

Article - Tax - Property

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§12-108.

(a) (1) Except as provided in paragraph (2) of this subsection, an instrument of writing is not subject to recordation tax, if the instrument of writing transfers property to or grants a security interest to:

- (i) the United States;
- (ii) the State;
- (iii) an agency of the State; or
- (iv) a political subdivision in the State.

(2) The Mayor and City Council of Baltimore City or the governing body of a county may impose, by law, the recordation tax uniformly on all instruments of writing that secure repayment of debt created by the sale of bonds authorized under Title 12, Subtitle 1 of the Economic Development Article.

(b) A security agreement is not subject to recordation tax, if the security agreement is:

(1) on a vehicle and is perfected by filing with the Motor Vehicle Administration; or

(2) on a vessel and is perfected by filing with the Department of Natural Resources.

(c) (1) When property is transferred subject to a mortgage or deed of trust, the recordation tax does not apply to the principal amount of debt assumed by the transferee, if the instrument of writing transfers the property from the transferor to a:

- (i) spouse or former spouse;
- (ii) son, daughter, stepson, or stepdaughter;
- (iii) parent or stepparent;
- (iv) son-in-law, daughter-in-law, stepson-in-law, or stepdaughter-in-law;
- (v) parent-in-law or stepparent-in-law;
- (vi) brother, sister, stepbrother, or stepsister;
- (vii) grandchild or stepgrandchild; or

(viii) domestic partner or former domestic partner.

(2) (i) To qualify as a domestic partner under this subsection, an individual shall submit evidence of a domestic partnership.

(ii) To qualify as a former domestic partner under this subsection, an individual shall submit evidence of dissolution of a domestic partnership.

(3) The exemption under paragraph (1) of this subsection for transfers to a domestic partner or former domestic partner of the transferor applies only to an instrument of writing for residential property.

(d) (1) An instrument of writing that transfers property between the following individuals is not subject to recordation tax:

(i) spouses or former spouses; or

(ii) domestic partners or former domestic partners.

(2) (i) To qualify as a domestic partner under this subsection, an individual shall submit evidence of a domestic partnership.

(ii) To qualify as a former domestic partner under this subsection, an individual shall submit evidence of dissolution of a domestic partnership.

(3) The exemption under paragraph (1) of this subsection for transfers between domestic partners or former domestic partners applies only to an instrument of writing for residential property.

(e) A supplemental instrument of writing is not subject to recordation tax except to the extent that:

(1) actual consideration is payable on the supplemental instrument of writing; or

(2) the amount of debt is increased by the supplemental instrument of writing.

(f) An instrument of writing previously recorded is not subject to recordation tax when the instrument or a counterpart is recorded in another county or in the same county.

(g) (1) In this subsection, "original mortgagor" includes:

(i) an individual who assumed a debt secured by real property that the individual purchased as a principal residence and who paid the recordation tax on the consideration paid for the property; and

(ii) the trustee of an inter vivos trust if:

1. the mortgaged property is used as a principal residence of the settlor of the trust; and

2. the trustee or the settlor of the trust originally assumed or incurred the debt secured by the mortgage or deed of trust.

(2) A mortgage or deed of trust is not subject to recordation tax to the extent that it secures the refinancing of an amount not greater than the unpaid principal amount secured by an existing mortgage or deed of trust at the time of refinancing if the mortgage or deed of trust secures the refinancing of real property that is:

(i) 1. used as a principal residence by the original mortgagor; and

2. being refinanced by the original mortgagor or by the original mortgagor and the spouse of the original mortgagor; or

(ii) used as a principal residence by the settlor of an inter vivos trust if the mortgage or deed of trust is given by a trustee of the trust.

(3) To qualify for an exemption under paragraph (2) of this subsection an original mortgagor or agent of the original mortgagor shall include a statement in the recitals or in the acknowledgment of the mortgage or deed of trust, or submit with the mortgage or deed of trust, an affidavit under oath, signed by the original mortgagor or agent of the original mortgagor, stating:

(i) that the individual is the original mortgagor or agent of the original mortgagor;

(ii) that the mortgaged property is the principal residence of the original mortgagor or of the settlor of an inter vivos trust if the mortgage or deed of trust is given by a trustee of the trust; and

(iii) the amount of unpaid principal of the original mortgage or deed of trust that is being refinanced.

(4) A statement under paragraph (3) of this subsection by an agent of the original mortgagor shall state that the statement:

(i) is based on a diligent inquiry made by the agent with respect to the facts set forth in the statement; and

(ii) is true to the best of the knowledge, information, and belief of the agent.

(h) An instrument of writing of a mechanic's lien or crop lien that relates to farm products or equipment used in farming operations is not subject to recordation tax.

