



## TRANSFER TAX AFFIDAVIT

**NOTICE: ANY MATERIAL MISREPRESENTATION OF FACT IN THIS AFFIDAVIT IS A MISDEMEANOR UNDER SECTION 32-47 OF THE SANTA BARBARA COUNTY REAL PROPERTY TRANSFER TAX CODE. ANY PERSON WHO MAKES SUCH A MISREPRESENTATION IS SUBJECT TO PROSECUTION FOR SUCH OFFENSE.**

**THE CLERK-RECORDER RESERVES THE RIGHT TO REPORT POTENTIALLY FRAUDULENT RECORDINGS TO THE DISTRICT ATTORNEY'S REAL ESTATE FRAUD UNIT.**

1. LOCATION OF PROPERTY: Assessor's Parcel Number: \_\_\_\_\_  
Street Address: \_\_\_\_\_  
Describe the document(s) to be recorded: \_\_\_\_\_

2. IS THIS A TRANSFER INTO OR OUT OF A TRUST?  
 Yes  No (If yes, complete this section. If no, proceed to #3.)  
a. Is this transfer solely to reflect a change of trustee?  Yes  No (If yes, sign at bottom of page 2. If no, proceed to #2b.)  
b. Is this to/from a revocable trust wherein the trustors/settlors are the grantors/grantees?  Yes  No (If yes, sign at bottom of page 2. If no, proceed to #2c.)  
c. Is this for transfer for refinancing purposes only?  Yes  No (If yes, sign at bottom of page 2. If no, proceed to #2d.)  
d. Is there any consideration for this transfer, such as a sale to or from a trust?  Yes  No (If yes, proceed to #9. If no, proceed to #3)

3. IS THIS AN INTERSPOUSAL TRANSFER?  
 Yes  No (If yes, sign at the bottom of page 2. If no, proceed to #4.)

4. IS THIS A FORECLOSURE OR A TRUSTEE SALE?  
 Yes  No (If yes, complete this section. If no, proceed to #5.)  
a. Is the transferee the Beneficiary or Mortgagee?  
 Yes  No (If yes, complete this section. If no, proceed to #5.)  
b. Please provide Name of Trustee \_\_\_\_\_  
Date of original deed of Trust \_\_\_\_\_  
c. Enter the amount of consideration paid or value and on line 9a \$ \_\_\_\_\_

5. IS THIS A GIFT IN WHOLE OR IN PART?  
 Yes  No (if yes, give a complete explanation and **sign both as Donor and at the bottom of Page 2.** If no, proceed to #6.)

Name of Transferor/Donor: \_\_\_\_\_  
Name of Transferee/Donee: \_\_\_\_\_

Please be aware that certain gifts in excess of \$13,000 per calendar year may trigger a Federal Gift Tax. In such cases, the Transferor (donor) may be required to file Form 709 (Federal Gift Tax Return) with the Internal Revenue Service. Please also be aware that information stated on this document may be given and used by governmental agencies, including the Internal Revenue Service.

I, as the Transferor (Donor) \_\_\_\_\_, declare under the penalty of perjury, that I have read the aforementioned paragraph and acknowledge that a Federal Gift Tax may be triggered.

\_\_\_\_\_  
Donor Signature

\_\_\_\_\_  
Donor Phone Number

6. IS THIS A NON-OIL AND GAS LEASE?

Yes  No (If yes, complete this section. If no, proceed to #7.)

**If this is an Oil and Gas Lease, a Mineral Deed or Assignment of Oil and Gas Lease, the document is subject to tax, REGARDLESS OF THE TERM OF THE LEASE. Proceed to #9.**

a. Is remaining term of lease including renewal options greater than 35 years?  Yes  No

**b. If yes, submit a copy of lease or summary or terms**

c. Enter the value of the lease interest and on line 9a (for tax calculation) \$ \_\_\_\_\_

7. IS THIS A TRANSFER GIVEN TO SECURE A DEBT?

Yes  No (If yes, complete this section. If no, proceed to #8.)

a. If adding or removing a co-owner for refinancing purposes, please initial \_\_\_\_\_

*"The proportional ownership interest will revert back to its original holding within one (1) month from the date of recording; otherwise I will pay the applicable transfer tax."*

b. If removing a co-owner for refinancing purposes, please initial \_\_\_\_\_ and explain in #8 a. below.

8. DO YOU CONTENT THAT NO TRANSFER TAX IS DUE FOR A REASON NOT EXPLAINED IN #1-7?

Yes  No (If yes, complete this section. If no, proceed to #9.)

a. If yes, explain the exemption of R&T Code section 11911  or section 11930  below:

(1) The nature of this transaction; and

(2) The reason why you contend no transfer tax is due **(Use additional papers if necessary and attach copies of records or documents supporting your claim.)**

**Transfers involving legal entities must provide:**

- Articles of Incorporation, Operating Agreement of an LLC, Partnership Agreement
- Provide the names of individuals and specific percentages held by each individual both prior to and following this transfer.

