

Understanding Realty Transfer Tax Basics in Pennsylvania

The realty transfer tax in Pennsylvania is a significant consideration for anyone involved in the transfer of real estate within the state. This tax is imposed on the value of real estate being transferred and is applicable to both residential and commercial properties. Understanding the nuances of this tax can help individuals and businesses plan their transactions more effectively.

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What Is Realty Transfer Tax?

The tax is levied on the transfer of real property or an interest in real property within Pennsylvania. This tax is generally calculated based on the value of the property being transferred. In Pennsylvania, the tax is typically paid equally between the buyer and seller, although the parties involved in the transaction can negotiate who will bear the cost.

Codified at 72 P.S. § 8101-C et seq. with accompanying regulations at 61 Pa. Code § 91.101 et seq. (Philadelphia maintains its own set of similar, but not identical regulations), the Pennsylvania realty transfer tax statute outlines the imposition, rate, and exemptions applicable to the tax. The general rule of thumb is that there is a two percent (2%) tax imposed on the actual consideration paid for the transfer of real estate, with one percent (1%) being assessed by the state, and the remainder paid to the municipality (and/or school districts). However, many municipalities across the Commonwealth provide for different local transfer tax rates, with notable outliers including the City and County of Philadelphia (3.278%) and the City of Pittsburgh (4% [generally]) topping the charts of exceptional municipalities. County assessor or tax collector websites have historically aggregated the list of municipal standouts.

Consideration & Computed Values

In Pennsylvania, the basis for realty transfer tax purposes is determined on several criteria depending on the nature of the transaction. For example, for most bona fide sales, i.e., good faith sales for value between two unrelated parties, the

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basis is the actual consideration paid. In other words, if Party A sells Blackacre for \$10,000,000 to Party B in an arms-length transaction, the realty transfer tax will be paid on the basis of \$10,000,000. Additionally, though it is common practice in many states to include a stated consideration on the face of a deed or other instrument of conveyance for “\$10.00 and other good and valuable consideration”, incorporating a statement like that on a Pennsylvania deed necessitates the filling of a Pennsylvania Form REV-183, the Realty Transfer Tax Statement of Value, which is typically recorded along with the deed. So, there are not normally benefits to omitting the consideration from the face of the deed.

If, on the other hand, genuinely nominal or no consideration is paid between the parties, then realty transfer tax is based on the so-called “computed value” of the property which is derived from a formula. Computed values for the realty transfer tax are based on the assessed value of the property for local real estate tax purposes, multiplied by the common level ratio factor for the county in which the property is located as determined by the statewide the State Tax Equalization Board (STEB) and the state Department of Revenue. These factors are intended to equalize property assessments in counties which have not conducted countywide reassessments in some years. Historically, after completing a countywide assessment and certifying that completion to STEB, the common level ratio factor (known as CLR) resets to 1.0.

In this scenario, imagine Party X is selling Greenacre to Party Y for \$10.00 in a legitimate no consideration conveyance. Assuming an exemption does not apply, then realty transfer tax would need to be paid on the basis of Greenacre’s computed value. If Greenacre’s assessed value was \$5,000,000, then multiplying the assessed value by (for example) the current Delaware County CLR factor of 1.63 yields a computed value of \$8,150,000, and realty transfer tax would need to be paid on that basis. By implementing computed values, the taxing authority aims to ensure that the computed value reflects the market value of the property for tax purposes.

Exemptions and Special Considerations

It is also important to note that realty transfer tax is paid not only on the transfer of fee title interests in property, but is also paid on the sale of “real estate companies” through stock, partnership, or LLC interest transactions, as well as on long-term leases.

Additionally, certain transactions may be exempt from the realty transfer tax. For example, transfers between certain family members, transfers to and from trusts and estates, some transfers in the bankruptcy context, among other types of transfers, may qualify for exemptions under specific conditions. These

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exemptions are very specific and technical, though, and even though some corporate reorganizations may be exempt from realty transfer tax in other jurisdictions, many corporate reorganizations in Pennsylvania, especially transfer to subsidiaries, are often taxable.

Implications for Buyers and Sellers

For buyers, understanding the realty transfer tax and when it applies is crucial as it can significantly impact the overall cost of acquiring property. Buyers should factor this tax into their budget when planning a purchase. Sellers, on the other hand, should be aware of the tax implications to ensure compliance and avoid any potential legal issues.

While it is customary for the tax to be paid equally between buyer and seller, the parties are jointly and severally liable for the tax, so taxing authorities have the right to seek 100% of the payment from either party. Thus, it is important that both parties are clear on each party's responsibilities for the tax prior to the closing of a transaction.

Navigating the realty transfer tax in Pennsylvania requires a clear understanding of the applicable laws and regulations. By familiarizing themselves with the Pennsylvania Realty Transfer Tax Act and consulting with legal professionals, individuals and businesses can ensure that their real estate transactions are conducted smoothly and in compliance with state and local law.