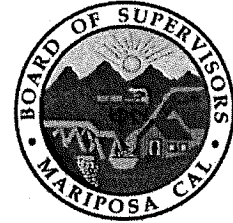




# MARIPOSA COUNTY

Assessor-Recorder · (209)966-2332



## **ORDINANCE 2015-1110**

MEETING: March 24, 2015

TO: The Board of Supervisors

FROM: Becky Crafts, Assessor-Recorder

RE: Ordinance Amending Chapter 3.28 Mariposa County Code

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### **RECOMMENDED ACTION AND JUSTIFICATION:**

Waive Second Reading and Adopt an Ordinance Amending Chapter 3.28 of the Mariposa County Code Entitled "Real Property Transfer Tax."

The current code needs to be amended to reflect the current changes that have been made to the Revenue and Taxation Code to achieve equitable treatment of all changes of ownership.

### **BACKGROUND AND HISTORY OF BOARD ACTIONS:**

This ordinance was introduced on March 10, 2015.

The code was last updated in 1977 and in 1967.

### **ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

Mariposa County Code will not reflect current updates.

### **ATTACHMENTS:**

Ord Amending Doc Tax 2nd reading (DOC)

### **CAO RECOMMENDATION**

Requested Action Recommended

*Mary Hodson*

Mary Hodson, CAO

3/5/2015

**RESULT: ADOPTED [UNANIMOUS]**

**MOVER:** Rosemarie Smallcombe, District I Supervisor

**SECONDER:** Marshall Long, District III Supervisor

**AYES:** Rosemarie Smallcombe, Merlin Jones, Marshall Long, Kevin Cann

**EXCUSED:** John Carrier

**MARIPOSA COUNTY ORDINANCE NO. 1110**

**AN ORDINANCE AMENDING CHAPTER 3.28  
OF THE MARIPOSA COUNTY CODE**

**WHEREAS**, the Board of Supervisors desire to amend Chapter 3.28 of the Mariposa County Code, and

**WHEREAS**, this amendment is to achieve equitable treatment of all changes of ownership of real property to reflect the expanded definition of “realty sold” contained in California Constitution Article XIII A adopted by the voters in June 1978.

**NOW, THEREFORE, THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY**, a political subdivision of the State of California, does ordain as follows:

**SECTION I:** Chapter 3.28 of the Mariposa County Code is hereby amended to read as follows:

**DOCUMENTARY TRANSFER TAX**

**3.28.010 Citation.**

This chapter shall be known as the “documentary transfer tax regulations of the County of Mariposa.” It is adopted pursuant to Part 6.7, commencing with Section 11901 of Division 2 of the Revenue and Taxation Code and Part 0.5, commencing with Section 60 of Division 1 of the Revenue and Taxation Code with special reference to Sections 64(c) and 64(d).

**3.28.020 Imposition of tax.**

There 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) any other person or persons by his or their direction, when the consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrances remaining thereon at the time of sale) exceeds one hundred dollars, a tax at the rate of fifty-five cents for each five hundred dollars or fractional part thereof. For purposes of this section “realty sold” is defined as a change of ownership as set forth in Part 0.5, commencing with Section 60 of Division 1 of the Revenue and Taxation Code with special reference to Sections 64(c) and 64(d).

**3.28.070 Tax not applicable under plan of reorganization or adjustment.**

A. The tax imposed pursuant to this chapter shall not apply to the making, delivering or filing of conveyances to make effective any plan of reorganization or 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 proceedings in a court involving a corporation , as defined Section 101 of Title 11 of the United States Code, as amended; or

4. Whereby a mere change in identity, form or place of organization is affected.

B. Subdivision 1 to 4, inclusive, 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.

**3.28.080 (Repealed)**

**3.28.090 Tax not applicable by reason of transfer of interest in partnership.**

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

B. Such partnership (or other entity) is considered a continuing partnership within the meaning of Section 708 of the Internal Revenue Code of 1986; and

C. Such continuing partnership continues to hold the realty concerned.

**3.28.100 Partnership--Termination--Conveyance of realty.**

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.

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.

**3.28.110 Partnership--Termination--Imposition of one tax only.**

Not more than one tax shall be imposed pursuant to this chapter by reason of a termination described in Section 3.28.100, 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

**3.28.120 Credit granted when tax imposed.**

If the legislative body of any city in the county imposes a tax pursuant to Revenue and Taxation Code Section 11911 equal to one-half the amount specified in Section 3.28.020 of this chapter, a credit shall be granted against the taxes due under this chapter in the amount of the city's tax.