(i) (1) In this subsection, “purchase money mortgage” or “purchase money deed of trust” means a mortgage or deed of trust that:

(i) is given by the transferee of real property with respect to the property purchased;

(ii) is delivered as part of the same transaction as the instrument of writing that transfers the property purchased and that is subject to the recordation tax;

(iii) recites on its face that it secures, in whole or in part, the purchase money for the property or otherwise recites on its face that it is a purchase money mortgage or purchase money deed of trust;

(iv) is fully executed within 30 days of the date that the instrument of writing transferring the property is fully executed; and

(v) is recorded no later than 30 days after the date that the instrument of writing transferring the property is duly recorded.

(2) For the purpose of this subsection, the date that an instrument is fully executed is the later of:

(i) the date of the last acknowledgment; or

(ii) the date on the instrument of writing.

(3) A purchase money mortgage or a purchase money deed of trust is not subject to recordation tax.

(j) An assignment of a mortgage or deed of trust is not subject to recordation tax.

(k) A security agreement filed or recorded under the Maryland Uniform Commercial Code is not subject to recordation tax:

(1) if it is filed or recorded:

(i) to perfect a security interest in inventory;

(ii) to perfect a security interest in contract rights, general intangibles, or accounts;

(iii) to perfect a security interest in farm products or in equipment used in farming operations;

(iv) to perfect a security interest taken or retained by a seller of collateral to secure all or part of its price; or

(v) to publicize a lease of goods or fixtures, provided that the security

agreement states on its face that it does not create a security interest; or

(2) if it is filed or recorded with the Department under § 9-501(a)(2) of the Commercial Law Article.

(l) A judgment of a court is not subject to recordation tax.

(m) A release is not subject to recordation tax.

(n) An order of satisfaction is not subject to recordation tax.

(o) A participation agreement that shows an interest of a person in a note, mortgage, or deed of trust that is based on a previously recorded loan to the mortgagor or grantor under a deed of trust is not subject to recordation tax.

(p) An instrument of writing is not subject to recordation tax if the instrument of writing is:

(1) a transfer of title to real property between a parent corporation and its subsidiary corporation or between 2 or more subsidiary corporations wholly owned by the same parent corporation, if the parent corporation is an original stockholder of the subsidiary corporation, or subsidiary corporations, or became a stockholder through gift or bequest from an original stockholder of the subsidiary corporation, or subsidiary corporations, for:

(i) no consideration;

(ii) nominal consideration; or

(iii) consideration that comprises only the issuance, cancellation, or surrender of stock of a subsidiary corporation;

(2) an instrument of writing made pursuant to reorganizations described in § 368(a) of the Internal Revenue Code; or

(3) a transfer of title to real property from a subsidiary corporation to its parent corporation for no consideration, nominal consideration or consideration that comprises only the issuance, cancellation, or surrender of a subsidiary's stock, where the parent corporation:

(i) previously owned the real property;

(ii) owns the stock of the subsidiary and has owned that stock for a period greater than 18 months; or

(iii) acquires the stock of a subsidiary corporation which has been in existence and has owned the real property for a period of 2 years.

(q) An instrument of writing that transfers real property from a corporation,

limited liability company, or partnership on its liquidation, dissolution, or termination is not subject to recordation tax, if the transferee is:

(1) an original stockholder of the corporation, an original member of the limited liability company, or an original partner of the partnership;

(2) a direct descendant or relative within 2 degrees of an original stockholder of the corporation, an original member of the limited liability company, or an original partner of the partnership counting by the civil law method; or

(3) a stockholder, member, or partner who became a stockholder, member, or partner through gift or bequest from an original stockholder of the corporation, an original member of the limited liability company, or an original partner of the partnership.

(r) A land installment contract described in § 10-101(b) of the Real Property Article is not subject to recordation tax.

(s) An option agreement for the purchase of real property is not subject to recordation tax.

(t) A deed conveying title to real property is not subject to recordation tax if recordation tax was paid on a prior contract of sale between the same parties for the real property.

(u) A lease of 7 years or less, which is not required to be recorded under § 3-101 of the Real Property Article, is not subject to recordation tax.

(v) Articles of merger or other document which evidences a merger of foreign corporations are not subject to recordation tax if there is a transfer of real property:

(1) from a parent corporation to its subsidiary corporation;

(2) from a subsidiary corporation to its parent corporation where the parent corporation:

(i) previously owned the real property;

(ii) owns the stock of the subsidiary and has owned that stock for a period greater than 18 months; or

(iii) acquires the stock of a subsidiary corporation which has been in existence and has owned the real property for a period of 2 years; or

(3) from a corporation merging out of existence to its successor corporation where recordation tax and, if then required to have been paid, transfer tax were paid when the corporation merging out of existence acquired title to the real property.

