

CHAPTER SEVEN: REVENUE AND TAXATION

Subchapter One: Documentary Stamp Tax on the Sale of Real Property

7.01.010 Title.

This ordinance shall be known as the "Real Property Transfer Tax Ordinance of the Town of Colma". It is adopted pursuant to the authority contained in Part 6.7 (commencing with Section 11901) of Division 2 of the Revenue and Taxation Code of the State of California.

[*History:* formerly § 7.101; ORD. 296, 4/11/84; ORD. 638, 12/14/05]

7.01.020 Tax Imposed.

There is hereby imposed on each deed, instrument or writing by which any lands, tenements, or other realty sold within the Town of Colma shall be granted, assigned, transferred or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his or their direction, when the consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrances remaining thereon at the time of sale) exceeds One Hundred Dollars (\$100), a tax at the rate of Twenty-seven and one-half cents (\$1.275) for each Five Hundred Dollars (\$500) or fractional part thereof.

[*History:* formerly § 7.102; ORD. 296, 4/11/84; ORD. 638, 12/14/05]

7.01.030 Responsible Person.

Any tax imposed pursuant to Section 7.01.020 hereof shall be paid by any person who makes, signs or issues any document or instrument subject to the tax, or for whose use or benefit the same is made, signed or issued.

[*History:* formerly § 7.103; ORD. 296, 4/11/84; ORD. 638, 12/14/05]

7.01.040 Exception - Debt.

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

[*History:* formerly § 7.104; ORD. 296, 4/11/84; ORD. 638, 12/14/05]

7.01.050 Exception - Government.

United States or any agency or instrumentality thereof, any state or territory, or political subdivision thereof, or the District of Columbia shall not be liable for any tax imposed pursuant to this ordinance with respect to any deed, instrument, or writing to which it is a party, but the tax may be collected by assessment from any other party liable therefore.

[*History:* formerly § 7.105; ORD. 296, 4/11/84; ORD. 638, 12/14/05]

7.01.060 Exception - Bankruptcy and Reorganization.

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

- (a) Confirmed under the Federal Bankruptcy Act, as amended;
- (b) Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in subdivision (m) of Section 205 of Title 11 of the United States Code, as amended;
- (c) Approved in an equity receivership proceeding in a court involving a corporation, as defined in subdivision (3) of Section 505 of Title 11 of the United States Code, as amended; or
- (d) Whereby a mere change in identity, form or place of organization is effected.

Subdivisions (a) to (d), inclusive, of this section shall only apply if the making, delivery or filing of instruments of transfer or conveyances occurs within five (5) years from the date of such confirmation, approval or change.

[*History:* formerly § 7.106; ORD. 296, 4/11/84; ORD. 638, 12/14/05]

7.01.070 Exception - SEC.

Any tax imposed pursuant to this ordinance shall not apply to the making or delivery of conveyances to make effective any order of the Securities and Exchange Commission, as defined in subdivision (a) of Section 1083 of the Internal Revenue Code of 1954, but only if:

- (a) The order of the Securities and Exchange Commission in obedience to which such conveyance is made recites that such conveyance is necessary or appropriate to effectuate the provisions of Section 79k of Title 15 of the United States Code, relating to the Public Utility Holding Company Act of 1935;
- (b) Such order specifies the property which is ordered to be conveyed;
- (c) Such conveyance is made in obedience to such order.

[*History:* formerly § 7.107; ORD. 296, 4/11/84; ORD. 638, 12/14/05]

7.01.080 Exception - Partnership Interest.

(a) In the case of any realty held by a partnership, no levy shall be imposed pursuant to this ordinance by reason of any transfer of an interest in a partnership or otherwise, if:

- (1) Such partnership (or another partnership) is considered a continuing partnership within the meaning of Section 708 of the Internal Revenue Code of 1954; and
- (2) Such continuing partnership continues to hold the realty concerned.

(b) If there is a termination of any partnership within the meaning of Section 708 of the Internal Revenue Code of 1954, for purposes of this ordinance, such partnership shall be

treated as having executed an instrument whereby there was conveyed, for fair market value (exclusive of the value of any lien or encumbrance remaining thereon), all realty held by such partnership at the time of such termination.

(c) Not more than one tax shall be imposed pursuant to this ordinance by reason of a termination described in subdivision (b), and any transfer pursuant thereto with respect to the realty held by such partnership at the time of such termination.

[*History:* formerly § 7.108; ORD. 296, 4/11/84; ORD. 638, 12/14/05]

7.01.090 Administration.

The County Recorder shall administer this ordinance in conformity with the provisions of Part 6.7 of Division 2 of the Revenue and Taxation Code and the provisions of any county ordinance adopted pursuant thereto.

[*History:* formerly § 7.109; ORD. 296, 4/11/84; ORD. 638, 12/14/05]

7.01.100 Claims for Refund.

Claims for refund of taxes imposed pursuant to this ordinance shall be governed by the provisions of Chapter 5 (commencing with Section 5096) of Part 9 of Division 1 of the Revenue and Taxation Code of the State of California and shall be subject to the claim requirement set forth in Section 1.14.060 of this Code.

[*History:* formerly § 7.110; ORD. 296, 4/11/84; ORD. 638, 12/14/05; ORD. 694, 4/13/11]

7.01.110 Operative Date.

This ordinance shall become operative upon the operative date of any ordinance adopted by the County of San Mateo, pursuant to Part 6.7 (commencing with Section 11901) of Division 2 of the Revenue and Taxation Code of the State of California, or upon the effective date of this ordinance, whichever is the later.

[*History:* formerly § 7.111; ORD. 296, 4/11/84; ORD. 638, 12/14/05]