

Massive New Los Angeles Transfer Tax

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Effective April 1, 2023, a new documentary-transfer tax will be imposed on residential and commercial real-property sales and transfers within the City of Los Angeles where the consideration or value is greater than \$5 million. The new tax was approved by a ballot initiative entitled Measure ULA (United to House L.A.) in the November 8, 2022 election and is commonly known as the “mansion tax” but is officially called the “Homelessness and Housing Solutions Tax.”

The current documentary-transfer tax in the City of Los Angeles is a combined city and county tax of 0.56% of consideration or value. The new tax, which is in addition to the current transfer tax, is 4.00% of consideration or value if the consideration or value exceeds \$5 million and 5.50% of consideration or value if the consideration or value exceeds \$10 million. The tax applies to the total consideration or value and not just to the amount in excess of these thresholds. The tax applies regardless of whether the property is sold at a gain or a loss. For example, if a property is sold for \$20 million, the total transfer taxes will be \$1.212 million (\$112,000 for the current transfer tax plus \$1.1 million for the new transfer tax). These thresholds are adjusted annually according to the Consumer Price Index. The new law does not specify whether the tax is to be paid by the seller or the buyer, so allocation of the tax is subject to negotiation.

Exemptions from the tax are granted to nonprofit entities, governmental entities, and certain organizations primarily involved in affordable-housing development and property management.

Revenue generated by the new tax is intended to be used to fund affordable housing and tenant assistance programs, including development, construction, acquisition, rehabilitation, and operation of housing. Proponents of the tax project that the tax will generate up to \$1 billion.

The City director of finance is authorized to issue rules and regulations necessary to enforce and administer the tax. It is expected that such rules and regulations will cover the applicability of the tax to equity transfers, affiliate transfers, estate-planning transfers, conversions from one type of entity to another, mortgage foreclosures, and deeds in lieu of foreclosure. Under the current tax, equity transfers of 50% or more are subject to the tax, and certain affiliate transfers, estate-planning transfers, conversions, mortgage foreclosures, and deeds in lieu of foreclosure are exempt.

A lawsuit has been filed against the City by the Howard Jarvis Taxpayers Association and the Apartment Association of Greater Los Angeles to invalidate the tax as a violation of the California Constitution, which prohibits taxes on real property where the proceeds would be used for specific purposes.

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