



The Secret Is Out: The Documentary Transfer Tax Will Now Be Part of Public Record

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The Documentary Transfer Tax Act allows each county and city to impose a tax on each deed, instrument, or writing by which any real estate is sold within the county at the time the document is recorded. Assembly Bill No. 1888 ("AB 1888") deals a huge blow to real estate sellers and buyers in California who desire confidentiality as to price, by eliminating a valuable exception many relied on to keep the amount of documentary transfer tax due out of the public eye.

Current California law requires that once a document subject to a tax is submitted for recordation at the County Recorder's Office, the amount of tax is displayed on the face of a document. However, current law also provides that the parties may bypass that requirement and request that the amount of tax will be shown instead on a separate piece of paper that will be attached to the document after it is recorded and before the original is returned to the parties. If the amount of tax due by the parties is listed on a separate page that is not part of public records, the public cannot find out the amount of tax imposed on the property or derive the property value from the recorded instrument.

AB 1888, approved by the Governor on June 4, 2014, is detrimental to parties wanting to keep the tax information, and thereby the consideration paid for the property, private. AB 1888 eliminates the parties' right to request that the amount of documentary transfer tax will be kept out of public records. Effective January 1, 2015, **every** document that is submitted for recordation must show on the face of the document the amount of documentary transfer tax due. AB 1888 prohibits the recorder from recording any deed, instrument or writing subject to the documentary transfer tax unless a signed declaration of the amount of tax due appears on the face of the document for all to see.

As we move into the last part of the year, parties preparing purchase and sale agreements for 2015 closings may want to adjust the form of deed attached as an exhibit to reflect the new requirements.