



FREDERICK COUNTY GOVERNMENT

DIVISION OF FINANCE

Department of Treasury

Recordation Tax – Real Estate Enterprise Exemption Provided by Maryland Tax Property 12-108(bb)

Maryland Tax Property 12-108(bb) explains the exemption that is provided on qualifying transfers of a real estate enterprise:

(bb) Real estate enterprise –

- (1) In this subsection, “real estate enterprise” means a business conducted by one or more individuals who own real property, including a sole proprietorship or a tenancy by the entirety, and are principally involved in buying, selling, leasing, or managing real property.
- (2) An instrument of writing that transfers title to real property from the individual or individuals conducting a real estate enterprise to a limited liability company is not subject to recordation tax if:
 - (i) The transfer is for no consideration other than the issuance of membership interests in the limited liability company;
 - (ii) The members of the limited liability company are identical to the partners of the conveying real estate enterprise;
 - (iii) Each member’s allocation of the profits and losses of the limited liability company is identical to that member’s allocation of the profits and losses of the conveying real estate enterprise;
 - (iv) The transfer is part of a discontinuation of the real estate enterprise; and
 - (v) All real property owned by the individuals and used in the conduct of any real estate enterprise is being conveyed to a single limited liability enterprise.
- (3) An individual’s other business interests unrelated to the real estate enterprise and unaffected by the title transfer to a limited liability company may not affect the individual’s ability to claim the exemption from the recordation tax described in this subsection.

In order to facilitate the processing of documents claiming this exemption, the Treasury Department will begin requiring that an affidavit be completed by the individuals in the real estate enterprise and submitted along with the deed. The affidavit will allow the Treasury Department to process the recording without the necessity of delay due to staff being required to research and review documents to verify the exemption.

This requirement will be effective November 1, 2014. An affidavit is attached to this form and must be followed for all recordings claiming the exemption. The affidavit is also available on the County’s website, www.frederickcountymd.gov/treasury.



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Affidavit

State of Maryland

County of Frederick, to wit:

I/we (name(s) of transferors) solemnly swear or affirm under the penalties of perjury and upon personal knowledge that the following statements are true and correct:

1. The undersigned affiants are the grantors on an instrument of writing presented for recording to the land records of Frederick County, Maryland.
2. The property described in the deed is part of a Real Estate Enterprise which Real Estate Enterprise is principally involved in buying, selling, leasing, or managing real property.
3. The transfer of this property is part of a discontinuation of the Real Estate Enterprise.
4. The transfer is for no consideration other than the issuance of membership interests in the limited liability company.
5. ALL of the real property owned by the undersigned individuals and used in the conduct of ANY Real Estate Enterprise is being conveyed to a SINGLE Limited Liability Company.
6. Each member's allocation of the profits and losses of the LLC is identical to that member's allocation of the profits and losses of the conveying Real Estate Enterprise and the members of the LLC are identical to the partners of the Real Estate Enterprise.

Transferor

Transferor

I hereby certify that on _____, before me, a Notary Public for the State and County stated above, personally appeared _____

_____ and made oath in due form of law under penalties of perjury that the matters and facts hereinafter set forth are upon their/his/her personal knowledge and are true and correct.

Notary Public

My commission expires: _____