

Department of Legislative Services
Maryland General Assembly

FISCAL NOTE

House Bill 1049 (Delegate Frank. *et al.*)

Ways and Means

Recordation and Transfer Taxes - Exemptions for Partnerships, Limited Liability Companies, and Corporations

This bill exempts the transfer of real property to a partnership, corporation, or limited liability company (LLC) from recordation and transfer taxes if the only consideration is an equity interest in the entity. It also exempts a merger involving a partnership and a LLC from such taxes in an identical manner to the exemption that exists for mergers between corporations.

This bill is effective July 1, 1998.

Fiscal Summary

State Effect: Indeterminate decrease in revenues beginning in FY 1999. Expenditures would not be affected.

Local Effect: Indeterminate but potentially significant decrease in revenues beginning in FY 1999. Expenditures would not be affected.

Small Business Effect: Potential meaningful impact on small businesses.

Fiscal Analysis

State Revenues: The exemption on the transfer of real property to a partnership, corporation, or limited liability company (LLC) from State transfer taxes would reduce State special fund revenues. State transfer tax revenues are distributed to Program Open Space, the Rural Legacy Program, the Agricultural Land Preservation Fund, and the Heritage Conservation Fund. This exemption would also reduce fees received by the clerks of the courts for collecting local transfer and recordation taxes.

The Department of Assessments and Taxation (DAT) collects State and local transfer taxes as well as recordation taxes from mergers involving corporations, partnerships, and limited liability companies. Recordation taxes are remitted by DAT to the Comptroller, who retains a portion of the taxes as general fund revenues and passes on the remainder to local governments. It is estimated that this bill would reduce the amount of recordation and transfer taxes collected from these mergers by 20%. Based on fiscal 1997 collections, tax exemptions for these mergers would reduce State transfer tax revenues by approximately \$120,000 in fiscal 1999.

The amount of decreased revenues could be higher if a “partial liquidation” as addressed in the bill means something other than a distribution of primarily assets to stockholders or partners. State transfer tax revenues could decline further depending on the volume of transactions excluded from these taxes.

Local Revenues: There are 17 counties that assess a local transfer tax; these counties received an estimated \$136 million in transfer taxes for fiscal 1997. In addition, local governments received an estimated \$111 million in recordation taxes for fiscal 1997. **Exhibit 1** provides a listing of local transfer and recordation tax rates for fiscal 1998. Based on fiscal 1997 tax collections by DAT from mergers involving corporations, partnerships, and limited liability companies, tax exemptions for these mergers would reduce recordation tax revenues by \$80,000 and local transfer tax revenues by \$240,000 in fiscal 1999.

Moreover, this bill could significantly reduce local recordation and transfer tax revenues depending on the volume of transactions that are excluded from these taxes. Under this bill, a property owner could create a limited liability company or other entity and transfer ownership of the property to the limited liability company without paying transfer or recordation taxes. The ownership of the limited liability company could then be transferred to another party and again be exempt from transfer and recordation taxes.

Small Business Effect: This bill could positively affect small businesses by exempting from transfer and recordation taxes the transfer of real property to a partnership, corporation, or limited liability company under certain circumstances and any mergers involving partnerships and limited liability companies.

Information Sources: Department of Assessments and Taxation; Judiciary (Administrative Office of the Courts); Carroll County, Prince George’s County, Cecil County, St. Mary’s County, Montgomery County; Department of Legislative Services

Fiscal Note History:

First Reader - March 4, 1998

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**Exhibit 1
Local Recordation and Transfer Tax Rates
Fiscal 1998**

County	Recordation Tax Rate per \$500 of consideration	Transfer Tax Rate
Allegany	\$2.20	0.2%
Anne Arundel	3.50	1.0%
Baltimore City	2.75	1.5%
Baltimore	2.50	1.5%
Calvert	3.30	0.0%
Caroline	3.30	0.5%
Carroll	3.50	0.0%
Cecil	2.20	0.0%
Charles	5.00	0.0%
Dorchester	3.30	1.0%
Frederick	3.50	0.0%
Garrett	3.50	1.0%
Harford	3.30	1.0%
Howard	2.50	1.0%
Kent	3.30	0.5%
Montgomery	2.20	1%-6%
Prince George's	2.20	1.4%
Queen Anne's	3.30	0.5%
St. Mary's	3.30	1.0%
Somerset	1.65	0.0%
Talbot	3.30	1.0%
Washington	3.80	0.0%
Wicomico	2.30	0.5%
Worcester	3.30	0.5%

Source: Department of Legislative Services