**3.28.130 (Repealed)**

**3.28.140 Administration of chapter.**

A. The county recorder shall administer this chapter and shall also administer any ordinance adopted by any city in the county pursuant to Part 6.7 (commencing with Section 11901) of Division 2 of the Revenue and Taxation Code imposing a tax for which a credit is allowed by this chapter.

B. On or before the fifteenth day of the month, the recorder shall report to the county auditor the amounts of taxes collected during the preceding month pursuant to this chapter and each such city ordinance. The auditor shall allocate and distribute monthly the taxes as follows:

1. All monies which relate to transfers of real property located in the unincorporated territory of the county shall be allocated to the county.

2. All monies which relate to transfers of real property located in a city in the county which has imposed a tax pursuant to said Part 6.7 shall be allocated one-half to such city and one-half to the county.

3. All money which relates to transfers of real property located in a city which imposes a tax on transfers of real property not in conformity with Part 6.7 shall be collected and allocated entirely to the county.

4. All monies which relate to transfers of real property in a city in the county which does not impose a tax on transfers of real property shall be allocated to the county.

#### **3.28.150 Record of tax paid--Declaration.**

A. The recorder shall not record any deed, instrument, or writing subject to the tax imposed by this chapter unless the tax is paid at the time of recording. A declaration of the amount of tax due, signed by the party determining the tax or by his agent, shall appear on the face of the document. The recorder may rely thereon; provided he has no reason to believe that the full amount of the tax due has not been paid. The declaration shall include a statement showing whether the consideration or value was computed on the full value of the property or on the full value of the property less liens and encumbrances at the time of sale.

B. Every document subject to tax under this chapter which is submitted for recordation shall show on the face of the document, the location of the lands, tenements or other realty described in the document. If the lands, tenements or other realty are located within a city in the county, the name of the city shall be set forth. If the lands, tenements or other realty are located in the unincorporated area of the county, that fact shall be set forth.

#### **3.28.170 (Repealed)**

#### **3.28.190 Assessor's Parcel Number requirements**

A. It shall be required that each deed, instrument or writing by which lands, tenements or other realty is sold, granted, assigned, transferred, or otherwise conveyed, shall have noted upon it the Assessor's Parcel Number. The recorder shall not record any such deed, instrument or writing unless the assessor's parcel number is noted on it. The person who requests that such a document be recorded shall be charged with providing the recorder with the correct assessor's parcel number.

B. The number required by this section shall be used solely for administrative and procedural purposes. It shall not constitute proof of title. In the event of conflicts, the stated legal description shall govern.

C. The validity of any such deed, instrument or writing shall not be affected by the fact that the assessor's parcel number noted on it is erroneous or is omitted, and no liability

shall attach to any person for such an error or omission.

**3.28.200 Tax as a debt.**

The amount of any tax imposed by this chapter shall be deemed a debt owed to the county. Any person owing the tax shall be liable in an action brought in the name of the county for the recovery of such debt. The provisions of this section shall not be deemed a limitation upon the right of the county to bring any other action including criminal, civil and equitable actions, based upon the failure to pay the tax imposed by this chapter or the failure to comply with any of the provisions hereof.

**3.28.210 Manner of giving notice.**

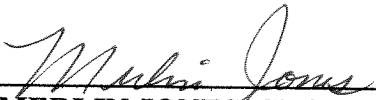
A. Any notice required to be given hereunder by the recorder or the board to any person shall be sufficiently given or served if it is personally served upon such person or if it is deposited, with prepaid postage, in a post office letter box addressed to the person at the address for such person given on a document or a refund claim form, or if no such address is available, to the person at the official address maintained by the treasurer-tax collector for mailing of tax bills levied against the real property that was transferred without full payment of tax or, if no such address is available, to the person at the address of said real property. Notice shall be deemed effective when it is personally served or deposited in the mail.

B. The failure of the owner or any other person to receive any notice required by this chapter to be given shall not affect the validity of any proceedings taken pursuant thereto.


**SECTION II: This Ordinance shall become effective thirty (30) days after final passage pursuant to Government Code §25123.**

**PASSED AND ADOPTED** by the Board of Supervisors of Mariposa County this 24<sup>th</sup> day of March 2015 by the following vote:

AYES: SMALLCOMBE, JONES, LONG, CANN  
NOES: NONE  
ABSENT: NONE  
ABSTAINED: CARRIER

  
\_\_\_\_\_  
**MERLIN JONES**, Chairman  
Mariposa County Board of Supervisors

**ATTEST:**

  
\_\_\_\_\_  
**RENE' LAROCHE**  
Clerk of the Board

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
**STEVEN W. DAHLEM**  
County Counsel