

FRIEDMAN SCHUMAN

Applebaum, Nemeroff & McCaffery

A Professional Corporation

ATTORNEYS AT LAW

Suite 200
7848 Old York Road
Elkins Park, Pennsylvania 19027-2541

215-635-7200

FACSIMILE
215-635-7212

www.fsalaaw.com

Direct Dial (215) 690-3804

SENDER'S EMAIL:
PFRIEDMAN@FSALAW.COM

October 23, 2007

Mr. Kim Kaufman, Executive Director
Independent Regulatory Review Commission
14th Floor
333 Market Street
Harrisburg, PA 17101

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2007 OCT 30 AM 9:23
INDEPENDENT REGULATORY
REVIEW COMMISSION

Re: Expensive Changes to the Pennsylvania Realty Transfer Tax

Dear Mr. Kaufman:

Since 2000, the Pennsylvania Department of Revenue ("DOR") has been working on a project to amend the realty transfer tax regulations. The Department previously issued drafts of amended regulations in 2000, 2005, and March of this year, and now has issued proposed final regulations. These October 2007 revisions will be reviewed for final adoption by the Independent Regulatory Review Commission ("IRRC"), which will hold a public meeting on them on November 1, 2007. The DOR ignored most of the comments to the earlier drafts of the regulations submitted by bar associations and other interested persons. As a result, in numerous instances these regulations will create significant problems.

For example, under the current draft regulations:

- realty transfer tax would be imposed on the assignment of a contract to purchase real estate. Taxing this type of transaction is contrary to the law under the Pennsylvania Supreme Court's holding in the *Allebach* case;
- like kind exchanges may well be subject to **four** transfer taxes because these regulations provide, contrary to the Federal law, that neither a "qualified intermediary" nor an "exchange accommodation title holder" are agents of the taxpayer. Pennsylvania would

Peter S. Friedman*†
Kerry Scott Schuman*
David A. Applebaum†
Robert H. Nemeroff
Daniel D. McCaffery
Jeffrey R. Hoffmann†§
Sean P. Kilkenny*
Allen B. Dubroff
Jill Evantash Schuman*†
Brian H. Smith
Gary Tannenbaum*
Thomas A. Nelson, III*
Michael J. Savona
Todd Eisenberg
Amy C. Quigg
Michael Casey*
Richard J. Molish

† LLM in Taxation

* Also admitted to practice in NJ

§ Also admitted to practice in FL

† Also admitted to practice in DE

2503

BUCKS COUNTY OFFICE
8 W. Oakland Avenue
Doylestown, PA 18901
215-635-7200

NEW JERSEY OFFICE
9 Tanner Street, Suite 10
Haddonfield, NJ 08033
856-616-8818

DELAWARE OFFICE
Suite 728
1201 N. Orange Street
Wilmington, DE 19801
302-884-6730

OF COUNSEL
Jon D. Fox

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Page 2

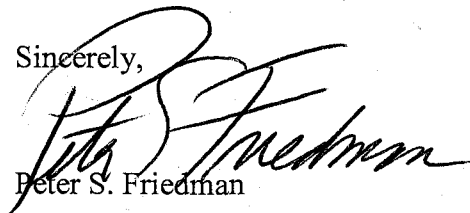
be the only state in the country where exchanges would be subject to such multiple realty transfer taxes; and

- in contrast to the existing regulations, in a sale leaseback transaction, if the lease term (including most options to renew) is 30 years or more, both the sale and the lease will be subject to realty transfer tax unless the transaction is a financing, as narrowly defined by the DOR. It is the DOR's view that a transaction is not a financing unless the property will be returned to the seller at the end of the transaction for no or nominal consideration. Thus, many sale leaseback transactions will be subject to two realty transfer taxes on the initial sale and leaseback, and a **third** realty transfer tax if the property ultimately is conveyed back to the seller.

For these reasons, we urge the Independent Regulatory Review Commission to reject these regulations and request the DOR to issue regulations that comply with the law and are good public policy.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter S. Friedman". The signature is fluid and cursive, with a large initial "P" and "S".

Peter S. Friedman

PSF/rs