

REALTY TRANSFER TAX: Conversion of Corporation into a Limited Partnership.

Q: In the June 2001 Q&A session, the Pennsylvania Department of Revenue responded that the conversion of a Delaware corporation into a limited partnership under Delaware Code Title 8, Chapter 1, Subchapter IX, §266 will have no realty transfer tax consequences. The Department reasoned that there is no break in the continuity of the entity's existence but merely a change in form. Will the City of Philadelphia conform to the exempt treatment of such conversions? (Note that the Department's analysis did not involve a corporate merger exemption or other provision wherein the City of Philadelphia ordinance departs from state rules).

A: *No. To the extent that a Delaware corporation has ownership / title to real estate within Philadelphia when it is converted (pursuant to 8 Del. C. § 266) to a Delaware limited partnership, the transaction will give rise to Philadelphia Realty Transfer Tax.*

The Realty Transfer Tax ordinance at Philadelphia Code § 19-1406 states:

Except as otherwise provided in section 19-1405 documents which make, confirm or evidence any transfer or demise of title to real estate between associations or corporations and the members, partners, shareholders or stockholders thereof are fully taxable. For the purposes of this article, corporations and associations are entities separate from their members, partners, stockholders or shareholders.

Realty Transfer Tax Regulation 404 also states that transfers in consideration of the issuance or cancellation of stock are fully taxable.