



KAREN BASS
MAYOR

August 8, 2024

Honorable Members of the Los Angeles City Council
c/o Office of the City Clerk
200 North Spring Street, Room 395
Los Angeles, CA 90012

RE: ULA Report: CF 23-0829

Dear Honorable Members:

Council Motion 23-0829 has requested a variety of information and analysis of Documentary Transfer Tax and Measure ULA receipts and the effectiveness of Los Angeles County's collection of these taxes. This report provides the requested historical data, discusses collections, enforcement, and reporting issues with both taxes and provides recommendations for potential improvements.

As this report is written, the City has received one full year of ULA receipts. While this first year was heavily influenced by a general slowing of the real estate market as well as an artificial drop in high-end activity immediately following the effective date of the new tax, it is still a good marker to use in analyzing this new revenue stream.

The Office of Finance has published Frequently Asked Questions (FAQ) on its website at <https://finance.lacity.gov/faq/measure-ula> where members of the public can find information about the new tax.

BACKGROUND

The City's Documentary Transfer Tax, referred to in the Los Angeles Municipal Code (LAMC) as the Real Property Transfer Tax, is enacted and defined in LAMC Article 1.9. The tax was originally enacted in 1966, and was raised to the current base rate of \$2.25 per \$500 in valuation in 1991. The Code states that the tax is "imposed on each deed, instrument or writing by which any lands, tenements, or other realty sold within the City of Los Angeles shall be granted, assigned, transferred or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons.

Los Angeles County also imposes a Real Property Transfer Tax, applying to all deeds recorded in the County, including within the City. This tax is \$0.55 per \$500 of valuation.



Measure ULA was approved by the voters of the City of Los Angeles in November 2022, adding section 21.9.2(b) to the LAMC. This new section imposes an additional tax, the Homelessness and Housing Solutions Tax, on deeds valued over \$5,000,000.

There are two tiers of rates under this new tax: 4 percent for deeds valued over \$5,000,000 but under \$10,000,000; and 5.5 percent for deeds valued \$10,000,000 or greater. The Homelessness and Housing Solutions Tax is imposed in addition to the Real Property Transfer Tax imposed by section 21.9.2(a). The new tax applies to transactions that occur on or after April 1, 2023. Pursuant to the code, the \$5,000,000 and \$10,000,000 thresholds are to be adjusted annually to account for inflation. This Office has determined that the best methodology for predictability and public notice of the changes is to calculate CPI growth on a calendar year basis and then implement the new thresholds effective July 1 of the following year. For the first year's adjustment, the thresholds will increase by three percent, to \$5,150,000 and \$10,300,000 respectively. Finance has posted this information on its website and pushed it out to the real estate industry using the County Recorder's industry email distribution list.

The new LAMC code sections also include provisions for various exemptions from the tax. These exemptions fall generally into two categories: established non-profit entities and affordable housing developers/managers. Qualification as a non-profit entity is straightforward, requiring that the entity taking title to the property meets two criteria: 1) the entity is registered with the IRS as a 501c3 and has been so for more than ten years, and 2) the entity has total assets of less than \$1 billion. Qualification as a housing developer/manager requires additional documentation and vetting, which is described and implemented by a combination of code language and implementation published by the Housing Department.

These exemptions can be exercised either before the transaction or after. Entities which receive an exemption prior to recording the transaction can simply include the exemption letter in the closing documents and not pay the ULA portion of the City tax. If the exemption is granted subsequent to the transaction being recorded and the ULA tax being paid, the entity which paid the tax may file a claim for refund with the Office of Finance. To date, 43 entities have been exempted prior to the tax being paid, with an estimated total tax waived of \$36 million. Three entities have claimed refunds of tax paid based on exemption status determined after the fact, and these claims are currently being processed through the normal refund review and approval process.

COLLECTIONS AND ENFORCEMENT

Both the City's Real Property Transfer Tax (DTT) and the Homelessness and Housing Solutions Tax (ULA tax) are collected by the County of Los Angeles Registrar/Recorder pursuant to a Memorandum of Understanding (MOU) between the City and the County. Under the terms of the MOU, the County Registrar/Recorder collects the taxes as part of the recording of each document. Determining the applicable taxes and rates and calculating the amount due is the responsibility of the filer, and an affidavit attesting that all applicable taxes are paid is required as part of the filing.