9. TAXABLE TRANSACTIONS (No tax due if value or consideration is less than \$100.00)

Complete the following and calculate the tax below:

a. Consideration paid or value \$ \_\_\_\_\_

b.  Full Cash Value  Less Liens

c. If less liens, loan amount assumed \$ \_\_\_\_\_

d. Total consideration or values less liens (Line A – Line C) \$ \_\_\_\_\_

e. Tax Due, calculate tax as \$0.55 per \$500 of Line D \$ \_\_\_\_\_

Example: \$100,000 value / \$500 increments = 200  
200 increments X \$0.55 = \$110 in tax due

**I DECLARE OR AFFIRM UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.**

Transferee  Transferor **OR** Agent of Transferee  or Agent of Transferor

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Address

**Check here if address in Question # 1 is the Same as the claimant' mailing address**

\_\_\_\_\_  
Phone Number (REQUIRED for recording)

\_\_\_\_\_  
Place of Execution (City, County, State where executed)

\_\_\_\_\_  
Date of Execution

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*Anyone wishing to file or record documents with the Santa Barbara County Clerk-Recorder-Assessor will have to pay the documentary transfer tax at the time of recording. Those who do not pay at the time of recording will not have their document recorded. Exemptions will only be made if the recording party falls under one of the documentary transfer tax exemption categories listed below. Parties who fall under an exemption category will be required to provide written documentation of proof of exemption at the time of document filing; otherwise they will be required to pay the documentary transfer tax. If the recording party wishes to dispute the fee or is eligible for a refund, claims for refund will be accepted, in writing only, up to one year after payment was made, and any claims presented after the one year period will not be accepted. The County Recorder will investigate each claim and determine whether the claim should be accepted or denied.*

*Please also be advised that any information signed under the penalty of perjury and recorded with the Santa Barbara County Clerk-Recorder-Assessor may be shared with the federal government and the Internal Revenue Service for taxation and verification purposes.*

*The Clerk-Recorder reserves the right to report potentially fraudulent recordings to the District Attorney's Real Estate Fraud Unit.*

### **EXEMPTIONS TO DOCUMENTARY TRANSFER TAX**

For further reference of explanation see Chapter 3, §11921-§11930 of the Documentary Transfer Tax Act 2000-1

#### **Instrument to secure a debt (R&T Code §11921)**

No tax will be imposed on any instrument in writing given to secure a debt (e.g., Deed at Trust), provided that *the proportional ownership will revert back to its original holding within one (1) month of recording.*

#### **United States; state or territory; District of Columbia (R& T Code §11922)**

Any deed, instrument of writing to which the United States or any agency or instrumentality thereof, any state or territory, or political subdivision thereof, is a party, is exempt from any tax imposed in accordance with this part when the exempt agency is acquiring title.

#### **Conveyance incident to plan of reorganization or adjustment (R&T Code §11923, 11924, 11925)**

No tax will be imposed on the marking, delivering, or filing of conveyances to make effective any plan of reorganization or adjustment if there is written documentations involving: a) bankruptcy confirmed under the Federal Bankruptcy act; b) court approved equity receivership involving a railroad corporation; c) court approved equity receivership involving a corporation.. Or only a mere change in identity, form, or place of organization is documented. Such exemptions are valid only up to five years after the approved change is made.

#### **Conveyance pursuant to order of the Securities and Exchange Commission (R&T Code §11924)**

No tax will be imposed on the mailing or delivery of conveyances to make effective any order of the Securities and Exchange Commission.

**Transfer of partnership interest (R&T Code §11925)**

In any case involving any property owned by a partnership or any other entity considered a partnership for federal income tax purposes (e. g. LLC or corporations), no tax will be imposed by reason of a transfer of any interest in the partnership if the partnership is considered a "continuing partnership", and the "continuing partnership" continues to own the property concerned. No tax will be imposed 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 to the property in which proportional ownership remains the same immediately after the transfer.

*Please provide copies of the partnership agreement or operating agreement of the LLC/Corporation to substantiate this transaction.*

**Instruments taken in lieu of foreclosure (R&T Code §11926)**

No tax will be imposed with respect to any deed, instrument, or other writing to a beneficiary or mortgagee, which is taken from the mortgager or trustor as a result of or in lieu of foreclosure; provided that such tax will apply to the extent that the consideration exceeds the unpaid debt, including accumulated interest and cost of foreclosure. Any such debt must be recorded on the said deed or document, an affidavit or declared under penalty of perjury for tax purposes..

