

Documentary Transfer Tax – Exemptions

The following are examples of **categories** of some of the most common conveyances that are exempt from the Documentary Transfer Tax under San Mateo County's Ordinance and State Revenue and Taxation Code section 11902 through 11934. A claimed exemption must be stated on the document in the tax declaration area. **Transfers to corporations, partnerships, and LLC's – these are taxable transfers unless the R&T Code 11925 applies.**

- **Gift deed** - (can be an inter vivos gift (between living persons) or a transfer as a result of a death) – Revenue and Taxation Code Sec. 11930
- **Confirms Title in Grantees Name** – A deed which removes a cloud on title. The grantor has no interest in the property, such as one spouse deeding to the other to remove any possible community property interest – a non-title spouse. R&T code Sec. 11911
- **Dissolution of Marriage** – An allocation of real property pursuant to a judgment of dissolution of marriage, or an agreement in contemplation of such judgment. R&T Code Sec. 11927
- **Certain Trust Transfers** – A deed that transfers the grantor's interest to or from a revocable trust, & **statement is made that the trust is for the benefit of the grantor, and the transfer is not pursuant to a sale.** R&T Code Sec. 11930
- **Transfers which change the manner in which title is held** – This only applies to conveyances where the grantors & grantees are the same & their percentage of interest does not change. (for example, a transfer from community property to joint tenancy) R&T Code Sec. 11911
- **Certain Court Ordered Conveyances** – If a court orders that property be conveyed for no consideration. For example, deed given by an executor in accordance with terms of a will & not pursuant to a sale. R&T Code Sec. 11911
- **Conveyance which confirms a Name Change** – This applies to a change in the name of the entity or person holding title – grantor & grantee are the same party. Name changes relating to a marriage or a corporate name change are examples. R&T Code Sec. 11911
- **Agent acting for Principal** – A deed where the grantor is acting as an agent for the grantee & is acting solely in the capacity of an agent. R&T Code Sec. 11911
- **Certain Leases and Assignments of Leases** – Leases and assignments of leases that have a term, plus options for renewal, of less than 35 years. R&T Code Sec. 11911
- **Changes in the method of holding title** – In which the grantor & grantee remain the same and the proportionate interest in the realty remains the same after the transfer; whether represented by stock, membership interest, partnership interest, co-tenancy interest, or LLC. Can include conveyances made solely for the purpose of cancellation & retirement of corporation capital stock. **R&T Code Sec. 11925**
- **Deed to a Public Entity** – Any deed to a political subdivision of the United States. R&T Code Sec. 11922
- **Conveyance made in lieu of foreclosure** – where consideration is less than the unpaid debt. (Must clarify whether grantee is the foreclosing beneficiary)
- **Consideration less than \$100** – no tax due – exclusive of liens & encumbrances. R&T Code Sec. 11911
- **Conveyances where liens & encumbrances are equal to or more than the value of the property, & there is no further consideration received by the grantor** – Value of the property is \$100 or less, exclusive of liens & encumbrances. R&T Code 11911

Revenue & Taxation Code 11925 (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 part by reason of any transfer of an interest in the partnership or other entity or otherwise, if both of the following occur:

- (1) The partnership or other entity treated as a partnership is considered a continuing partnership within the meaning of Section 708 of the Internal Revenue Code of 1986.
- (2) The continuing partnership or other entity treated as a 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 the partnership or other entity at the time of the termination.
 - (c) Not more than one tax shall be imposed pursuant to this part by a county, city and county or city by reason of a termination described in subdivision (b), 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.
 - (d) No levy shall be imposed pursuant to this part 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 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.