

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Department of Assessments and Taxation
(DLS Control No. 20-021)**

Overview and Legal and Fiscal Impact

The regulations, proposed by the State Department of Assessments and Taxation, make technical and conforming changes to provisions concerning the agricultural land transfer tax.

The regulations present no issue legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

Department of Assessments and Taxation:

Agricultural Land Transfer Tax: Administration: COMAR 18.05.01.01,
.02, .04, .05, and .06

Legal Analysis

Background

Title 13, Subtitle 3 of the Tax – Property Article imposes an agricultural land transfer tax on an instrument of writing that transfers title to agricultural land (“transfer tax”). A surcharge is also imposed based on the amount of the transfer tax.

Chapters 566 and 567 of 2019 repealed an exemption from the transfer tax for land that has had the property tax paid for five full consecutive taxable years before the transfer on the basis of an assessment other than the farm or agricultural use assessment. In lieu of this exemption, there is a partial transfer tax reduction. In addition, there is an exemption for transfers of agricultural land from the transfer tax if the land was previously subject to the tax for a previous transfer.

Under Title 13, Subtitle 4 of the Tax – Property Article, the governing body of certain counties may also impose a transfer tax under certain circumstances.

Summary of Regulations

Chapters 566 and 567 of 2019 rendered certain existing regulations inconsistent with current law. The regulations alter these existing regulations for the purpose of conforming to Chapters 566 and 567 and other provisions of current law. The regulations provide for:

- the updated partial transfer tax reduction rate;
- updated exemplary calculations for the transfer tax and surcharge;
- clarification that certain counties may impose a transfer tax;
- the exemption for transfers of agricultural land from the transfer tax if the land was previously subject to the tax for a previous transfer; and
- technical changes that consist of adding the term “surcharge” to various provisions.

Legal Issues

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The department cites §§ 2–201, 2–202, and 13–307 of the Tax – Property Article as statutory authority for the regulations. More specifically, § 2–201 requires the Director of the State Department of Assessments and Taxation to administer and enforce the provisions of the Tax - Property Article, and grants to the Director the authority to exercise any right or power that is conferred on the department. Section 13-307 requires the department to adopt regulations to implement Title 13, Subtitle 3 of the Tax – Property Article. The remaining cited authority is not relevant to these regulations.

The authority is correct and complete. The regulations comply with the legislative intent of the law.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The regulations implement provisions of Chapters 566 and 567 of 2019 (Senate Bill 344 and House Bill 20), which altered the calculation of the agricultural land transfer tax. The department advises that the regulations have no impact on State or local governments. The Department of Legislative Services concurs and notes that the fiscal impact was already accounted for in the fiscal and policy note for Senate Bill 344 and House Bill 20, which estimated an indeterminate impact on State special fund revenues and county transfer tax revenues beginning in fiscal 2020.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulations have minimal or no economic impact on small business in the State. The Department of Legislative Services concurs.

Contact Information

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