

ORDINANCE NO. _____

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF
MONTEREY, STATE OF CALIFORNIA, AMENDING CHAPTER 5.32 OF THE
MONTEREY COUNTY CODE AS IT RELATES TO DOCUMENTARY
TRANSFER TAX.**

County Counsel Summary

This ordinance amends Section 5.32.120 of the Monterey County Code as it relates to the provision of the local Documentary Transfer Tax Ordinance that otherwise permitted a recording party to have the amount of local Documentary Transfer Tax paid affixed to a separate and non-recorded document. The amendment reflects the recently enacted state law that revoked that option as a matter of law.

The Board of Supervisors of the County of Monterey ordain as follows:

SECTION 1. PURPOSE. The “Real Property Transfer Tax Ordinance” that was originally effective January 1, 1968, is codified at Chapter 5.32 of the Monterey County Code. Section 5.32.120 of the originally-enacted provisions must be amended to reflect the current law related to the repeal of the use of a separate non-recorded payment of DTT fees page. This change is necessary in order to comply with current state law.

SECTION 2. Section 5.32.120 of Chapter 5.32 (Documentary Transfer Tax) of the Monterey County Code is amended to read as follows:

5.32.120 - Recordation procedure.

A. Every document subject to tax under this Chapter which is submitted for recordation shall show on the face of the document the amount of tax due and the incorporated or unincorporated location of the lands, tenements or other realty described in the document.

B. [Reserved]

C. 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 his or her agent, shall appear on the face of the document, and the Recorder may rely on such declaration; provided he or she has no reason to believe that the full amount of the tax due has not been paid. The declaration shall include a statement that the consideration or value on which the tax due was computed was, or that it was not, exclusive of the value of a lien or encumbrance remaining on the interest or property conveyed at the time of sale.

SECTION 3. The amendment to the Ordinance herein does not create new law, but only reflects existing state and federal law. Notwithstanding this restatement of existing law, the charges generated for these transactions continue to reflect no more than the reasonable and actual regulatory costs to the County for performing the investigation and audit services and the administrative enforcement and adjudication thereof on behalf of and arising from the real property transaction of the payor. [Cal.Const.Art. 13C, sec. 1(e)(1),(2) and (3).]

SECTION 4. If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Supervisors of the County of Monterey hereby declares it would have passed and adopted this Ordinance and each and all provisions hereof irrespective of the fact that any one or more of said provisions be declared invalid.

SECTION 5. Unless otherwise specifically modified/amended herein, the remainder of Chapter 5.32 remains unchanged.

SECTION 6. This Ordinance shall be effective on the thirty-first day following its adoption.

PASSED AND ADOPTED on this _____ day of _____, 2016, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Chair, Board of Supervisors

A T T E S T

Gail T. Borkowski
Clerk of the Board of Supervisors

By: _____
Deputy

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| <p align="center">APPROVED AS TO FORM Office of County Counsel</p> <p>By: <u>Kay Beaman</u> Senior Deputy County Counsel</p> <p>Date: <u>2/25/16</u></p> | <p align="center">Approved by the Monterey County Board of Supervisors</p> <p>Date: _____</p> <p>Processed by: _____</p> <p align="center">_____ Deputy Clerk of the Board</p> |
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I HEREBY CERTIFY THAT THE ORDINANCE ABOVE WAS POSTED IN THE OFFICE OF THE CLERK OF THE BOARD IN THE ADMINISTRATIVE BUILDING, 168 W. ALISAL STREET, 1ST FLOOR, SALINAS, CALIFORNIA ON _____.

_____, DEPUTY
GAIL T. BORKOWSKI
CLERK OF THE BOARD