Prior to implementation of the ULA Tax, the County's in-house software would validate both the City tax and the County tax, checking to make sure that the paid amount was validated against the value of the transaction. However, the County has communicated to us that their software cannot be updated to calculate the variable rates that make up the City's new tax structure and will no longer be able to validate the City tax.

The County continues to validate the County tax paid, and that figure serves as our reference point in our own validation process detailed below.

Under the terms of the City/County MOU, the County remits the tax revenue to the City on a monthly basis. These funds come in a single payment each month, but are accompanied by a report that lists all of the transactions for that month. The report includes the document number, the amount of City tax paid, the amount of County tax paid, and the total tax paid. It does not differentiate between the two portions of the City tax.

In order to determine the breakdown of the City tax paid into the base DTT, which is deposited into the General Fund, and the ULA tax, which is deposited into the House LA Fund, the Office of Finance follows these steps:

- Determine the implied value of the transaction using the County tax paid amount
 - $(\text{Tax paid} / 0.11\%)$
- Calculate the amount of base DTT (0.45%) and ULA tax (4.0% or 5.5%) due using the implied value.
- Allocate the appropriate amount to each fund, assuming all amounts match the City tax due.
- If amounts do not match the calculated City tax due, allocate the correct amount to DTT and the balance of the amount allocated to the ULA tax.

Beyond simply allocating the revenue to the correct funds, this calculation also identifies transactions where one or both of the amounts is wrong. For instance, a transaction that pays a County tax of \$11,000 and a City tax of \$45,000 is clearly flagged as incorrect, since the County tax paid implies a transaction value of \$10,000,000. In this case, it appears that the taxpayer paid the base City tax (which is calculated correctly) but not the ULA tax. The total City tax should have been \$595,000. This same process identifies overpayments of ULA, as well as miscalculations, in either direction, of the base City tax. Finance uses these calculations as the first screening in the effort to identify opportunities for enforcement and collection efforts.

To supplement this effort, Finance has contracted with HdL Coren and Cone, Inc. (HdL) to provide research, deed information, and data analysis relative to transactions subject to ULA. HdL provides copies of the documents associated with every transaction that is flagged as incorrect, and provides various other reports and data which assist Finance in identifying transactions that may have been manipulated to avoid the tax or inadvertently miscalculated.

The result of these combined efforts has been the identification of 25 potential underpayments totaling approximately \$12 million through June 2024. It should be noted that some portion of these cases will turn out to be either exempt or otherwise not collectible.

One of the more complicated aspects of DTT and the ULA Tax is the application of the tax to legal entity transfers. These are transactions where ownership of a legal entity that owns real estate is transferred, effectively transferring ownership of the real estate property without changing the legal owner of the property directly. Even though there is no deed recorded related to these transactions, the taxes apply because there is an effective change in ownership.

For these legal entity transfers, the County receives payments in two ways. The first is by proactive compliance by the entities involved, whereby the tax is remitted to the County just as it would be if there was a deed. The second is due to the County Assessor's efforts to identify transactions that trigger a reassessment of the real property by the County Assessor. The County Assessor performs this research and discovery in order to ensure accurate valuations for purposes of property tax assessment, but these reassessments are also forwarded to the County Registrar/Recorder, which sends a notice of tax due to the new owner for real property transfer taxes. When legal entities pay the tax based on these notices, the City's portion is remitted along with the rest of the transfer tax receipts.

While legal entity transfer taxes are complicated and difficult to discover, they represent only a small portion of the City's overall transfer tax, averaging less than 2% of the total over the last five years.

REVENUE DATA

The Council's motion requested historical information about both DTT and the new ULA Tax. This data is presented graphically here, with the actual data provided as an attachment.

Chart one is a long-term historical graph of DTT. This graph demonstrates the cyclical volatility of this revenue stream, highlighted clearly by the rapid increase during fiscal years 2003-2006, followed immediately by the collapse in fiscal years 2007-2009. It also illustrates the comparatively stable period from 2015-2020 which featured little to no growth but sustained, historically high levels of revenue, and the recent single-year spike in fiscal year 2022.

