



**COUNTY OF SAN JOAQUIN
ASSESSOR – RECORDER - COUNTY CLERK**

INSTRUCTIONS: AFFIDAVIT OF EXEMPTION FROM DOCUMENTARY TRANSFER TAX

Anyone wishing to file or record a document with the San Joaquin County Recorder must pay documentary transfer tax at the time of recording. Exemptions will only be made if the recording party falls under one of the categories listed below. Parties falling under an exemption category may be required to provide written documentation at the time of recording proving eligibility to the exemption; insufficient documentation will require payment of the documentary transfer tax. If the recording party wishes to dispute the fee or is eligible for a refund, written claims for refund will be accepted only up to one year after payment was made. The Recorder will investigate each claim to determine acceptance or denial.

Also be advised that any information signed under penalty of perjury and filed with this office may be shared with the federal government and Internal Revenue Service for taxation and verification purposes. The 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, see Chapter 3, Sections 11921 – 11930 of the Revenue And Taxation Code
(Documentary Transfer Tax Act)

Instrument to Secure a Debt (Section 11921)

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

United States; State or Territory; District of Columbia (Section 11922)

Any deed, instrument or writing to which the United States or any agency or instrumentality thereof, any state or territory, or political subdivision, thereof, is a party shall be exempt from any tax when the exempt agency is acquiring title.

Conveyance Incident to Plan of Reorganization or Adjustment (Section 11923)

Any tax imposed shall not apply to the making, delivering, or filing of conveyance to make effective any plan or reorganization or adjustment (a) confirmed under the Federal Bankruptcy Act as amended; (b) approved in court in an equity receivership proceeding involving a railroad corporation; (c) approved in court in an equity receivership proceeding involving a corporation; (d) whereby a mere change in identity, form, or place of organization is effected. Such exemption is valid only up to five years after the change is approved.

Conveyance Pursuant to Order of the Securities and Exchange Commission (Section 11924)

Any tax imposed shall not apply to the making or delivery of conveyances to make effective any order of the Securities and Exchange Commission.

Transfer of Partnership Interest (Section 11925)

In the case of any realty held by a partnership or other entity treated as a partnership for federal income tax purposes (corporation or LLC), no tax shall be imposed by reason of any transfer of interest in the entity if both of the following occur: (1) the entity is considered a continuing partnership within the meaning of Section 708 of the Internal Revenue Code of 1986, and (2) the continuing partnership or other entity continues to hold the realty.



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Any tax imposed shall not apply by reason of any transfer between an individual or individuals and a legal entity or between legal entities that results solely in the method of holding title to the realty and in which proportional ownership interests in the realty, whether represented by stock, membership interest, partnership interest, cotenancy interest, or otherwise, directly or indirectly, remain the same immediately after the transfer.

Instruments Taken In Lieu of Foreclosure (Section 11926)

Any tax imposed shall not apply with respect to any deed, instrument, or writing to a beneficiary or mortgagee, which is taken from the mortgagor or trustor as a result of or in lieu of foreclosure; provided that such tax shall apply to the extent that the consideration exceeds the unpaid debt including accrued interest and cost of foreclosure. Consideration, unpaid debt amount, and identification of grantee as beneficiary or mortgagee shall be noted on said instrument or stated in an affidavit under penalty of perjury.

Division of Assets Between Spouses or State Registered Domestic Partners Pursuant to Judgment or Agreement (Section 11927)

No tax will be imposed with respect to any document that purports to transfer, divide, or allocate community, quasi-community, or quasi-marital property assets between spouses for the purpose of effecting a division of such property which is required by a judgment decreeing a dissolution of the marriage, by a judgment or order rendered pursuant to the Family Code, or by a written agreement between the spouses in contemplation of such judgment. To claim this exemption, the document must contain a written recital signed by either spouse that the document is entitled to the exemption.

Conveyance by State or Political Subdivision With Agreement for Purchaser to Reconvey (Section 11928)

No tax will be imposed to any document by which realty 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 realty to the exempt agency.

Conveyance by State to Nonprofit Corporation Financed by Obligations Issued by Nonprofit Corporation on Behalf of Governmental Unit (Section 11929)

No tax shall be imposed with respect to any document by which the State of California, any political subdivision of the State of California, or any agency or instrumentality of the State or political subdivision conveys realty to a nonprofit corporation in which the acquisition, construction, or improvement of the realty was financed by obligations issued by the non-profit corporation on behalf of a governmental unit.

Intervivos Gift or Reason of Death (Section 11930)

No tax shall be imposed with respect to any document which purports to grant, assign, transfer, convey, divide, allocate, or vest realty if by reason of such intervivos gift or by reason of death the realty is transferred to any person or entity.