

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALISTOGA, COUNTY OF NAPA, STATE OF CALIFORNIA, AMENDING CHAPTER 3.12 OF THE CALISTOGA MUNICIPAL CODE AS IT RELATES TO THE DOCUMENTARY TRANSFER TAX

3.12.010 Authorization.

This chapter is adopted pursuant to the authority conferred by State Revenue and Taxation Code Section 11911.

3.12.020 Documentary stamp tax imposed.

It is imposed on each deed, instrument, or writing by which any lands, tenements, or other realty sold within the City shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person(s), by his or her or their direction, when the consideration or value of the interest or property conveyed (in excess of the value of any lien or encumbrance remaining thereon at the time of sale) exceeds \$100.00, a tax at the rate of \$0.275 for each \$500.00 or fractional part thereof. For purposes of this section, realty sold is defined as a change of ownership as set forth in Revenue and Taxation Code Section 60 *et seq.*, with special reference to Sections 64(c) and 64(d). (Ord. 360 § 2, 1980; Ord. 298 § 3, 1973; Ord. 263 § 1, 1968).

3.12.030 Tax paid by person making document.

Any tax imposed pursuant to CMC [3.12.020](#) 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. (Ord. 298 § 3, 1973; Ord. 263 § 1, 1968).

3.12.040 Instruments given to secure debt.

Any tax imposed pursuant to this chapter shall not apply to any instrument in writing given to secure a debt. (Ord. 298 § 3, 1973; Ord. 263 § 1, 1968).

3.12.050 United States or District of Columbia not liable.

The 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 chapter 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 therefor. (Ord. 298 § 3, 1973; Ord. 263 § 1, 1968).

**3.12.060 Conveyances to make effective any plan of reorganization of adjustment –
Nonapplicability.**

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

1. Confirmed under the Federal Bankruptcy Act, as amended;
2. Approved in an equity receivership proceeding in a court involving a railroad, as defined in Section 101 of Title 11 of the United States Code, as amended;
3. Approved in an equity receivership proceeding in a court involving a corporation, as defined in Section 101 of Title 11 of the United States Code, as amended; or
4. Whereby a mere change in identity, form or place or organization is affected.

B. Subsection (A) 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. (Ord. 298 § 3, 1973; Ord. 263 § 1, 1968).

3.12.070 (Reserved.)

3.12.080 Conditions for levying tax in cases of partnership transfer or termination.

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 chapter by reason of any transfer of an interest in the partnership or otherwise, if both of the following occur:

1. Such partnership (or other entity) is considered a continuing partnership within the meaning of Section 708 of the Internal Revenue Code of 1986; and
2. Such continuing 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 1986, for purposes of this part, the partnership or other entity 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 chapter by reason of a termination described in subsection (B) of this section, and any transfer pursuant thereto, with respect to the realty held by a partnership or other entity treated as a partnership at the time of the termination. (Ord. 298 § 3, 1973; Ord. 263 § 1, 1968).

D. No levy shall be imposed pursuant to this section by reason of any transfer between an individual or individuals and a legal entity or between legal entities that results solely in a change in method of holding title to the realty and in which proportional ownerships interests in realty, whether represented by stock, membership interest, partnership interest, co-tenancy interest, or otherwise directly or indirectly, remain the same immediately after the transfer.

3.12.090 County Recorder administrator of chapter.

The County Recorder shall administer this chapter in conformity with the provisions of Part 6.7 of Division 2 of the Revenue and Taxation Code (Sections 11901 et seq.) and the provisions of any County ordinance adopted pursuant thereto. (Ord. 298 § 3, 1973; Ord. 263 § 1, 1968).

3.12.100 Refunds.

Claims for refund of taxes imposed pursuant to this chapter 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. (Ord. 298 § 3, 1973; Ord. 263 § 1, 1968).

3.12.110 Operative date.

This chapter shall become operative upon the operative date of any ordinance adopted by the County, pursuant to Part 6.7 (commencing with Section 11901) of Division 2 of the Revenue and Taxation Code of the State, or upon the effective date of the ordinance codified in this chapter, whichever is the later. (Ord. 298 § 3, 1973; Ord. 263 § 1, 1968).

3.12.120 Copies on file.

Upon its adoption the City Clerk shall file two copies of the ordinance codified in this chapter with the County Recorder of the County. (Ord. 263 § 2, 1968).