

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 929

(Senator Kasemeyer)

Budget and Taxation

Ways and Means

Estates and Trusts - Transfers - Recordation and Transfer Taxes

This bill exempts from recordation and transfer taxes the transfer of property without consideration from an estate, to specified types of trusts, or from specified types of trusts to one or more beneficiaries under specified circumstances, and provides for purposes of these exemptions that “consideration” does not include the amount of any obligation under a mortgage or deed of trust encumbering the transferred property.

The bill takes effect July 1, 2010.

Fiscal Summary

State Effect: Potential decrease in State transfer tax revenues. Expenditures are not affected.

Local Effect: Potential decrease in local recordation and transfer tax revenues. Local expenditures are not affected.

Small Business Effect: None.

Analysis

Current Law: When distribution in kind is made, the personal representative must execute and deliver an instrument or deed of distribution assigning, transferring, or releasing the assets to the distributee as evidence of the title of the distributee to the property. Costs payable as a condition of the recordation of a deed must be paid by the estate. A State or local excise tax may not be imposed upon the transfer of property or the recordation of an instrument executed without consideration by a personal

representative. In addition to other indexing, any such deed recorded among the land records must be indexed in the grantor index under the name of the decedent.

Background: The counties and Baltimore City are authorized to impose locally established recordation tax rates on any business or person (1) conveying title to real property; or (2) creating or giving notice of a security interest (*i.e.*, a lien or encumbrance) in real or personal property, by means of an instrument of writing.

The State and most counties impose a transfer tax. The State transfer tax rate is 0.5% of the consideration payable for an instrument of writing conveying title to, or a leasehold interest in, real property (0.25% for first-time Maryland homebuyers). In some jurisdictions, a local property transfer tax may be imposed on instruments transferring title to real property. A distinction is made in the local codes between instruments transferring title such as a deed and certain leaseholds and instruments securing real property such as a mortgage.

For purposes of local recordation taxes, which are applied to each \$500 or fraction of \$500 of consideration payable or of the principal amount of the debt secured for an instrument of writing, the consideration includes the amount of any mortgage or deed of trust assumed by the grantee. For purposes of the State transfer tax, the consideration includes the amount of any mortgage or deed of trust assumed by the grantee.

The bill is intended to provide for the uniform application of recordation and transfer tax exemptions regarding transfers of property without consideration from estates or specified trusts. Under current law, clerks of court in some counties treat the assumed mortgage in a transfer of property from an estate as consideration and impose transfer and recordation taxes on the transaction.

State Fiscal Effect: State special fund revenues would decrease to the extent that properties are transferred pursuant to the bill (from estates with no consideration and to and from trusts under circumstances). However, the amount of any decrease depends on the number of transfers that occur pursuant to the bill and the amount of any assumed mortgage for each property. However, at this time, the number of property transfers that occur in these manners cannot be reliably estimated.

As a point of reference, the State transfer tax on a property valued at \$250,000 is \$1,250. An exemption pursuant to the bill would result in a special fund revenue decrease of \$1,250 for each property transfer affected.

Local Fiscal Effect: Local recordation and transfer tax revenues would decrease to the extent that properties are transferred pursuant to the bill (from estates with no consideration and to and from trusts, under certain circumstances). However, the amount

of any decrease depends on the number of properties that are transferred and the amount of any assumed mortgage for each property. However, at this time, the number of property transfers occurring in these manners cannot be reliably estimated.

As a point of reference, **Exhibit 1** shows the estimated effect of one exemption pursuant to the bill in each county. **Exhibits 2** and **3** show the current county transfer and recordation tax rates and estimated revenues for fiscal 2008 through 2010.

Exhibit 1
Transfer and Recordation Tax Exemption by County

County	Average Assessment	Transfer Tax Rates FY 2010	Recordation Tax Rates FY 2010	Estimated Revenue Decrease
Allegany	\$110,394	0.50%	\$3.25	(\$1,270)
Anne Arundel	388,692	1.00%	3.50	(6,608)
Baltimore City	160,479	1.50%	5.00	(4,012)
Baltimore	281,919	1.50%	2.50	(5,638)
Calvert	376,552	0.00%	5.00	(3,766)
Caroline	230,242	0.50%	5.00	(3,454)
Carroll	329,221	0.00%	5.00	(3,292)
Cecil	265,084	\$10 per deed	4.10	(2,184)
Charles	308,207	0.00%	5.00	(3,082)
Dorchester	208,354	0.75%	5.00	(3,646)
Frederick	318,627	0.00%	6.00	(3,824)
Garrett	156,863	1.00%	3.50	(2,667)
Harford	293,754	1.00%	3.30	(4,876)
Howard	441,888	1.00%	2.50	(6,628)
Kent	299,098	0.50%	3.30	(3,470)
Montgomery	493,800	1.00%	3.45	(8,345)
Prince George's	320,198	1.40%	2.50	(6,084)
Queen Anne's	408,460	0.50%	4.95	(6,086)
St. Mary's	327,205	1.00%	4.00	(5,890)
Somerset	149,012	0.00%	3.30	(983)
Talbot	512,702	1.00%	3.30	(8,511)
Washington	226,913	0.50%	3.80	(2,859)
Wicomico	189,456	0.00%	3.50	(1,326)
Worcester	271,601	0.50%	3.30	(3,151)
Total	\$334,520			(\$101,650)

