

Publications

State and Local Tax Alert: Proposed Ohio Legislation Would Apply Real Estate Transfer Tax to Pass-Through Entity Transfers and Result in Increased Tax Valuations

Related Attorneys

Nicholas M.J. Ray

Lauren M. Johnson

Related Services

Property Tax Management

Real Estate

State and Local Taxation

Taxation

CLIENT ALERT | 1.7.2020

On December 17, 2019, Representatives Green and Skindell introduced a bill (H.B. 449) to apply the conveyance fee tax to transfers of a controlling interest in a pass-through entity that owns real estate. If enacted, transactions involving real estate where there is a “qualifying transfer” would be required to remit the tax to the county auditor within 30 days. The required disclosures will not only lead to the assessment of transfer taxes not current due, but also result in additional filings by boards of education to increase real estate tax assessments.

For purposes of this potential legislation, a “qualifying transfer” would mean a transfer involving more than 50% of the ownership interest in a pass-through entity which owns real property. A “qualifying transfer” may occur in one transaction or a series of transactions. Transactions that occur within one year of each other would be considered a series of transactions.

This legislation is a significant departure from how Ohio currently addresses the transfer of a pass-through entity involving real estate. Currently, transfers of an interest of a pass-through entity that owns real estate are not subject to the conveyance fee tax.

As proposed, the transferor of the ownership interest would be required within 30 days to submit to the county where the real property owned is located a statement, to be prescribed by the tax commissioner. The information required on this statement would include the following:

1. The total amount paid to the transferor as consideration for the ownership interest
2. The portion of the total that is attributable to real property located in the county and owned by the entity
3. The percentage of the ownership interest in the entity being transferred

4. For the real property transferred, that entity's percentage of ownership

If the transferor fails to pay the fee, the county auditor is permitted to charge a penalty on the real property tax owned by the pass-through entity equal to the true value in money of the property base multiplied by the aggregate rate of the unpaid transfer fee. The penalty would be required to be separately stated on the tax list and would become a lien on the property when the penalty is charged.

This proposed legislation would be a significant change from current law and would have additional implications for the real property taxation of real estate in Ohio. The information contained in the statement required to be filed within 30 days of the transfer with the county auditor not only would be used in the reassessment process, but would also be available to other third parties who would then use the information to pursue increases in the value of real estate, which may result in increased taxes for property owners across the state.

Vorys has extensive experience in state and local tax and works with property owners across the country to help manage real property taxes. Contact your Vorys attorney with questions or concerns about real property taxes and how this proposed legislation may impact your business.