**Division of assets between spouses or same-sex registered domestic partners pursuant to judgment or agreement (R&T Code §11927)**

No tax will be imposed with respect to any deed, instrument, or other writing that pertains to the transfer, division, or allocation of property between a husband and wife or same-sex registered domestic partners. For deeds or other documents involving the dissolution of a legal relationship (Le. divorce or legal separation), written documentation of status of the relationship, signed by both partners, is required for qualification of tax exemption (e.g. divorce papers).

**Conveyance by State or political subdivision; immediate reconveyance to exempt agency (R&T Code §11928)**

No tax will be imposed with respect to any deed, instrument, or other writing by which property is conveyed by the State of California, any political subdivision thereof, or agency, or instrumentality of either thereof, pursuant to an agreement whereby the purchaser agrees to immediately reconvey the property to the exempt agency.

**Conveyance by State to nonprofit corporation (R&T Code §11929)**

No tax will be imposed with respect to any deed, instrument or other writing by which the State of California, any political subdivision thereof, or agency or instrumentality of either thereof, conveys to a nonprofit organization property that was issued by the nonprofit organization on behalf of a governmental unit.

**Inter vivos gift or by reason of death (IRS §47, 4361-2(b)(2), R&T Code §11930)**

No tax will be imposed with respect to any deed, instrument, or other writing that purports to grant, assign, transfer, convey, divide, allocate or vest property, tenements, or interests by means of an inter vivos gift or by reason of death. Please be advised that gifts that are valued over US\$13,000 in 2009 are subject to the Gift Tax and must be reported to the Internal Revenue Service. The Gift Tax applies to the transfer by gift of any property, with the general exceptions of gifts involving tuition or medical expenses made out to others, or gifts to spouses, political organizations or charities. For more information about the Gift Tax, see Publication 950 by the Internal Revenue Service titled "Introductions to Estate and Gift Taxes".

Transactions falling under the next six (6) exceptions below are outside the scope of the Documentary Transfer Tax act and are exempt.

**Confirms title in grantees names (R&T Code §11911)**

A deed given to remove a cloud on title where the grantor has no interest in the property, such as one spouse deeding to the other to remove any possible community property interest, or a deed to remove an expired option to purchase, is exempt from tax.

**Changes manner in which title is held (R&T Code §11911)**

This only applies to conveyance where the grantors and grantees are the same and their percentage of interest does not change. A deed changing joint tenants to community property is the most common example of this exemption.

**Court ordered conveyance (R&T Code §11911)**

The only applies to certain types of court ordered conveyances. If a court orders that property be conveyed for no consideration the conveyance is exempt from tax. A court ordered deed to partition property between multiple owners is an example.

**Confirms name change (R&T Code §11911)**

This applies to a change in the name of the entity holding title, not a change in the entity. A name change upon marriage or a corporate name change are examples of this exception.

**Agent acting for principal (R&T Code §11911)**

A deed wherein the grantor is acting as an agent for the grantee and is acting solely in his/her capacity as an agent is exempt from tax.

**Leases and assignments of lease (R&T Code §11911)**

This applies to only certain leases and assignment of lease/a lease or assignment of lease with a term, plus any options for renewal, of less than 35 years is exempt from tax.

**NOTE: Mineral Deeds, Oil and Gas Leases, and Assignments of Oil and Gas Leases, per R&T Code §61 (a) are subject to tax regardless of the term of the lease. If the value or consideration is less than \$100.00 no tax is due.**

Except as otherwise provided in Section 62, change in ownership, as defined in Section 60, includes, but is not limited to:

(a) The creation, renewal, sublease, assignment, or other transfer of the right to produce or extract oil, gas, or other minerals regardless of the period during which the right may be exercised. The balance of the property, other than the mineral rights, shall not be reappraised pursuant to this section.

## CLARIFICATIONS TO THE CURRENT TRANSFER TAX POLICY

### Instrument to secure a debt

**Refinancing- Adding or removing a co-owner** for refinancing purposes only. To be exempted from paying Documentary Transfer Tax at the time of recording a deed, the taxpayer must initial part 7a. or 7b. and explain online 8a(1), which states *"the proportional ownership interest will revert back to its original holding within one (1) month from the date of recording, otherwise I will pay the applicable transfer tax."*

**To revert a property interest back to its original holding.** To be exempted from paying a Documentary Transfer Tax at the time of recording a deed, the taxpayer must accomplish the transaction within one (1) month from the date when the property interest was changed along with a copy of the original deed showing who was on title and that the proportional interest remains the same

**Value-** Based on the loan amount if submitted with a deed of trust or the fair market value.

### In and out of Trust

Names must be the same and the proportional interest must remain the same.

### Transfer of partnership Interest, an LLC and/or a Corporation

Provide an operating agreement to substantiate the owners and the proportional ownership interests remain the same.