

Chapter 3.08

DOCUMENTARY STAMP TAX

Sections:

- 3.08.010 Title—Adoption.**
- 3.08.020 Imposed—Rate.**
- 3.08.030 Applicability.**
- 3.08.040 Exemption—Debt—
Foreclosure—Dissolution
of marriage.**
- 3.08.050 Exemption—Government
agency.**
- 3.08.060 Exemption—
Reorganization or
bankruptcy.**
- 3.08.070 Exemption—Securities and
Exchange Commission
conveyance.**
- 3.08.080 Exemption—Transfer of
partnership interest.**
- 3.08.090 Administration.**
- 3.08.100 Refund claims.**
- 3.08.110 Operative date.**

3.08.010 Title—Adoption.

The ordinance codified in this chapter shall be known as the "real property transfer tax ordinance of the city of Ripon." It is adopted pursuant to the authority contained in Part 6.7 (commencing with Section 11901) of Division 2 of the Revenue and Taxation Code of the state. (Ord. 194 § 1, 1967)

3.08.020 Imposed—Rate.

There is imposed on each deed, instrument or writing by which any lands, tenements or other realty sold within the city shall be granted, assigned, transferred or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by this or their direction, when the consideration

or value of the interest or property conveyed (exclusive of the value of any liens or encumbrances remaining thereon at the time of sale) exceeds one hundred dollars, a tax at the rate of twenty-seven and one-half cents for each five hundred dollars or fractional part thereof. (Ord. 194 § 2, 1967)

3.08.030 Applicability.

Any tax imposed pursuant to Section 3.08.020 of this chapter shall be paid by any person who makes, signs or issues any document or instrument subject to the tax, or for whose use or benefit the same is made, signed or issued. (Ord. 194 § 3, 1967)

3.08.040 Exemption—Debt Foreclosure—Dissolution of Marriage.

A. Any tax imposed pursuant to this chapter shall not apply to any instrument in writing given to secure a debt.

B. Any tax imposed pursuant to this chapter shall also not apply with respect to any deed, instrument or writing to a beneficiary or mortgagee which is taken from the mortgagor or trustor as a result of or in lieu of foreclosure; provided, that such tax shall apply to the extent that the consideration exceeds the unpaid debt, including accrued interest and cost of foreclosure. Consideration unpaid, unpaid debt amount and identification of grantee as beneficiary or mortgagee shall be noted on the deed, instrument or writing or stated in an affidavit or declaration under penalty of perjury for tax purposes.

C. Any tax imposed pursuant to this chapter shall not apply with respect to any deed, instrument or other writing which purports to transfer, divide or allocate

community, quasi-community, or quasi-marital property assets between spouses for the purpose of effecting a division of community, quasi-community or quasi-marital property which is required by judgment decreeing a dissolution of the marriage or legal separation, by judgment of nullity or by any other judgment or order rendered pursuant to Part 5, commencing with Section 4000 of Division 4 of the Civil Code, or by a written agreement between the spouses, executed in contemplation of any such judgment or order, whether or not the agreement is incorporated as part of any of those judgments or orders. In order to qualify for the above exemption for the transfer or allocation of property between spouses, the deed, instrument or other writing shall include a written recital, signed by either spouse, stating that the deed, instrument or other writing is entitled to the exemption provided for by this section. (Ord. 366 § 1, 1986; Ord. 194 § 4, 1967)

3.08.050 Exemption—government Agency.

Any deed, instrument or writing to which the United States or any agency or instrumentality thereof, any state or territory, or political subdivision thereof, is a party, shall be exempt from any tax imposed pursuant to this chapter when the exempt agency is acquiring title. (Ord. 366 § 2, 1986; Ord. 194 § 5, 1967)

3.08.060 Exemption—reorganization or Bankruptcy.

A. Any 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 corporation, as defined in subdivision (m) of Section 205 of Title 11 of the United States Code, as amended;

3. Approved in an equity receivership proceeding in a court involving a corporation, as defined in subdivision (3) of Section 506 of Title 11 of the United States Code, as amended; or

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

B. Subsections A1 to A4, inclusive, of this section shall apply only 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. (Ord. 194 § 6, 1967)

3.08.070 Exemption—securities and Exchange Commission Conveyance.

Any tax imposed pursuant to this chapter shall not apply to the making or delivery of conveyances to make effective any order of the Securities and Exchange Commission, as defined in subdivision (a) of Section 1083 of the Internal Revenue Code of 1954, but only if

- A. The order of the Securities and Exchange Commission in obedience to which such conveyance is made recites that such conveyance is necessary or appropriate to effectuate the provisions of Section 79k of Title 15 of the United States Code, relating to the Public Utility Holding Company Act of 1935;

- B. Such order specifies the property which is ordered to be conveyed;

C. Such conveyance is made in obedience to such order. (Ord. 194 § 7, 1967)

3.08.080 Exemption—transfer of Partnership Interest.

A. In the case of any realty held by a partnership, no levy shall be imposed pursuant to this chapter by reason of any transfer of an interest in a partnership or otherwise, if:

1. Such partnership (or another partnership) is considered a continuing partnership within the meaning of Section 708 of the Internal Revenue Code of 1954; and

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

B. If there is a termination of any partnership within the meaning of Section 708 of the Internal Revenue Code of 1954, for purposes of this chapter, such partnership 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 such partnership at the time of such termination.

C. Not more than one tax shall be imposed pursuant to this chapter by reason of a termination described in subsection B of this section, and any transfer pursuant thereto, with respect to the realty held by such

partnership at the time of such termination. (Ord. 194 § 8, 1967)

3.08.090 Administration.

The county recorder shall administer this chapter in conformity with the provisions of Part 6.7 of Division 2 of the Revenue and Taxation Code and the provisions of any county ordinance adopted pursuant thereto. (Ord. 194 § 9, 1967)

3.08.100 Refund claims.

Claims for refund of taxes imposed pursuant to this chapter shall be governed by the provisions of Chapter 5 (commencing with Section 5096) of Part 9 of Division 1 of the Revenue and Taxation Code of the state. (Ord. 194 § 10, 1967)

3.08.110 Operative date.

This chapter shall become operative upon the operative date of any ordinance adopted by San Joaquin County, pursuant to Part 6.7 (commencing with Section 11901) of Division 2 of the Revenue and Taxation Code of the state, or upon the effective date of the ordinance codified in this chapter, whichever is the later. (Ord. 194 § 11, 1967)