notice of a jeopardy determination shall be provided in the manner set forth in Section 1115.3.
(4) Effect of Non-Payment. If the amount specified in the jeopardy determination is not paid within 15 days after service of notice thereof upon the person against whom the determination is made, the additional 10% penalty provided in 1115.2(a)(1) shall attach to the tax or the amount of the tax required to be collected, regardless of the number of days that have passed since the date of the original delinquency.

(f) Effect of County Recorder's Determination. The County Recorder's issuance of a notice of deficiency determination or a notice of jeopardy determination with respect to any document or transaction, or the County Recorder's failure to issue such a notice, may not be treated as precedent for the treatment of any future document or transaction. The County Recorder's issuance of a deficiency determination or a jeopardy determination to a person for a document or transaction shall not bar the County Recorder from making further determinations regarding the liability of the person for that document or transaction.

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 after service of the notice of deficiency determination, delinquency notice the County Recorder, within one year of the deficiency determination becoming due and payable 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 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 lands, tenements, or other realty sold real property that was transferred by the document delivered without full payment of tax, and the date on which the County Recorder served its notice of deficiency.
determination. 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 deficiency determination 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 a 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 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 deficiency determination 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

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BOARD OF SUPERVISORS
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 owner or owners of the real property described in the recorded notice of deficiency determination 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% 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 Section 1115.1(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 Article 12-Cordinance shall be deposited to the General Fund.
SEC. 1115.2. PENALTIES AND INTEREST.

(a) Penalties.

(1) Delinquency Penalties. If any tax is not paid prior to becoming delinquent, a
delinquency penalty of 25% 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% shall accrue if the tax remains unpaid on the ninetieth day
following the date of the original delinquency.

(2) Penalties for Fraud or Intent to Evade Tax. When the County Recorder determines
that the failure of any person to timely pay any tax due under this Article 12-C was attributable to fraud
or an intent to evade this Article 12-C, the County Recorder shall impose a penalty in the amount of
50% of the amount of the unpaid tax. This penalty shall be in addition to the penalty imposed under
Section 1115.2(a)(1) and any other fines, penalties, or other charges imposed by law.

(b) Interest. Interest shall accrue at the rate of _% a month, or fraction thereof, on the amount
of delinquent tax, exclusive of penalties and interest, from the date the tax becomes delinquent to the
date of payment.

(c) Penalties and Interest Part of Tax. Interest and penalties accrued shall become part of the
tax.

SEC. 1115.3. MANNER OF GIVING NOTICE.

Any notice required to be given under this Article 12-C by the County Recorder or the
Board of Supervisors 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 an affidavit described in
Sections 1111(c) or (d), a deed, instrument or writing subject to the tax, a refund claim form, 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 County Assessor-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. **In the case of service by mail, the service is complete at the time of deposit with the United States Postal Service.**

**SEC. 1115.4. TAX AS DEBT.**

(a) The amount of any tax, penalty, or interest imposed by this Article 12-Cordinance shall be deemed a debt owed to the City and County of San Francisco. Any person owing the tax shall be liable in an action brought in the name of the City and County of San Francisco for the recovery of such debt. In such action a reasonable attorney's fee shall be awarded the plaintiff. The provisions of this section 1115.4 shall not be deemed a limitation upon the right of the City and County of San Francisco to bring any other action, whether criminal, legal, or equitable, based upon the failure to pay the tax, penalty, or interest imposed by this Article 12-Cordinance or the failure to comply with any of the provisions hereof.

(b) (1) If a deficiency determination made against any person remains unpaid, and the delinquent taxes, penalties, interest, and fees have been referred to the Tax Collector’s Bureau of Delinquent Revenue under Section 10.38 of the Administrative Code, the Tax Collector may bring an action in the courts of this State, or any other state, or of the District of Columbia, or of the United States and its territories or possessions, or any other forum where permitted by law to recover in the name of the City any amount of the unpaid taxes, together with penalties, interest, and costs, including reasonable attorneys’ fees.

(2) In any action filed pursuant to this Section 1115.4(b), the complaint shall attach a certificate executed by the Tax Collector or his or her representative that contains the following information:
(A) the name of the person liable for the tax;

(B) a description of the lands, property, or other realty sold that was transferred without full payment of tax;

(C) the amount of the tax, penalty, and interest remaining unpaid as of the last day of the month prior to the month in which the complaint is filed; and

(D) the fact that the City has complied with all provisions of this Article 12-C in the computation and the levy of the tax, penalty, or interest.

