

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

Senate Bill 845

(Senator King, *et al.*)

Budget and Taxation

**Recordation and Transfer Taxes - Transfer of Property Between Related Entities
- Exemption**

This bill exempts from the recordation tax and the State transfer tax the transfer of real property between a parent partnership or limited liability company and its subsidiary or between subsidiaries wholly owned by the same parent partnership or limited liability company if the instrument of writing is for no consideration; nominal consideration; or consideration that comprises only the issuance, cancellation, or surrender of partnership interests, membership interests, or stock of a subsidiary, partnership, limited liability company, or corporation. The bill also exempts from the recordation tax and the State transfer tax the transfer of real property between a subsidiary partnership or limited liability company and its parent partnership or limited liability company under specified circumstances.

The bill takes effect July 1, 2012.

Fiscal Summary

State Effect: State transfer tax revenues may decrease beginning in FY 2013 to the extent transfers pursuant to the bill occur. State expenditures are not affected.

Local Effect: Local recordation tax revenues may decrease beginning in FY 2013 to the extent transfers pursuant to the bill occur. Local expenditures are not affected.

Small Business Effect: Minimal.

Analysis

Current Law: Generally, an instrument of writing is not subject to recordation tax if the instrument of writing transfers title between related entities, such as parent corporations and subsidiaries, and the transfer is for no consideration; nominal consideration; or consideration that comprises only the issuance, cancellation, or surrender of stock of a subsidiary corporation. An instrument of writing is also exempt when it transfers a title under these circumstances and the parent corporation previously owned the real property; owns the stock of the subsidiary and has owned that stock for a period greater than 18 months; or acquires the stock of a subsidiary corporation which has been in existence and has owned the real property for a period of two years.

An instrument of writing is not subject to the State transfer tax to the same extent that it is not subject to recordation tax as discussed above.

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.

County governments collected \$529.5 million in local recordation and transfer taxes in fiscal 2010, and are expected to collect \$519.4 million in fiscal 2011 and \$547.4 million in fiscal 2012. These amounts are significantly lower than the amounts collected in fiscal 2006 when the soaring real estate market yielded recordation and transfer taxes totaling \$1.2 billion. **Exhibit 1** and **Exhibit 2** show current recordation and transfer tax rates and estimated local recordation and transfer tax collections for fiscal 2011 and 2012.

State Fiscal Effect: State special fund revenues may decrease beginning in fiscal 2013 to the extent that properties are transferred pursuant to the bill (transfers between specified related entities). However, the amount of any decrease depends on the number of transfers that occur pursuant to the bill and the amount of consideration associated with each transfer. However, at this time, the number of property transfers that occur by this manner cannot be reliably estimated.

As a point of reference, the State transfer tax on a transaction 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 tax revenues may decrease to the extent that properties are transferred pursuant to the bill (transfers between specified related entities). However, the amount of any decrease depends on the number of transfers that occur pursuant to the bill and the amount of consideration associated with each transfer. However, at this time, the number of property transfers that occur by this manner cannot be reliably estimated.

Exhibit 1
County Recordation Tax Collections
Fiscal 2011 and 2012

County	Tax Rate	FY 2011	FY 2012
Allegany	\$3.25	\$1,250,000	\$1,070,079
Anne Arundel	3.50	30,000,000	33,000,000
Baltimore City	5.00	19,425,608	20,545,000
Baltimore	2.50	18,423,084	21,000,000
Calvert	5.00	5,700,000	5,500,000
Caroline	5.00	1,200,000	1,200,000
Carroll	5.00	8,000,000	8,000,000
Cecil	4.10	4,200,000	4,000,000
Charles	5.00	10,000,000	10,000,000
Dorchester	5.00	1,781,386	1,849,386
Frederick	6.00	10,442,200	10,442,200
Garrett	3.50	1,950,000	2,200,000
Harford	3.30	8,935,000	10,200,000
Howard	2.50	15,500,000	17,000,000
Kent	3.30	995,000	700,000
Montgomery	3.45	60,015,000	60,198,000
Prince George's	2.50	26,065,800	24,587,100
Queen Anne's	4.95	2,650,000	2,650,000
St. Mary's	4.00	4,900,000	5,000,000
Somerset	3.30	318,000	400,000
Talbot	6.00	3,200,000	5,650,000
Washington	3.80	4,550,000	4,550,000
Wicomico	3.50	2,770,000	2,134,000
Worcester	3.30	5,250,000	5,750,000
Total		\$247,521,078	\$257,625,765

Source: Department of Legislative Services

Exhibit 2
County Transfer Tax Collections
Fiscal 2011 and 2012

County	Tax Rate	FY 2011	FY 2012
Allegany	0.50%	\$395,000	\$395,000
Anne Arundel	1.00%	30,000,000	32,000,000
Baltimore City	1.50%	21,844,845	23,687,000
Baltimore	1.50%	36,318,030	40,000,000
Calvert	0.00%	0	0
Caroline	0.50%	376,210	283,609
Carroll	0.00%	0	0
Cecil	\$10/deed	23,500	23,000
Charles	0.00%	0	0
Dorchester	0.75%	634,454	760,084
Frederick	0.00%	0	0
Garrett	1.00%	900,000	1,200,000
Harford	1.00%	9,160,578	11,200,000
Howard	1.00%	18,000,000	20,000,000
Kent	0.50%	435,000	335,000
Montgomery	1.00%	74,820,000	83,340,000
Prince George's	1.40%	67,547,800	65,798,800
Queen Anne's	0.50%	155,000	155,000
St. Mary's	1.00%	4,400,000	3,900,000
Somerset	0.00%	0	0
Talbot	1.00%	3,200,000	3,200,000
Washington	0.50%	1,160,300	800,000
Wicomico	0.00%	0	0
Worcester	0.50%	2,500,000	2,750,000
Total		\$271,870,717	\$289,827,493

Source: Department of Legislative Services

Additional Information

Prior Introductions: None.

Cross File: HB 959 (Delegate Barve, *et al.*) - Ways and Means.

Information Source(s): Baltimore, Charles, Frederick, and Montgomery counties; State Department of Assessments and Taxation; Judiciary (Administrative Office of the Courts); Department of Legislative Services

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