

Legislation Text

File #: 160810, Version: 1

Amending Chapter 19-1400 of The Philadelphia Code, entitled "Realty Transfer Tax," by closing certain loopholes, including by amending the definition of "value" as it relates to acquired real estate companies, the definitions of "real estate company" and "acquired real estate company," all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 19-1400 of The Philadelphia Code is amended to read as follows:

CHAPTER 19-1400. REALTY TRANSFER TAX.

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§ 19-1402. Definitions.

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(11) Real estate company.

(a) A corporation or association which is primarily engaged in the business of holding, selling or leasing real estate, ninety percent or more of the ownership interest in which is held by thirty-five or fewer persons and which:

(i) derives sixty percent or more of its annual gross receipts from the ownership or disposition of real *estate or title to real estate*; or

(ii) holds real *estate or title to real estate*, the value of which comprises fifty percent or more of the value of its entire tangible asset holdings exclusive of tangible assets which are freely transferable and actively traded on an established market; or

* * *

(14) Value.

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(b) In the case of a gift of real estate where the transfer is not arms length, sale by execution upon a judgment or upon the foreclosure of a mortgage by a judicial officer, or upon a deed in lieu of foreclosure, transactions without consideration or for consideration less than the actual monetary worth of the real estate, a lease subject to tax pursuant to § 19-1402(12)(b), an occupancy agreement, a leasehold or possessory interest, any exchange of properties, a transfer by merger, consolidation, or acquisition, a transfer effectuated pursuant to a plan of liquidation and dissolution, or the real estate of an acquired real estate

company [or] *that is* a family farm corporation, the actual monetary worth of the real estate as determined by adjusting the assessed value of the real estate, as determined by the Board of Revision of Taxes for City real estate tax purposes, for the common level ratio factor for the City as established by the State Tax Equalization Board: Provided, that the value of real estate [transferred pursuant to a plan of liquidation and dissolution of a corporation or an association shall not include the proportionate value of the real estate which is attributable to securities or shares owned by persons who filed a Certificate of Transfer and paid Realty Transfer Tax upon the acquisition of the securities and shares;] *shall never be less than the readily ascertainable market value of any property (including cash) for which the real estate is exchanged; and provided, further, that this subsection (b) shall not apply to any exchange of real estate exclusively for property (including cash) with a readily ascertainable fair market value;*

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(e) In the case of the real estate of an acquired real estate company other than a family farm corporation, the monetary value of the real estate directly or indirectly held by the company. Where the change in ownership is part of a bona fide arm's length sale, there shall be a rebuttable presumption that the monetary value is the actual consideration paid for the company, provided that the taxpayer may rebut that presumption by alternative proof of the actual value of the included real estate.

§ 19-1407. Acquired Real Estate Company.

(1) A real estate company is an acquired real estate company upon a change in the ownership interest in the company, however effected, if the change:

(a) does not affect the continuity of the company; and

(b) of itself or together with prior changes has the effect of transferring, directly or indirectly, [ninety percent (90%)] *seventy-five percent (75%)* or more of the total ownership interest in the company within a period of [three (3)] *six (6)* years. A transfer shall be considered to have occurred within a period of [three] *six* years of another transfer or transfers, if a legally binding commitment to execute that transfer was made within that period.

The tax is measured by the value of the cumulative percentage of change.

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SECTION 2. This Ordinance shall be effective July 1, 2017.

Explanation:

[Brackets] indicate matter deleted.

Italics indicate new matter added.