

Maryland Expands Recordation and Transfer Tax Exemption to Include LLC Transactions

By Roberto P. Garcia and Kelley D. Bledsoe

Effective July 1, 2013, Maryland's recordation and transfer tax exemption for transfers of real property between related entities will be available to limited liability companies. The exemption, previously applicable only to transactions between related corporations, will apply to transactions between related "business entities," a new term covering corporations and limited liability companies.

Under the revised statute, a transfer of real property between two business entities will be exempt from recordation and transfer taxes if:

1. the property is transferred between a parent business entity and its wholly owned subsidiary business entity, or between wholly owned subsidiary business entities having the same parent business entity; **and**
2. the parent business entity is the original owner of the subsidiary business entity or entities or became the owner through a gift from its or their original owner; **and**
3. the transfer is for no consideration, nominal consideration, or consideration that comprises only the issuance, cancellation or surrender of the ownership interests of a subsidiary business entity.

Additionally, a transfer of real property only from a subsidiary business entity to its parent business entity that does not satisfy the aforementioned requirements (i.e. because the subsidiary is not wholly owned) will still be exempt from recordation and transfer taxes if:

1. the parent business entity previously owned the transferred property; **or**
2. the parent business entity currently holds, and has held for at least 18 months, an ownership interest in the subsidiary business entity; **or**
3. the parent business entity acquires the subsidiary business entity at a time when the subsidiary business entity has existed and owned the property for two years or more; **and**

4. the transfer is for no consideration, nominal consideration, or consideration that comprises only the issuance, cancellation or surrender of the ownership interests of a subsidiary business entity.

These exemptions also should apply to transfers of a controlling interest in entities that own real property. The revised exemptions are applicable to all instruments of writing recorded on or after July 1, 2013, regardless of when the corresponding transaction closed.

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