



# JOURNAL

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## CALIFORNIA SUPREME COURT UPHOLDS BROAD APPLICATION OF DOCUMENTARY TRANSFER TAX

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[www.cta.org/news/353547/California-Supreme-Court-Upholds-Broad-Application-of-Documentary-Transfer-Tax](http://www.cta.org/news/353547/California-Supreme-Court-Upholds-Broad-Application-of-Documentary-Transfer-Tax)

**On June 29th, the California Supreme Court decided 6-1 that a change of ownership under Proposition 13 justifies charging a documentary transfer tax, even when there is no direct transfer of a real property interest.**

Even before the Supreme Court decision, some title companies were getting rather inappropriate requests for legal and tax advice on how to structure transactions to avoid the tax because of the existing opinion by the Court of Appeal.

The import of the majority of the Supreme Court is to essentially equate a Proposition 13 change of ownership that requires a reassessment, with a transfer subject to the Documentary Transfer Tax Act.

*(Continued on reverse)*



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The analysis in *926 North Ardmore Avenue v. County of Los Angeles* looked at whether there is a transfer for purposes of the documentary transfer tax when there is a written transfer of a beneficial ownership that qualifies for reassessment under California property tax law. Essentially the question was whether an indirect change of ownership transferring ownership in a legal entity can also satisfy the requirement for imposing a documentary transfer tax.

Not all cities and counties have imposed the documentary transfer tax on transfers of interests in legal entities. Because this decision removes uncertainty, it may encourage local governments that have not been applying the tax to indirect changes of control to now start doing so. The dissent pointed out that these were two different statutory schemes but the majority concluded that its interpretation satisfies the purpose behind the tax.

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