



# HUGH NGUYEN

## CLERK-RECORDER

BIRTH AND DEATH RECORDS  
FICTITIOUS BUSINESS NAMES  
MARRIAGE LICENSES/RECORDS  
NOTARY REGISTRATION  
ORANGE COUNTY ARCHIVES  
PASSPORTS  
PROPERTY RECORDS

### DOCUMENTARY TRANSFER TAX (Orange County Ordinance No. 2183)

The tax is imposed on each deed, instrument, or writing by which any lands, tenements, or other realty sold within the county shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser(s) or any other person(s), by his, her, or their direction. The tax rate is \$.55 for each \$500 or fraction thereof when the net consideration exceeds \$100, exclusive of the value of any liens or encumbrances remaining at the time of the sale. Each transfer tax amount must be evenly divisible by \$.55.

The net consideration is the amount of new money needed to purchase property:

|                           |                    |                      |                     |
|---------------------------|--------------------|----------------------|---------------------|
| <b>EXAMPLE No. 1</b>      |                    | <b>EXAMPLE No. 2</b> |                     |
| Sale Price                | \$200,000.00       | Sale Price           | \$200,000.00        |
| Down Payment              | \$ 50,000.00       | Down Payment         | \$ 50,000.00        |
| EXISTING Trust            |                    |                      |                     |
| Deed Assumed by Purchaser | <u>(60,000.00)</u> | NEW Loan             | <u>\$150,000.00</u> |
| Amount Taxable            | \$140,000.00       | Amount Taxable       | \$200,000.00        |
| Tax Due                   | \$ 154.00          | Tax Due              | \$ 220.00           |

### PROPERTY TRANSFER TAX DUE

Complete tax declaration:

- Designate tax amount
- Check box 1 or 2 of the declaration
- Declarant's or agent's signature determining the tax due

### EXAMPLE:

I HEREBY DECLARE THE DOCUMENTARY TRANSFER TAX IS \$ 154.00

- Computed on full value of property conveyed; or,  
 Computed on full value less liens and encumbrances remaining at the time of sale.
- City of \_\_\_\_\_ OR  Unincorporated Area

Susan B. Anthony

SIGNATURE OF DECLARANT OR AGENT - FIRM NAME

### PROPERTY TRANSFER WITH NO TAX DUE

If there is no consideration, please specifically explain why the document is exempt from transfer tax. Some acceptable reasons would be:

1. Conveyance changing manner in which title is held, grantor(s) and grantee(s) remain the same and continue to hold the same proportionate interest (R&T 11925(d) or 11911)
2. Consideration less than \$100 (R&T 11911)
3. Court ordered conveyance or decree that is not pursuant to sale (R&T 11911)
4. Deed due to dissolution of marriage or legal separation (R&T 11927)
5. Deed to confirm a change of name (R&T 11911)
6. Deed to establish sole and separate property of a spouse (R&T 11911)
7. Deed to secure a debt (R&T 11921)
8. Gift deed (not to be used in divisions of community property) (R&T 11911)
9. Inter-family transfer without consideration (R&T 11911)
10. Conveyance is to an exempt governmental entity or political subdivision (R&T 11922)
11. The document is for a lease for a term of less than thirty-five (35) years (including options) (R&T 11911)
12. The easement is not perpetual, permanent or for life (R&T 11911)
13. The grantee is the foreclosing beneficiary and the consideration paid does not exceed the unpaid debt (R&T 11926)
14. The instrument is from a trustor to a beneficiary, in lieu of foreclosure, and no additional consideration was paid (R&T 11926)
15. Transfer into or out of a trust (for the benefit of the same trustor/trustee) (R&T 11911, 11930)
16. Agent to principal

This statement must be signed on the document or on a separate signed declaration by the declarant or agent determining the tax due:

### EXAMPLE:

I HEREBY DECLARE THE DOCUMENTARY TRANSFER TAX IS \$ Gift Deed

- Computed on full value of property conveyed; or,  
 Computed on full value less liens and encumbrances remaining at the time of sale.
- City of \_\_\_\_\_ OR  Unincorporated Area