(3) In prosecuting such actions, the Tax Collector shall be entitled to all of the provisional remedies provided by law. Any such action shall be commenced within 3 years from the date the deficiency determination issued under Section 1115 became due and payable.

c) If a deficiency determination made against any person remains unpaid, and the delinquent taxes, penalties, interest, and fees have been referred to the Tax Collector’s Bureau of Delinquent Revenue under Section 10.38 of the Administrative Code, the Tax Collector may record a tax lien with the County Recorder, thereby creating a tax lien on all of the assessee’s property and rights to property, including realty, personalty, and intangibles. The Tax Collector may record or file such tax lien in the office of the Recorder of any California county, with the California Secretary of State, and with any other California public entity that is otherwise authorized by law to record liens. The Tax Collector may record or file such tax liens in any other office of any other jurisdiction as permitted by law. The tax lien shall identify the Tax Collector as the lienor, and the amount of the lien.

Simultaneously with the recording, a copy of the tax lien shall be mailed to or personally served upon the person determined to be liable for the tax at said person’s last known address based upon the information contained in the County Assessor records. The tax lien after recordation has the force, effect, and priority of a judgment lien and continues for 10 years from the date of recording, unless sooner released or otherwise discharged.
SEC. 1115.5. SUMMARY JUDGMENT.

(a) Notice; Certificate. If a deficiency determination made against any person remains unpaid, and the delinquent taxes, penalties, interest, and fees have been referred to the Tax Collector’s Bureau of Delinquent Revenue under Section 10.38 of the Administrative Code, the Tax Collector may file, no sooner than 20 days after the mailing of the notice required in Section 1115.5(a)(1), in the office of the Clerk of the Court, without fee, a certificate specifying as follows:

(1) That a notice of intent to file the certificate has been sent, by certified mail, to the person determined to be liable for the tax at the person’s last known address, not less than 20 days prior to the date of the certificate;

(2) That the notice required in subsection (a)(1) set forth the following information:

   (A) The name and address of the person determined to be liable for the tax;

   (B) The description of the lands, property, or other realty sold that was transferred without full payment of tax;

   (C) That judgment will be sought in the amount of the tax, penalty, interest, and fees remaining unpaid at the time of the filing of the certificate, and costs as permitted by law;

   (D) That, upon issuance and recordation of the judgment, additional interest will continue to accrue at the rate prescribed by the Enforcement of Judgments Law in Title 9 of Part 2 of the California Code of Civil Procedure, and that any bond premium posted or other costs to enforce the judgment shall be an added charge; and

   (E) That a recording fee in the amount set forth in Section 27361.3 of the California Government Code will be required to be paid for the purpose of the recordation of any release of the judgment lien;

(3) The name of the person determined to be liable for the tax;

(4) The amount for which judgment is to be entered;
(5) That the City has complied with all provisions of Article 12-C of the Business and Tax Regulations Code in the computation and the levy of the tax, penalty, interest, and fees; and

(6) That a request is therein made for issuance and entry of judgment against the person determined to be liable for the tax.

(b) Filing of Certificate; Entry of Judgment. The Clerk of the Court, immediately upon the filing of the certificate, shall enter a judgment for the City and County against the person determined to be liable for the tax in the amount of the tax, penalty, interest, and fees set forth in the certificate. The Clerk of the Court may file the judgment in a loose-leaf book entitled “City and County Summary Tax Judgments.”

(c) Recording of Judgment; Lien. An abstract or copy of the judgment shall be recorded, without fee, in the County Recorder’s Office, and may be recorded in any other office in which such filing is permitted by law. The summary judgment shall be enforceable pursuant to the Enforcement of Judgments Law, located in Title 9 of Part 2 of the California Code of Civil Procedure.

(d) Additional Penalty. In addition to any penalty or fee imposed under this Article 12-C of the Business and Tax Regulations Code, a penalty equal to the costs incurred to enforce the judgment entered pursuant to this Section 1115.5, including reasonable attorneys’ fees and costs, and the City’s cost of salary and benefits for City staff to enforce the judgment, shall be imposed.

(e) Extension of Lien. Within 10 years from the date of the recording or the date of the last extension of the lien in the manner provided for in this Section 1115.5, the lien may be extended by recording in the County Recorder’s Office an abstract or copy of the judgment. From the time of the recording, the lien extends to the property for 10 years unless sooner released or otherwise discharged.

