

San Francisco Supervisors Propose Increase in Real Property Transfer Tax

by Richard E. Nielsen, Craig A. Becker and Jonathan A. Mikhalevsky

On July 22, 2008, the San Francisco Board of Supervisors voted 10-1 to place Supervisor Aaron Peskin's proposal to increase the city's Real Property Transfer Tax on the November ballot. The proposal expands the definition of "realty sold" and increases the tax on real estate transfers of \$5 million and above, applying a tax of 1.5% on the full amount of the purchase.

In an effort to increase San Francisco's tax revenue, Supervisor Peskin's measure would increase the transfer tax from 0.75% to 1.5% for the transfer of real property with a sales price of \$5 million or more, expand the definition of "realty sold" to include the transfer of controlling interests in entities owning real property and apply the tax to transfers of leaseholds of 35 years or more.

State law requires that tax increases affecting real property transfers appear on the ballot and be approved by a majority of the electorate to become operative. A similar proposal seeking to increase the Real Property Transfer Tax on property costing at least \$1 million was defeated by voters in 2002.

Peskin's Tax Proposal

Among the more controversial provisions for taxpayers are:

- Doubling the Real Property Transfer Tax on realty sold for a sales price of \$5 million and above, bringing the tax to a rate of 1.5% on the full sales price.
- Expanding the definition of "realty sold" to include any acquisition or transfer of ownership interests in a legal entity that would prompt a Proposition 13 reassessment under California property tax law.
- Applying the Real Property Transfer Tax to transfers of leaseholds of 35 years or more, rather than the current tax on transfers of leaseholds of 50 years or more.
- Exempting up to one-third of the Real Property Transfer Tax on residential property for the cost of installing an active solar system, not to exceed the cost of installation and only if the Assessor has approved an exclusion from reassessment for the value of the system.

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- Exempting up to one-third of the Real Property Transfer Tax on residential property for the cost of seismic retrofitting improvements or improvements utilizing earthquake hazard mitigation technologies, not to exceed the cost of installation and only if the Assessor has approved an exclusion from reassessment for the value of the system.

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