



FREDERICK COUNTY GOVERNMENT

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DIVISION OF FINANCE

Department of Treasury

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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. A sample affidavit is attached and this form must be followed for all recordings claiming the exemption. The affidavit is also available on the County's website, www.frederickcountymd.gov.