(f) Execution Upon the Judgment. Execution shall issue upon the judgment upon request of the Tax Collector in the same manner as execution may issue upon other judgments, and sales shall be held under such execution as prescribed by law.
(g) Satisfaction of Judgment; Removal of Lien.

(1) The judgment is satisfied and the lien removed when, but not before, the certificate of release or discharge from the judgment lien is filed with the Clerk of Court and recorded in the County Recorder’s Office. In addition to the judgment amount, and any additional penalty, interest, fee, cost or other amount authorized by the Business and Tax Regulations Code, the Tax Collector shall collect the recording fee in the amount required by Section 27361.3 of the California Government Code, and shall transmit the amount of the recording fee to the County Recorder together with the documents for release or discharge.

(2) The judgment is also satisfied and the lien removed when, but not before, the tax is legally canceled and a release or discharge from the judgment lien is recorded in the County Recorder’s Office. A recording under this Section 1115.5(g)(2) shall be made without fee.

SEC. 1115.6. COLLECTION OF TAX FROM THIRD PARTY.

If a deficiency determination made against any person remains unpaid, and the delinquent taxes, penalties, interest, and fees have been referred to the Tax Collector’s Bureau of Delinquent Revenue under Section 10.38 of the Administrative Code, the Tax Collector may, not later than three years after the payment became delinquent or the notice of deficiency determination became due and payable, whichever is later, give notice thereof by mail or by personal service to any persons in the State of California having in their possession or under their control any credits or other personal property belonging to the delinquent person, or owing any debts to the delinquent person. After receiving such notice, the persons so notified shall, within five days of the receipt of the notice, advise the Tax Collector by sworn writing of all such credits, personal property, or debts. Further, the persons so notified shall neither transfer nor make any other disposition of the credits, other personal property, or debts in their possession or under their control at the time they receive the notice until the Tax Collector consents to a transfer or disposition or until 30 days elapse after the person has advised
the Tax Collector in a sworn writing of all such credits, personal property, or debts. Unless otherwise
required by law, if persons so notified transfer such assets in violation of the provisions of this Section
1115.6, they shall become indebted to the City for the value of the property transferred, or the amount
owed to the City by the delinquent person, whichever is less.

SEC. 1116. PENALTY MISDEMEANORS.

(a) Any person or persons shall be guilty of a misdemeanor who:

(a)(1) Makes any oral misrepresentation to any employee of the County
Recorder's office of:

(A) The consideration for, the value of, or the liens upon the lands,
tenements, or other realty sold that is transferred by any deed, instrument or writing that is subject to
the tax imposed by this Article 12—Cinterest or property conveyed by any deed, instrument or writing
submitted for recordation; or (2)

(B) Any material fact which supports a claim that such any deed,
instrument or writing by which any such lands, tenements, or other realty sold is not subject to the
tax imposed by this Article 12—Cordinance; or

(b)(2) Makes any written misrepresentation of a material fact in any affidavit,
declaration, or other writing that which is required or may be required by this Article 12—
Cordinance; or

(e)(3) Furnishes to the County Recorder's office any false record or documentary
proof which misrepresents:

(A) The consideration for, the value of, or the liens upon the lands,
tenements, or other realty sold that is transferred by any deed, instrument or writing that is subject to
the tax imposed by this Article 12—Cinterest or property conveyed by any deed, instrument or writing
submitted for recordation; or (2)
(B) Any material fact which supports a claim that such any deed, instrument or writing by which any such lands, tenements, or other realty sold is not subject to the tax imposed by this Article 12-C ordinance.

(b) No person or persons shall be liable, either civilly or criminally, for any unintentional error made in designating the location of the lands, tenements, or other realty described in a document subject to the tax imposed by this Article 12-C ordinance.

SEC. 1117. REMEDIES CUMULATIVE.

The remedies, procedures, penalties, interest, collection costs, and other costs and charges, including reasonable attorneys' fees, provided in this Article 12-C are cumulative, and may be pursued alternatively, concurrently, or consecutively as the County Recorder and/or the Tax Collector determine.

SEC. 1118. CONFIDENTIALITY.

(a) Unless otherwise required by law, the information in a person's affidavit filed under Sections 1111(c) or (d) is confidential, as is any information the County Recorder learns about a person from the person or in response to the County Recorder's request for information made under Section 1111.1. Information regarding the County Recorder's investigation of a particular person or transaction, including the fact that the County Recorder has sent a request for information to a particular person or is investigating a particular person or transaction, is also confidential. Except as permitted by this Section 1118 or as otherwise required by law, neither the County Recorder nor his or her staff, nor any other of the City's current or former employees or agents may disclose confidential information to any person.