(w) Articles of consolidation or other documents that evidence a consolidation of foreign corporations are not subject to recordation tax if recordation tax and, if then required to have been paid, transfer tax were paid when the corporation consolidating to form a new corporation acquired title to the real property.

(x) (1) Except as provided in this subsection, an instrument of writing that transfers real property from a cooperative housing corporation on its termination to an owner of a cooperative interest in the cooperative housing corporation is not subject to recordation tax if the cooperative housing corporation consists of single residential units and was established on or before January 1, 1970.

(2) The exemption under paragraph (1) of this subsection does not apply to:

(i) the conversion of a cooperative housing corporation to a condominium regime; or

(ii) the transfer of property to a person who:

1. does not occupy the property transferred; or

2. has received the credit allowed under this section for another property transferred as part of the same corporate termination.

(3) The exemption under paragraph (1) of this subsection shall apply only in a county that:

(i) does not levy a county property transfer tax; or

(ii) has, by law, adopted an exemption from any local transfer tax for property as described in this subsection.

(y) (1) (i) In this subsection the following words have the meanings indicated.

(ii) “Foreign general partnership”, “foreign limited partnership”, “foreign limited liability partnership”, “foreign limited liability limited partnership”, and “foreign joint venture” mean, respectively, a partnership, limited partnership, limited liability limited partnership, or joint venture organized or formed under the laws of the United States, another state of the United States, or a territory, possession, or district of the United States.

(iii) “Predecessor entity” includes a:

1. Maryland general partnership or foreign general partnership;

2. Maryland limited partnership or foreign limited

partnership;

3. Maryland limited liability partnership or foreign limited liability partnership;

4. Maryland limited liability limited partnership or foreign limited liability limited partnership; and

5. Maryland joint venture or foreign joint venture.

(2) An instrument of writing that transfers title to real property from a predecessor entity or a trustee or nominee of a predecessor entity to a limited liability company is not subject to recordation tax if:

(i) 1. the members of the limited liability company are identical to the partners of the converting general partnership, limited partnership, limited liability partnership, or limited liability limited partnership; or

2. the members of the limited liability company are identical to the joint venturers of the converting joint venture;

(ii) each member's allocation of the profits and losses of the limited liability company is identical to that member's allocation of the profits and losses of the converting predecessor entity; and

(iii) the instrument of writing that transfers title to real property represents the dissolution of the predecessor entity for purposes of conversion to a limited liability company.

(z) Expired.

(aa) An instrument of writing pursuant to which the Maryland Stadium Authority transfers title to, or creates a leasehold interest in, real property if the transferee or lessee is an Authority affiliate as defined in § 10-601 of the Economic Development Article.

(bb) (1) In this subsection, "real estate enterprise" means a business conducted by one or more individuals who own real property, including a sole proprietorship or a tenancy by the entirety, and are principally involved in buying, selling, leasing, or managing real property.

(2) An instrument of writing that transfers title to real property from the individual or individuals conducting a real estate enterprise to a limited liability company is not subject to recordation tax if:

(i) the transfer is for no consideration other than the issuance of membership interests in the limited liability company;

(ii) the members of the limited liability company are identical to the partners of the conveying real estate enterprise;

(iii) each member's allocation of the profits and losses of the limited liability company is identical to that member's allocation of the profits and losses of the conveying real estate enterprise;

(iv) the transfer is part of a discontinuation of the real estate enterprise; and

(v) all real property owned by the individuals and used in the conduct of any real estate enterprise is being conveyed to a single limited liability company.

(3) An individual's other business interests unrelated to the real estate enterprise and unaffected by the title transfer to a limited liability company may not affect the individual's ability to claim the exemption from the recordation tax described in this subsection.

(cc) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Land trust" means a qualified conservation organization that:

1. is a qualified organization under § 170(h)(3) of the Internal Revenue Code and regulations adopted under that section; and

2. has executed a cooperative agreement with the Maryland Environmental Trust.

(iii) "Conservation easement" means a restriction prohibiting or limiting the use of water or land areas, or any improvement or appurtenance thereto, described in § 2-118 of the Real Property Article.

(2) An instrument of writing conveying or assigning a conservation easement to a land trust is not subject to recordation tax.

(3) An instrument of writing conveying fee simple title to a land trust is not subject to recordation tax if the land trust files a declaration of intent that the land will be used:

(i) to assist in the preservation of a natural area;

(ii) for the environmental education of the public;

(iii) to conserve agricultural land and to promote continued agricultural use of the land;

(iv) generally to promote conservation; or

(v) for the maintenance of a natural area for public use or a sanctuary for wildlife.

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