Chart 1:
Documentary Transfer Tax Historical Receipts by Fiscal
Year

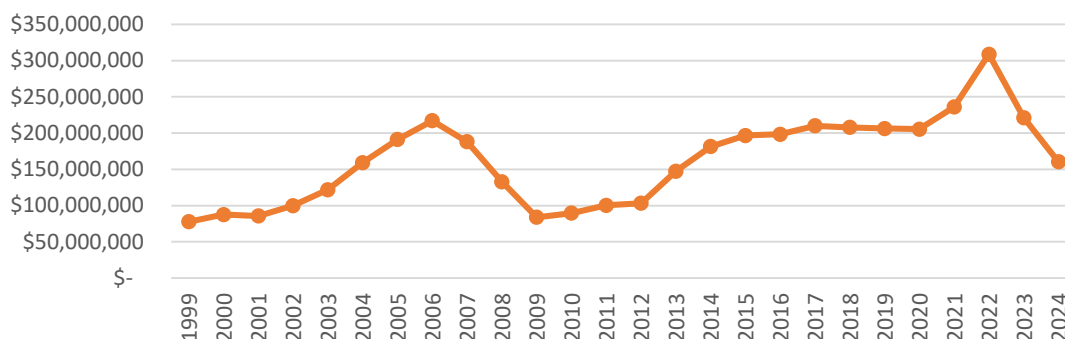


Chart two shows monthly transfer tax data for fiscal years 2022 through 2024, including both the base DTT and the new ULA Tax. Notable features of this graph include the remarkable and well-publicized rush to complete high-value transactions before the effective date of the new tax, the extremely low levels of revenue in the few months immediately following, and the relative stability of the ULA receipts over the last few months. It should also be noted that the recovery and stabilization of ULA receipts has occurred in an environment where the base tax, dominated by lower-value transactions, has continued to struggle.

Chart 2:
Transfer Taxes FY 22-24
Base Tax in blue, ULA in orange

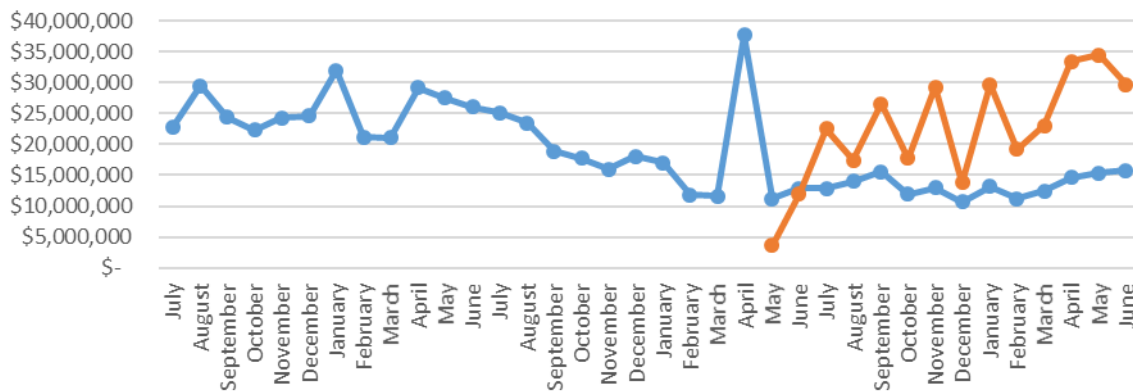
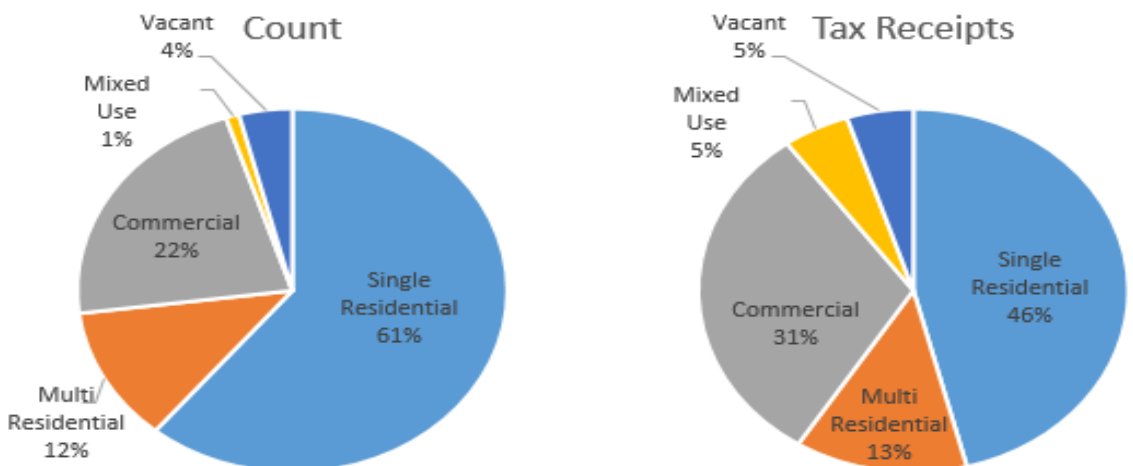


