



October 30, 2007

2503

RECEIVED

2007 NOV -5 AM 11:08

INDEPENDENT REGULATORY
REVIEW COMMISSION

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

**Re: Proposed Amendments to 61 Pa Code, Chapter 91 (relating to realty transfer tax)
("Draft Regulations")**

Dear Mr. Kaufman:

We do a great deal of real estate business in Pennsylvania, including but not limited to, a variety of sale-leaseback transactions and 1031 tax deferred exchanges. We are very concerned about the Draft Regulations the Department of Revenue has promulgated revising the realty transfer tax regulations. It is our understanding that these regulations in certain instances are contrary to the law. In addition, in our view, these regulations are also bad public policy. They will discourage my company from engaging in real estate transactions in Pennsylvania. Among the significant issues raised by the Draft Regulations are:

- realty transfer tax would be imposed on the assignment of a contract to purchase real estate;
- 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 be the only state in the country that we are aware of 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. Thus, all of our sale-leaseback transactions will be subject to two realty transfer tax payments.

For these reasons, we urge the Independent Regulatory Review Commission to reject these regulations. Thank you for your consideration.

Very truly yours,

Christopher P. Tessitore
Executive Vice President and General Counsel

CPT/dd

c: Gregory C. Fajt, Chief of Staff

4819-1347-1746.1