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Certain Property Transfers Now Exempt From MD Taxes

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For certain businesses looking to refinance, fireworks weren't the *only* thing on their minds this past July 4th.

On May 16, the Maryland Governor signed into law House Bill 0372 (Chapter 0453)/Senate Bill 0202 (Chapter 0452) that took effect July 1 and is applicable to all instruments of writing recorded on or after that date. The bill exempts from recordation tax and State transfer tax the transfer of real property between a parent business entity and its wholly owned subsidiary. It does the same for similar transactions between subsidiaries wholly owned by the same parent business entity *if* the instrument of writing is for no or nominal consideration or consideration that comprises only the issuance, cancellation or surrender of partnership interests, membership interests or the ownership interest stock of a subsidiary business entity. Also exempted from the recordation tax and the State transfer tax is the transfer of real property between a subsidiary business entity and its parent business entity *under specified circumstances* .

NOTE: *A business entity is defined as a limited liability company or corporation. Ownership interest is defined as a membership interest or stock.*

This legislation makes it easier for businesses to refinance property, since under the previous law, transfers to certain special purpose entities were subject to tax. A special purpose entity is a tool used by developers and owners to make projects attractive to lenders. As a result of the market downturn, an increasing number of lenders have *required* potential borrowers to form special purpose entities to reduce the lenders' exposure to long and expensive collection efforts.

This requirement presented an obstacle for potential borrowers because transferring property into a newly-formed limited liability company or corporation could trigger the imposition of a tax. Those looking to borrow are obviously pleased that this obstacle has been removed.

NOTE: *Under prior law, an instrument of writing generally is not subject to recordation tax if it transfers title between parent corporations and subsidiaries, and if the transfer is for no consideration, nominal consideration or consideration that comprises only the issuance, cancellation or surrender of stock of a subsidiary corporation. An instrument is also exempt when it transfers a title under these circumstances and the parent corporation either previously owned the real property, currently owns the stock of the subsidiary and has owned that stock for a period greater than 18 months or acquires the stock of a subsidiary corporation which has been in existence and has owned the real property for a period of two years.*

More information on the legislation, including an updated Fiscal and Policy note, can be accessed from the Website of the Maryland General Assembly.

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