Susan B. Anthony

NORTH COUNTY BRANCH OFFICE  
WELLS FARGO BUILDING  
222 S. HARBOR BLVD., STE 110  
ANAHEIM, CALIFORNIA 92805

ORANGE COUNTY  
COUNTY ADMINISTRATION SOUTH  
601 N. ROSS STREET  
SANTA ANA, CALIFORNIA 92701

OLD ORANGE COUNTY  
COURTHOUSE  
211 W. SANTA ANA BLVD. ROOM 201  
SANTA ANA, CALIFORNIA 92701

SOUTH COUNTY BRANCH OFFICE  
LAGUNA HILLS CIVIC CENTER  
24031 EL TORO ROAD, SUITE 150  
LAGUNA HILLS, CALIFORNIA 92653

## CORPORATIONS (Revised 11/88)

Corporations are separate entities from the individual stockholders. Therefore, a contribution to the corporation in exchange for shares of stock IS taxable on the value (less liens) of the property. A conveyance of realty by a corporation in liquidation or in dissolution to its shareholders subject to the debts of the corporation IS subject to tax. If there are no corporate debts and the conveyance is made solely for the cancellation and retirement of the capital stock, the tax does NOT apply.

A new County Counsel opinion changes our method of calculating transfer tax on transfers between corporations. Tax will no longer be assessed if a transfer is between a parent and wholly-owned subsidiary corporation or between two wholly-owned subsidiaries of a single parent. However, if the ownership is other than 100%, tax will be due on the percentage owned by all entities other than the parent corporation.

If the transfer is an outright gift to a non-profit corporation, please so state on the deed, as it is exempt from the tax.

## LEASES

Any lease that is for a term of more than 35 years, (assuming the lease is renewable for an indefinite term or terms) or that can in any way be interpreted as being for an indefinite term, IS subject to tax. Treat it as you would a deed. The same is true for assignments of lease (lessee's interest).

A lease or an assignment for a definite period, less than 35 years, is exempt. An assignment for collateral or security is exempt. The reason for exemption must be stated on the document or on a separate signed sheet to be considered as such.

## PARTNERSHIPS (R&T Code 11925)

The Federal codes view partnerships as groups of individuals, and they are treated as such.

A conveyance of realty by a partner to the partnership as a contribution of partnership assets IS TAXABLE, on the value, less liens, and less the percentage the grantor owns of the partnership.

EXAMPLE: Partner A is granting into partnership "A-B-C, Ltd.", a property valued at \$120,000. He is a 10% owner of the partnership. The liens against the property are \$30,000. The formula is:

|                |                  |
|----------------|------------------|
| Property Value | \$120,000        |
| Liens          | <u>- 30,000</u>  |
|                | \$ 90,000 Equity |

|   |                |
|---|----------------|
| He retains 10% of anything the partnership owns, 10% of equity tax collected on | <u>- 9,000</u> |
|   | \$ 81,000      |

The sum of \$81,000 is the 90% of the equity of the property he is giving up as a contribution to the partnership.

The same formula may be used when a partnership is dissolving and distributing its assets to the partners.

Example: Partnership "A-B" is dissolving. Partners A and B are the only partners, and each has 50% of the partnership. Partnership "A-B" grants to partner A lot 1, and partnership "A-B" grants to partner B lot 2. Partner A is exchanging his 50% of the equity interest in lot 2 for B's 50% equity in lot 1, and vice versa. Both deeds are taxable on 50% of the equity of the property conveyed.

A partnership transfer is exempt only if *the grantors are all of the partners, and hold the property in the same percentage as they hold interest in the partnership.*

Example: A and B own property, each 50% interest. They grant the property to partnership "A-B" in which they are the only partners, and each hold a 50% interest in the partnership. Transfer tax is not due in this instance. The reverse is true also, if the property from the partnership to A and B as individuals. Please remember that to be exempt, the same property must go to all the partners in their individual capacities. If various pieces of property are distributed to the various partners (partner A gets lot 1, partner B gets lot 2, etc.), then a tax is collected on the percentage of the equity received by each partner.