Chart three shows the breakdown of the first twelve months of ULA transactions and revenue by building type. Single-family homes dominate the transactions, though the commercial do tend to average higher values.

Chart 3:
ULA Building Type Breakdown



CONCLUSION

The tax mechanism created by Measure ULA is still very new, and uncertainty dominates every aspect of it. There are multiple legal and legislative challenges still being resolved, and the real estate industry is just learning how the tax is impacting decision-making. Making projections even more difficult is the reality that ULA was conceptualized in the context of a real estate market experiencing all-time highs – very different from the market we are experiencing now.

Finance has implemented several new tools and practices to aid in its efforts to ensure correct taxes are paid to the City. The department will continue to monitor both DTT and ULA tax payments and look for opportunities to improve collection and enforcement efforts, as well as deliver clear and consistent services to our taxpayers.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Diana', with a stylized, flowing script.

Diana Mangioglu
City Treasurer / Director of Finance

Attachment

ATTACHMENT

Historical Revenue Data

Documentary Transfer Tax Receipts by Fiscal Year 1999 - 2023

<u>Fiscal Year</u>	<u>Revenue</u>
1999	\$ 77,678,518
2000	87,535,699
2001	85,639,586
2002	99,796,541
2003	121,835,334
2004	159,244,212
2005	191,106,086
2006	217,147,404
2007	188,057,469
2008	132,922,465
2009	83,945,934
2010	89,642,933
2011	100,412,631
2012	103,236,898
2013	147,282,030
2014	181,463,048
2015	196,680,698
2016	198,437,662
2017	210,069,625
2018	207,814,930
2019	206,211,000
2020	205,473,078
2021	235,921,876
2022	308,805,255
2023	221,265,034

Documentary Transfer Tax and Housing and Homelessness (ULA) Tax

Monthly Revenue Fiscal Year 2022 - 2024

<u>Month</u>	<u>DTT</u>	<u>ULA</u>
21-Jul	\$ 22,735,702	
21-Aug	\$ 29,421,770	
21-Sep	\$ 24,407,129	
21-Oct	\$ 22,253,506	
21-Nov	\$ 24,265,963	
21-Dec	\$ 24,574,928	
22-Jan	\$ 31,932,872	
22-Feb	\$ 21,120,259	
22-Mar	\$ 21,033,011	
22-Apr	\$ 29,188,800	
22-May	\$ 27,468,600	
22-Jun	\$ 26,083,379	
22-Jul	\$ 25,079,971	
22-Aug	\$ 23,452,924	
22-Sep	\$ 18,861,430	
22-Oct	\$ 17,692,284	
22-Nov	\$ 15,940,874	
22-Dec	\$ 18,064,435	
23-Jan	\$ 17,007,885	
23-Feb	\$ 11,844,515	
23-Mar	\$ 11,640,538	
23-Apr	\$ 37,643,642	
23-May	\$ 11,202,374	\$ 3,622,553
23-Jun	\$ 12,867,524	\$ 11,953,820
23-Jul	\$ 12,856,683	\$ 22,491,954
23-Aug	\$ 14,039,264	\$ 17,380,244
23-Sep	\$ 15,547,314	\$ 26,569,699
23-Oct	\$ 11,907,955	\$ 17,725,227
23-Nov	\$ 12,935,461	\$ 29,263,660
23-Dec	\$ 10,637,675	\$ 13,762,898
24-Jan	\$ 13,167,955	\$ 29,717,007
24-Feb	\$ 11,182,137	\$ 19,229,786
24-Mar	\$ 12,396,901	\$ 22,995,618
24-Apr	\$ 14,634,922	\$ 33,401,126
24-May	\$ 15,342,639	\$ 34,450,369
24-Jun	\$ 15,729,129	\$ 29,674,805