



TEMPLE UNIVERSITY
A Commonwealth University

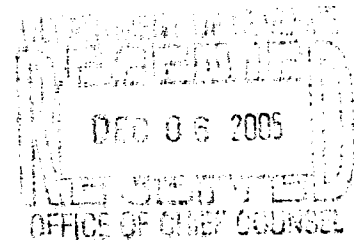
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**VIA FACSIMILE AND
FEDERAL EXPRESS**

December 5, 2005

Ms. Mary R. Sprunk
Office of Chief Counsel
Pennsylvania Department of Revenue
Office of Chief Counsel, Dept. 281061
1133 Strawberry Square
Harrisburg, PA 17128-1061



Re: Comments and Suggestions Concerning Proposed Amendments, Department of Revenue, 61 Pa. Code, Chapter 91, Realty Transfer Tax ("RTT") Regulation Amendments (the "Proposed Regulations")

Dear Ms. Sprunk:

Temple University – Of The Commonwealth System of Higher Education ("Temple University") respectfully submits the following comments and suggestions regarding the Proposed Regulations.

Section 91.195. State-related universities and public charities.

Proposed Section 91.195(b) states:

Other state-related universities, such as Lincoln University, the Pennsylvania State University and its affiliates, the Pennsylvania College of Technology, Temple University and its subsidiaries, Temple University Hospital, Inc., and Temple University Children's Medical Center, Inc., and the University of Pittsburgh do not constitute excluded parties.

Temple University respectfully submits that this proposed regulation is contrary to law and the expressed intent of the General Assembly, and would constitute an unwarranted

impediment to Temple University's carrying out its public purposes as an instrumentality of the Commonwealth.

First, the Temple University – Commonwealth Act, 24 P.S. §2510 et seq. expressly established “Temple University as an instrumentality of the Commonwealth to serve as a State-related institution in the Commonwealth System of Higher Education.” *Id.* at §2410-2. When this Act was passed, one purpose of the “instrumentality” designation was to assure that Temple University would have the same incidents of tax immunity as the Commonwealth itself. The same is true of the enabling legislation for the designation of other State-related universities.

Second, and most importantly, the realty transfer tax statute, 72 P.S. §8101 et seq., specifically exempts instrumentalities of the Commonwealth from tax. Section 8102-C.2 provides that the “United States, the Commonwealth or any of their instrumentalities, agencies or political subdivisions shall be exempt from the [transfer] tax,” and further that “the exemption of such governmental bodies shall not, however, relieve any other party to a transaction from liability for the tax.”

Third, under Act 55, The Institutions of Purely Public Charities Act, 10P.S. §371 et seq. (“Act 55”), the General Assembly expressly provided that all real property owned by Temple University and the other State-related universities of the Commonwealth is public property when actually and regularly used for public purposes, and therefore is exempt from State and local taxation. 10P.S. §374(a). Act 55 specifically includes Temple University and its subsidiaries Temple University Hospital, Inc., and Temple University Children's Hospital [now Medical Center], Inc., (as well as the Pennsylvania State University and its affiliate, the Pennsylvania College of Technology, the University of Pittsburgh and Lincoln University) within the definition of State-related universities. 10 P.S. §374(d).

Finally, in light of the language of the transfer tax statute exempting “instrumentalities of the Commonwealth,” the Department's attempt to treat Temple University and the other State-relateds different from other instrumentalities will violate the Pennsylvania Constitution's proscription against non-uniform application of tax statutes.

In conclusion, transfers of real property involving these institutions are excluded from the realty transfer tax statute, 72 P.S. §8102-C.3(1)

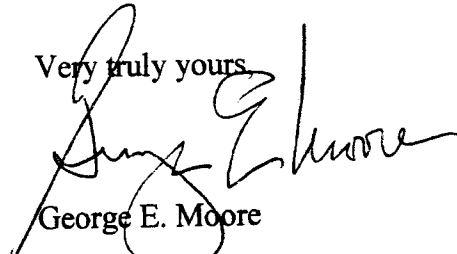
For the foregoing reasons, § 91.195 should be revised to provide:

(a) For the purposes of § § 91.192 and 91.193(a) (relating to excluded parties; and excluded transactions), institutions that are part of the State System of Higher Education as well as Lincoln University, The Pennsylvania State University and its affiliates , the Pennsylvania College of Technology, Temple University and its subsidiaries, Temple University Hospital, Inc., Temple University Children's Medical Center, Inc. and the University of Pittsburgh (“Exempt Institutions”) constitute excluded parties. Transfers to such institutions by gift or dedication are excluded transactions.

(b) Transfers of property to an Exempt Institution other than by gift or dedication and all transfers by such institutions are taxable upon the same basis as other transfers to or from excluded parties.

Should you have any questions or comments, please feel free to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "George E. Moore". The signature is fluid and cursive, with a large initial "G" and "M".

George E. Moore

GEM/msb