Source: Maryland Association of Counties; Department of Legislative Services

Exhibit 2
Local Transfer Taxes – Rates and Revenue Collections

County	Local Tax Rates	FY 2008	FY 2009	FY 2010
Allegany	0.50%	\$582,668	\$425,465	\$375,000
Anne Arundel	1.00%	39,076,025	27,391,962	29,000,000
Baltimore City	1.50%	36,495,044	23,388,980	24,240,000
Baltimore	1.50%	56,000,000	36,000,000	38,000,000
Calvert	0.00%	0	0	0
Caroline	0.50%	675,093	326,455	59,808
Carroll	0.00%	0	0	0
Cecil	\$10 per deed	27,493	22,383	23,000
Charles	0.00%	0	0	0
Dorchester	0.75%	1,234,965	862,195	646,678
Frederick	0.00%	0	0	0
Garrett	1.00%	2,112,969	1,395,679	1,365,000
Harford	1.00%	13,867,414	9,146,528	7,100,000
Howard	1.00%	24,006,139	18,370,976	18,000,000
Kent	0.50%	795,826	449,736	450,000
Montgomery	1.00%	85,259,940	64,771,739	65,520,000
Prince George's	1.40%	98,353,526	66,992,498	66,916,300
Queen Anne's	0.50%	311,589	49,647	155,000
St. Mary's	1.00%	5,647,906	4,389,061	5,000,000
Somerset	0.00%	0	0	0
Talbot	1.00%	4,199,101	2,958,214	2,016,000
Washington	0.50%	2,444,560	1,617,340	1,500,000
Wicomico	0.00%	0	0	0
Worcester	0.50%	3,984,963	2,843,502	2,250,000
Total		\$375,075,221	\$261,402,360	\$262,616,786

Source: Maryland Association of Counties; Department of Legislative Services

Exhibit 3
Local Recordation Taxes – Rates and Revenue Collections

County	Local Tax Rates	FY 2008	FY 2009	FY 2010
Allegany	\$3.25	\$1,889,261	\$1,242,338	\$1,250,000
Anne Arundel	3.50	43,699,516	28,419,042	31,000,000
Baltimore City	5.00	39,186,698	22,706,426	22,600,000
Baltimore	2.50	30,000,000	18,000,000	19,000,000
Calvert	5.00	9,114,661	5,799,985	5,445,489
Caroline	5.00	2,453,682	1,236,559	1,335,000
Carroll	5.00	14,956,646	9,248,039	8,500,000
Cecil	4.10	6,464,010	4,580,956	3,555,144
Charles	5.00	15,525,128	9,947,801	9,667,400
Dorchester	5.00	2,915,333	1,967,178	1,781,386
Frederick	6.00	14,253,985	10,415,103	9,785,500
Garrett	3.50	2,986,155	2,335,811	2,000,000
Harford	3.30	15,001,024	9,434,605	5,965,000
Howard	2.50	18,006,347	12,991,383	14,000,000
Kent	3.30	1,668,608	1,038,301	1,000,000
Montgomery	3.45	79,385,176	60,660,424	64,042,622
Prince George's	2.50	38,372,071	25,716,764	25,191,900
Queen Anne's	4.95	3,825,394	2,930,197	2,929,614
St. Mary's	4.00	7,696,871	5,260,423	6,000,000
Somerset	3.30	760,231	552,785	257,216
Talbot	3.30	4,476,013	3,016,205	2,148,000
Washington	3.80	7,151,876	4,683,063	4,550,000
Wicomico	3.50	4,511,545	2,845,744	2,300,000
Worcester	3.30	8,026,476	5,962,649	4,750,000
Total		\$372,326,707	\$250,991,781	\$249,054,271

Source: Maryland Association of Counties; Department of Legislative Services

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Department of Assessments and Taxation, Comptroller's Office, Judiciary (Administrative Office of the Courts), Register of Wills, Department of Legislative Services

Fiscal Note History: First Reader - March 19, 2010
ncs/hlb

Analysis by: Michael Sanelli

Direct Inquiries to:
(410) 946-5510
(301) 970-5510