

TAX ALERT

PHILADELPHIA AND NEW YORK REAL ESTATE TRANSFER TAX DEVELOPMENTS

BY HAROLD HECHT, SETH RABE AND KATIE MASSEY

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MAZARS USA TAX PRACTICE BOARD

Jeffrey Katz
212.375.6816
jeffrey.katz@mazarsusa.com

James Toto
732.205.2014
james.toto@mazarsusa.com

Howard Landsberg
212.375.6604 | 516.282.7209
howard.landsberg@mazarsusa.com

Faye Tannenbaum
212.375.6713
faye.tannenbaum@mazarsusa.com

EDITOR

Richard Bloom
732.475.2146
richard.bloom@mazarsusa.com



Philadelphia

The City of Philadelphia recently passed Bill No. 160810 resulting in significant changes to the Philadelphia Realty Transfer Tax (RTT).

Rate Increase – Effective Date: 1/1/2017

Effective January 1, 2017, the Philadelphia Realty Transfer Tax will increase from 3.0% to 3.1%. The Philadelphia RTT is in addition to the applicable Pennsylvania RTT rate of 1%.

Closing Loopholes – Effective Date: 7/1/2017

Philadelphia has also expanded the scope of applicability of the tax to include a broader range of transfer transactions. The Philadelphia RTT now applies when there is a 75% or more change in ownership within a six year period. Previously, the law required the tax be imposed on changes of 90% or more in ownership over the course of three years. This shift in policy is intended to deter property transferors from transferring 89% and then transferring the remaining 11% upon passing of the three year period to avoid the Philadelphia Realty Transfer Tax.

Defining Taxable Values & Real Estate Entities – Effective Date: 7/1/2017

The definition of ‘real estate company’ for the Philadelphia RTT has now expanded to include holders of ‘title to real estate.’ This means holders of long term leases of 30 years or more, easements, life estates, etc. are subject to the RTT. Additionally, the Philadelphia RTT base has been altered, and is now computed on the actual consideration paid. The previous calculation of value was the assessed value of real estate multiplied by the current common level ratio factor. The value on which the realty transfer tax is imposed now cannot be less than the “readily ascertainable market value of any property.”

New York State

New York State Governor Andrew M. Cuomo recently released his 2017-2018 Executive Budget proposal which includes some key changes to New York State’s Real Estate Transfer Tax.

If the governor’s proposed legislation passes, the real estate transfer tax (RETT) would apply to more transactions. The New York RETT currently applies to each conveyance of real property or interest in real property when the consideration exceeds \$500. The current RETT is also imposed on the transfer of a “controlling interest” (generally 50% or greater of the combined voting power or capital, profits or beneficial interests) in an entity that owns or leases New York real property. The Executive Budget proposal would apply the RETT to the transfer of any interest (not just a controlling interest) in a partnership, limited liability corporation, S corporation, or non-publicly traded C corporation with less than

100 shareholders if the entity in question owns New York real property having a fair market value that equals or exceeds 50% of the value of all of the entity’s assets. This potential change would become effective upon enactment, likely on April 1, 2017, which coincides with the state’s new fiscal year. It should be noted that New York City has not yet proposed similar changes to its Real Property Transfer Tax.

We will continue to monitor developments with the potential changes to the New York RETT.

Moving Forward

Please contact your Mazars USA professional or our State & Local Tax Services team with any questions regarding the Philadelphia Realty Transfer Tax or New York State Real Estate Transfer Tax.

FOR MORE INFORMATION CONTACT:

 **HAROLD HECHT, CPA**
DIRECTOR, STATE AND LOCAL TAX GROUP
+1 646.225.5953
harold.hecht@mazarsusa.com

 **SETH RABE, JD, LL.M.**
SENIOR MANAGER, STATE AND LOCAL TAX GROUP
+1 212.375.6877
seth.rabe@mazarsusa.com

 **KATIE MASSEY**
SENIOR, STATE & LOCAL TAX GROUP
+1 212.375.6679
katie.massey@mazarsusa.com

VISIT US AT www.mazarsusa.com

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