

Transfer Taxes in New Hampshire

By Jason A. Bielagus, Esq.

I am often asked two questions about transfer taxes in New Hampshire:

I am the sole member and manager of an LLC. The LLC owns real estate. I would like to transfer the real estate from the LLC to me. Do I need to pay transfer tax?

And,

I am transferring real estate from myself as an individual to myself as trustee. Do I need to pay transfer tax?

The answer to these questions is, respectively, no, probably not, and, yes, but only \$40.

Transfer tax

In New Hampshire, as in most states, the transfer of title to real estate is a taxable event. See RSA 78-B:1 and 78-B:1-a. In general, the amount of tax due is based on the sale price of the real estate, and is 1.5%, or \$1.50 per \$100 of sale price. It is customary in New Hampshire for the seller and buyer to split the transfer tax, although the parties are free to agree otherwise.

There are a number of exceptions to the transfer tax. See RSA 78-B:2. Common exceptions include:

Noncontractual transfers (IX)

Mortgages (III), and discharges of mortgages (IV)

Corrective deeds (V)

Transfers due to the death of the property owner (XI)

Transfers to the beneficiary of a partnership interest where the partnership dissolves by operation of law due to the death of a partner (XII)

Transfers of title between spouses pursuant to a final decree of divorce or nullity (XIII)

From one entity to another, due to a change in the form of organization (XXI)

From an entity to its owners, or vice versa (XXII)

Transfer tax and LLCs

Given the above, if the transfer is from an LLC to the owner of the LLC, or from the owner of the LLC to the LLC, and there is no purchase and sales agreement, and the transferor receives no money or other benefit, then there is no transfer tax.

However, the transfer of ownership in a company that owns real estate is taxed. So if ABC Real Estate, LLC, owns real estate, and 50% of ABC Real Estate, LLC, is sold, then the buyer and seller need to pay transfer tax on 50% of the value of the real estate held by ABC Real Estate, LLC at the time of the transfer.

I should also note, transfer tax does not apply to transfers under a plan of reorganization confirmed under 11 USC § 1129. See DRA Rule 803.02.

Transfer tax and trusts

Is there transfer tax when a person transfers real estate from himself as an individual to himself as trustee?

There is a specific DRA rule that governs transfers to trustees, when the grantor and trustee are the same person, DRA Rule 802.02 (below).

I should note, first, that in general the amount of transfer tax is based on the sale price, or the fair market value of the real estate at the time of transfer. However, when it comes to a transfer from a grantor to a trustee, and the grantor and trustee are the same person, rule 802.02 provides that:

Rev 802.02 Revocable Trusts of Real Property.

(d) The department shall not presume the price or consideration to be fair market value of the property transferred for transfers under Rev 802.02(c) that are transferred:

- (1) Between a trust and grantor of the trust;
- (2) From a trust to the beneficiaries of the trust upon the death of the grantor of the trust;
- (3) From the trust to a beneficiary who is the natural object of the grantor's bounty; or
- (4) From a trustee to a successor trustee of the same trust.

What that means is that if you are transferring title to real estate from you as an individual to you as a trustee, then, yes, you do need to pay transfer tax, however, you need pay only the minimum, which is \$40.

[For more information](#)

The instructions to the transfer tax form, CD-57, have more information about the transfer tax. That form can be found at:

[e-File Real Estate Transfer Tax](#)
(CD-57-S, CD-57-P and PA-34)

[Real Estate Transfer Tax Help](#)
[Real Estate Transfer Tax e-File Training](#)
[Video](#)

More information about transfer tax can also be found at
http://www.revenue.nh.gov/faq/dra_800.htm

The DRA rules for transfer tax can be found at
http://www.gencourt.state.nh.us/rules/state_agencies/rev800.html

Please do not hesitate to contact us with any questions. We can be reached at:

Bielagus Law Offices PLLC
26 Concord Street
PO Box 3091
Peterborough, NH 03458
(603) 554-1612
www.bielaguslaw.com

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