

AN ACT in relation to taxes.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Property Tax Code is amended by changing Sections 31-5, 31-10, and 31-20 as follows:

(35 ILCS 200/31-5)

(Text of Section after amendment by P.A. 93-657)

Sec. 31-5. Definitions.

"Recordation" includes the issuance of certificates of title by Registrars of Title under the Registered Titles (Torrens) Act pursuant to the filing of deeds or trust documents for that purpose, as well as the recording of deeds or trust documents by recorders.

"Department" means the Department of Revenue.

"Person" means any natural individual, firm, partnership, association, joint stock company, joint adventure, public or private corporation, limited liability company, or a receiver, executor, trustee, guardian or other representative appointed by order of any court.

"Value" means the amount of the full actual consideration for the real property or the beneficial interest in real property located in Illinois, including the amount of any lien on the real property assumed by the transferee buyer.

"Trust document" means a document required to be recorded under the Land Trust Recordation and Transfer Tax Act and, beginning June 1, 2005, also means any document relating to the transfer of a taxable beneficial interest under this Article.

"Beneficial interest" includes, but is not limited to:

- (1) the beneficial interest in an Illinois land trust;
- (2) the lessee interest in a ground lease (including any interest of the lessee in the related improvements) that provides for a term of 30 or more years when all

options to renew or extend are included, whether or not any portion of the term has expired; or

(3) the indirect interest in real property as reflected by a controlling interest in a real estate entity.

"Controlling interest" means more than 50% of the fair market value of all ownership interests or beneficial interests in a real estate entity.

"Real estate entity" means any person including, but not limited to, any partnership, corporation, limited liability company, trust, other entity, or multi-tiered entity, that exists or acts substantially for the purpose of holding directly or indirectly title to or beneficial interest in real property. There is a rebuttable presumption that an entity is a real estate entity if it owns, directly or indirectly, real property having a fair market value greater than 75% of the total fair market value of all of the entity's assets, determined without deduction for any mortgage, lien, or encumbrance.

(Source: P.A. 92-651, eff. 7-11-02; 93-657, eff. 6-1-04.)

(35 ILCS 200/31-10)

(Text of Section after amendment by P.A. 93-657)

Sec. 31-10. Imposition of tax. A tax is imposed on the privilege of transferring title to real estate located in Illinois, on the privilege of transferring a beneficial interest in real property located in Illinois, and on the privilege of transferring a controlling interest in a real estate entity owning property located in Illinois, at the rate of 50¢ for each \$500 of value or fraction of \$500 stated in the declaration required by Section 31-25. If, however, the transferring document states that the real estate, beneficial interest, or controlling interest is transferred subject to a mortgage, the amount of the mortgage remaining outstanding at the time of transfer shall not be included in the basis of computing the tax. The tax is due if the transfer is made by one or more related transactions or involves one or more

persons or entities and whether or not a document is recorded.
(Source: P.A. 93-657, eff. 6-1-04.)

(35 ILCS 200/31-20)

(Text of Section after amendment by P.A. 93-657)

Sec. 31-20. Affixing of stamps. Payment of the tax shall be evidenced by revenue stamps in the amount required to show full payment of the tax imposed by Section 31-10. Except as provided in Section 31-45, a deed, document transferring a controlling interest in real property, or trust document shall not be accepted for filing by any recorder or registrar of titles unless revenue stamps in the required amount have been purchased from the recorder or registrar of titles of the county where the deed, document transferring a controlling interest in real property, or trust document is being filed for recordation. The revenue stamps shall be affixed to the deed, document transferring a controlling interest in real property, or trust document by the recorder or the registrar of titles either before or after recording as requested by the grantee. The Department may prescribe a form to which stamps must be affixed that a transferee must file for recordation at the time a declaration is presented if a transferring document is not presented for recordation within 3 business days after the transfer is effected. A person using or affixing a revenue stamp shall cancel it and so deface it as to render it unfit for reuse by marking it with his or her initials and the day, month and year when the affixing occurs. The marking shall be made by writing or stamping in indelible ink or by perforating with a machine or punch. However, the revenue stamp shall not be so defaced as to prevent ready determination of its denomination and genuineness.

(Source: P.A. 93-657, eff. 6-1-04.)

Section 10. The Stock, Commodity, or Options Transaction Tax Exemption Act is amended by changing Section 3 as follows:

(35 ILCS 820/3)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 3. Construction of Act. Nothing in this Act shall be construed as prohibiting or otherwise invalidating any real estate transfer tax or fee authorized or permitted by Section 31-10 of the Property Tax Code, Sections 5-1031 and Section ~~Section~~ 5-1031.1 of the Counties Code, or Section 8-3-19 of the Illinois Municipal Code. This Section is intended as a clarification and not as a change to existing law.

(Source: P.A. 93-657, eff. 6-1-04.)

Section 15. The Counties Code is amended by changing Section 5-1031 as follows:

(55 ILCS 5/5-1031) (from Ch. 34, par. 5-1031)

Sec. 5-1031. County real estate transfer tax.

(a) The county board of a county may impose a tax upon the privilege of transferring title to real estate, as represented by the deed that is filed for recordation, and upon the privilege of transferring a beneficial interest in a land trust holding legal title to real estate located in such county as represented by the trust document that is filed for recordation, at the rate of 25 cents for each \$500 of value or fraction thereof stated in the declaration required by Section 31-25 of the Property Tax Code. If, however, the real estate is transferred subject to a mortgage, the amount of the mortgage remaining outstanding at the time of transfer shall not be included in the basis of computing the tax.

A tax imposed pursuant to this Section shall be collected by the recorder or registrar of titles of the county prior to recording the deed or trust document or registering the title subject to the tax. All deeds or trust documents exempted in Section 31-45 of the Property Tax Code shall also be exempt from any tax imposed pursuant to this Section. A tax imposed pursuant to this Section shall be in addition to all other

occupation and privilege taxes imposed by the State of Illinois or any municipal corporation or political subdivision thereof.

(b) The county board may impose a tax at the same rate on the transfer of a beneficial interest, as defined in Section 31-5 of the Property Tax Code. If, however, the transferring document states that the real estate or beneficial interest is transferred subject to a mortgage, then the amount of the mortgage remaining outstanding at the time of transfer shall not be included in the basis of computing the tax.

The tax must be paid at the time of recordation or, if a document is not recorded, at the time of presentation of the transfer declaration to the recorder, as provided in Section 31-25 of the Property Tax Code. All deeds or documents relating to the transfer of a beneficial interest exempted in Sections 31-45 or 31-46 of the Property Tax Code are also exempt from any tax imposed under this Section. A tax imposed under this Section is in addition to all other occupation and privilege taxes imposed by the State of Illinois or any municipal corporation or political subdivision thereof.

(c) Beginning June 1, 2005, a tax imposed under this Section is due if the transfer is made by one or more related transactions or involves one or more persons or entities, regardless of whether a document is recorded.

(Source: P.A. 89-626, eff. 8-9-96.)

Section 99. Effective date. This Act takes effect June 1, 2005.