



CITY OF PHILADELPHIA  
LAW DEPARTMENT  
TAX & REVENUE UNIT

DIANA P. CORTES,  
CITY SOLICITOR

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[REDACTED]

**Re: Realty Transfer Tax ("RTT") Ruling Response: Corporate Merger**

Dear [REDACTED]:

On behalf of [REDACTED] and [REDACTED]

[REDACTED]

"Taxpayer") you have written seeking a ruling on whether, based on the representations submitted by the Taxpayer, the City of Philadelphia ("City") would agree that the merger of [REDACTED] and [REDACTED] does not constitute an event with respect to which realty transfer tax ("RTT") is due pursuant to the City's Realty Transfer Tax ordinance. This opinion is issued by the Tax Unit of the Law Department and the Technical Staff of the Revenue Department of the City of Philadelphia. Under Section 17-703(4), a \$3,500.00 ruling fee is required, which has been received.

You represent as follows: [REDACTED] are each wholly owned by [REDACTED] [REDACTED] ("Holdings"). Taxpayer proposes to develop their properties in a manner that requires all properties to be owned by one entity in order to receive all necessary permits from the City of Philadelphia. Taxpayer proposes to accomplish this by merging [REDACTED] and [REDACTED] into

one surviving limited liability company. Holdings will remain as the sole owner of the surviving entity.

You asked if the City would agree that the merger of [REDACTED] and [REDACTED] would not be subject to RTT. Section 8102-C.3(12) of Pennsylvania's realty transfer tax law provides for tax free corporate entity mergers unless the primary intent for such merger is avoidance of RTT. A limited liability company is a corporation for realty transfer tax purposes. Pa Reg. Sec. 91.101. Pa. Reg. Sec. 91.193(b)(12) explains that the State will determine whether there is primary intent to avoid RTT by examining whether parties to the merger are real estate companies and if the merger has the effect of transferring 90% or more of the ownership of the acquired real estate company. The City's realty transfer tax law and regulations are silent on the subject.

You represent that [REDACTED] and [REDACTED] are both organized under the laws of the State of Delaware and the merger would be pursuant to Delaware law. You state: under Delaware's limited liability company law, Title 6, Section 18-208(g), following a merger of two domestic limited liability companies all the assets and liabilities of the merged company automatically become the assets and liabilities of the surviving limited liability company with no need for any action by the entity or its owners; liens against the assets of the merged company are not impaired by the conversion and claims or causes of action against the merged company may be prosecuted to judgment against the surviving company.

Pennsylvania law allows foreign entities to merge under Pennsylvania law with a foreign entity as the survivor if the merger is allowed under the laws of the entities' jurisdiction. 15 Pa.C.S.A. Sec. 331(a). As under Delaware law, Pennsylvania provides that title to the merged entity's assets vests in the surviving entity and the merger does not constitute a transfer of the merged entity's assets. 15 Pa.C.S.A. Sec. 336(a)(3).


You represent that there will be no ownership changes by reason of the merger. Sharestates will be the sole owner of [REDACTED] and [REDACTED] before the merger and will remain as the sole owner of [REDACTED] the entity surviving the merger. Therefore, it does not meet the definition of an acquired corporation.

Based upon your representations set forth above we are in agreement that the transactions which you describe would not be taxable under Philadelphia's realty transfer tax.

This ruling is directed to [REDACTED] and [REDACTED] and may not be relied upon by any other person. This letter ruling is not intended to have, nor does it have any precedential value for other taxpayers. We offer no assurances that we would reach the same conclusion with respect to other reorganizations.

This ruling is given to you as of the date hereof, and we express no opinion as to any matter not expressly set forth herein. By issuing this ruling, we do not undertake any obligation to advise you of any change in law or facts that may occur or come to our attention after the date hereof.

Very truly yours,

  
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Mary-Kate Martin  
Divisional Deputy City Solicitor