

## VIII. County Transfer Taxes

### A. Allocation of Liability for County Transfer Tax

Pursuant to RP § 14-104(b), except with respect to (i) mortgages or deeds of trust, or (ii) transfers to first-time Maryland home buyers, it is presumed (in the absence of agreement to the contrary) that liability for any county transfer tax will be shared equally between the grantor and grantee

Pursuant to RP § 14-104(c)(1), unless there is an express agreement to the contrary, the grantor shall pay all county transfer tax that may be due if the transferred property is improved residential real property being sold to a first-time Maryland home buyer who will occupy the property as a principal residence

For allocation of liability for county transfer tax with respect to mortgages and deeds of trust, please see the Prince George's County Code

### B. Transfers of Properties in More than One County

TP § 13-406 – In a transfer of property located in 2 or more counties, the county transfer tax of the counties where the property that is transferred is located is apportioned as required under [TP] § 12-110(b)

### C. Taxation of Conveyances from Legal Entities to Beneficial Owners

For conveyances from a corporation to its stockholders, a limited liability company to its members, or a partnership to its partners on liquidation, dissolution or termination, TP § 13-405(b) mandates that the SDAT-assessed value of the property be used as the "consideration payable" (or "consideration paid or to be paid") for purposes of county transfer taxes, just as under TP § 12-105(g)(1) for recordation tax and TP § 13-205(d)(1) for state transfer tax (subject to the exemptions provided by TP § 13-405(c))

### D. Collection of County Transfer Taxes by SDAT

Collection of county transfer taxes by SDAT is mandated by TP § 13-404(a), but limited by TP § 13-404(b)

E. Mandatory Exemptions for All County Transfer Taxes

1. TP § 13-403 – An instrument of writing that transfers property between spouses or former spouses in accordance with a property settlement or divorce decree is not subject to any county transfer tax
  
2. TP § 13-403.1 – An instrument of writing pursuant to which the Maryland Stadium Authority transfers title to, or creates a leasehold interest in, real property if the transferee or lessee is an Authority affiliate [as defined in [FI] § 13-701(t)] is not subject to any county transfer tax  
  
FI § 13-701(t) defines "Authority affiliate" as "any corporation, partnership, limited liability company or other entity, whether organized on a for profit or not for profit basis, if the [Maryland Stadium] Authority directly or indirectly owns any outstanding shares of capital stock, partnership interests, membership interests, or other equity interests of such entity"
  
3. TP § 13-405(c) – A corporate, limited liability company, or partnership transfer as described in [TP] § 12-108 . . .
  - (p) [certain transfers among affiliated corporations – see also TP § 13-404(b)(1)],
  - (q) [transfers to certain owners upon liquidation, dissolution, or termination],
  - (v) [articles of merger – see also TP § 13-404(b)(2)],
  - (w) [articles of consolidation – see also TP § 13-404(b)(3)],
  - (y) [partnership to LLC], and
  - (bb) [real estate enterprise to LLC]is not subject to any county transfer tax"
  
4. TP § 13-410 – An instrument of writing that is exempt from recordation tax under § 12-108(cc) of this article (transfers of conservation easements to land trusts) is not subject to the county transfer tax

5. Transfers from the federal government –

As with the recordation tax and state transfer tax, to the extent liability for county transfer tax is allocated to the federal government as the grantor, the county must waive that amount of the county transfer tax otherwise due (because a county cannot tax the federal government)

6. ET § 9-106(c) – As with recordation tax and state transfer tax, to the extent a personal representative is conveying property as a distribution in kind for no consideration, no county transfer tax can be imposed on the deed

7. CA § 5-637(c) – As with the recordation tax and state transfer tax, to the extent liability for county transfer tax is allocated to an electric cooperative (formed under subtitle 6 of CA Title 5 – which was first codified in 2001 from 1976 MD. LAWS 179)

8. RP § 11-102(c) – As with the recordation and state transfer taxes, the following condominium documents are exempt from any county transfer tax:

- (a) Declaration of Condominium;
- (b) Bylaws of the Condominium (to the extent recordable);
- (c) Condominium Plat; and
- (d) Statement of Lien (pursuant to RP § 11-110(d) which incorporates the provisions of the Maryland Contract Lien Act [subtitle 2 of RP Title 14] – see RP § 14-203(h)&(j) for requirements and form)

F. Mandatory Exemptions for Home Rule Counties –

TP § 13-207 exemptions from state transfer tax apply to county transfer taxes adopted by Home Rule Counties pursuant to TP § 13-402.1(b)(2)

TP § 13-402.1(b)(2) – county transfer tax imposed by a home-rule county "does not apply to an instrument of writing exempt from the State transfer tax under [TP] § 13-207"

NOTE: As of November 15, 2004, the following jurisdictions are "home-rule" counties under Article XI-F of the Maryland Constitution:

Allegany County

Kent County

Caroline County

Queen Anne's County

Charles County

Worcester County

G. Charter Counties –

Other than the mandatory exemptions described in Part D above, a charter county may impose and/or limit its county transfer tax within whatever bounds are set forth in its charter

In addition to the City of Baltimore (which has both charter provisions within the Maryland Constitution and a separate charter pursuant to Article XI-A of the Maryland Constitution), as of November 15, 2004, the following jurisdictions are "charter" counties under Article XI-A of the Maryland Constitution:

Anne Arundel County

Montgomery County

Baltimore County

Prince George's County

Dorchester County

Talbot County

Harford County

Wicomico County

Howard County

H. Code Counties –

To the extent a code county has a county transfer tax, it is pursuant to a public local law enacted by the State. Then, to the extent authorized in such public local law, the county commissioners may refine the county transfer tax by adopting ordinances pursuant to such public local law

As of November 15, 2004, the following jurisdictions are "code" counties as defined in Article XI-F, § 1 of the Maryland Constitution:

Calvert County

Garrett County

Carroll County

St. Mary's County

Cecil County

Somerset County

Frederick County

Washington County