(b) At the discretion of the County Recorder or Tax Collector, otherwise confidential information may be disclosed in any judicial proceeding or administrative proceeding pertaining to tax.
administration, determination, assessment, collection, or enforcement, of any civil or criminal liability arising under this Article 12-C if the information concerns a person who is a party to the proceeding, or the proceeding arose out of, or in connection with determining that person’s civil or criminal liability, or the collection of that person’s liability with respect to any tax imposed thereunder.

(c) At the discretion of the County Recorder or Tax Collector, disclosure of otherwise confidential information may be made to the extent such disclosures are reasonably necessary to obtaining information bearing a direct relationship to the determination, assessment, collection, or enforcement of any civil or criminal liability arising under this Article 12-C.

(d) At the discretion of the County Recorder or Tax Collector, the County Recorder or Tax Collector may disclose otherwise confidential information to employees or agents of the County Recorder or Tax Collector or other City employees who are engaged in matters preparatory to any judicial or administrative proceeding pertaining to the administration or enforcement of any civil or criminal liability arising out of this Article 12-C.

(e) If the County Recorder or Tax Collector determines that a liability owing from a person may be collected from another person, the County Recorder or Tax Collector may disclose to such other person information relevant to the determination and collection of tax due or owing from the person owing the liability.

(f) The taxpayer, the taxpayer’s successors, receivers, trustees, executors, administrators, assignees, and guarantors, and their duly authorized legal representatives if directly interested, may be given information regarding the items included in the measure and amount of any unpaid tax or amounts of tax required to be collected, interest, and penalties.

(g) Notwithstanding any other provision of the Business and Tax Regulations Code or of any City ordinance, the County Recorder and Tax Collector are authorized to enter into agreements with other public taxing agencies providing for the exchange of information for official purposes of said agencies, and to implement any such agreement through the exchange of information.
(h) Notwithstanding any other provision of the Business and Tax Regulations Code or of any City ordinance, the County Recorder and Tax Collector shall provide any and all information to the Assessor and Controller that is needed to fulfill the Assessor’s responsibilities under Section 6.101 of the Charter or the Controller’s responsibilities under Section 3.105 of the Charter. With regard to all such information provided by the County Recorder or Tax Collector, the Assessor and Controller shall be subject to the confidentiality provisions of subsection (a) of this Section 1118.

(i) The County Recorder or Tax Collector may disclose to any City employee or agent for official purposes any information described in Section 1118(a) in aggregate or other form that does not disclose the identity of particular taxpayers.

(j) Nothing in this Section 1118 shall impose any liability upon the Tax Collector or the County Recorder, or any employee or agent thereof, for any disclosures of confidential information made in the performance of his or her duties.

Section 2. Effective and Operative Dates. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor’s veto of the ordinance. This ordinance shall be operative for all deeds, instruments, or writings that are delivered on or after the effective date of this ordinance.

Section 3. Severability. If any section, subsection, sentence, clause, phrase, or word of this ordinance, or any application thereof to any person or circumstances, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of the ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each and
every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this ordinance or application thereof would be subsequently declared invalid or unconstitutional.

Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the “Note” that appears under the official title of the ordinance.

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

By: Scott M. Reiber
Deputy City Attorney

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Ordinance amending the Business and Tax Regulations Code to specify processes for the auditing, determination, and collection of real property transfer taxes, including among other things, taxpayer reporting requirements, authority to reject a document for recordation, authority to issue subpoenas for information, audit procedures, issuance of deficiency and jeopardy determinations, additional penalties for fraud or intent to evade taxes, collection of delinquent taxes by the Tax Collector and by liens on the property, and confidentiality of taxpayer information.

July 13, 2017 Budget and Finance Sub-Committee - RECOMMENDED AS COMMITTEE REPORT

July 18, 2017 Board of Supervisors - PASSED ON FIRST READING
Ayes: 11 - Breed, Cohen, Farrell, Fewer, Kim, Peskin, Ronen, Safai, Sheehy, Tang and Yee

July 25, 2017 Board of Supervisors - FINALLY PASSED
Ayes: 11 - Breed, Cohen, Farrell, Fewer, Kim, Peskin, Ronen, Safai, Sheehy, Tang and Yee

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 7/25/2017 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Date Approved: 7/27/2017