

**CITY OF PHILADELPHIA
LAW DEPARTMENT**

MEMORANDUM

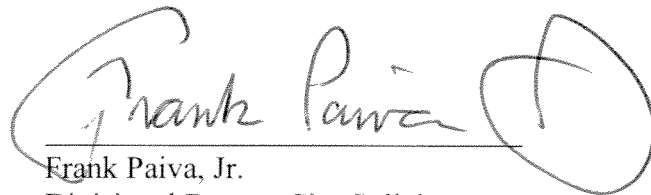
TO: Keith J. Richardson, Revenue Commissioner

FROM: Frank Paiva, Jr., Divisional Deputy City Solicitor

DATE: February 12, 2010

SUBJECT: Amendment to Sections 103 and 503(b) of the Department of Revenue Real Estate Transfer Tax Regulations to provide guidance to address changes in the law that were attributable to passage of Bill No. 070541 which created a Realty Transfer Tax exemption for transactions between certain financially interdependent persons.

I have reviewed the attached amendment to Sections 103 and 503(b) of the Department of Revenue Real Estate Transfer Tax Regulations dated January 7, 2010 that you have submitted to the Law Department. This amendment addresses the recently enacted exemption for transactions between certain financially interdependent persons. I find the attached amendment to be legal and in proper form. In accordance with Section 8-407(a) of The Philadelphia Home Rule Charter, you may now forward this amendment to the Department of Records where they will be made available for public inspection.



Frank Paiva, Jr.
Divisional Deputy City Solicitor

Attachment

City of Philadelphia – Department of Revenue

AMENDMENT TO SECTIONS 103 and 503 OF THE CITY OF PHILADELPHIA'S REAL ESTATE TRANSFER TAX REGULATIONS

Section 103 of the City of Philadelphia's Real Estate Transfer Tax Regulations is amended to add the following definition:

Section 103. Definitions.

FAMILY FARM REALTY ***

FINANCIALLY INTERDEPENDENT PERSONS – Persons who live together as a single household and who, for at least six months immediately prior to the date of the transfer of real estate between or among such persons have agreed to share the common necessities of life and to be responsible for each other's common welfare. Individuals currently registered as *Life Partners* pursuant to Philadelphia Code § 9-1106 (and who have not revoked this status) shall be presumed under these regulations to meet this definition.

FINANCING TRANSACTION ***

Section 503 (b) of the City of Philadelphia's Real Estate Transfer Tax Regulations is amended to read as follows:

Section 503. Excluded Transactions

- (35) A transfer between financially interdependent persons, except that a subsequent transfer by the grantee within one year shall be subject to tax as if the grantor were making such transfer, and provided such persons file a sworn affidavit with the Records Department, an agent of the Revenue Department, certifying their status as financially interdependent persons.
- (i) The status of individuals as financially interdependent persons is one of fact. That is, the relationship between or among individuals responsible to one another for the common necessities of life (i.e. food, clothing, shelter etc.) as well as each other's common welfare (i.e. emotional well-being) must be genuine and not for the sole purpose of claiming this exclusion from the tax.
 - (ii) The Records Department will look to the preponderance of actual evidence in order to determine the validity of the status of individuals as financially interdependent persons. This evidence includes (but is not limited to) the following:

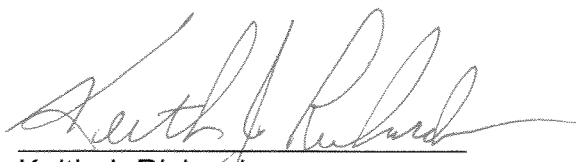
- Relationships such as aunt, uncle, nephew, niece, cousin, son/daughter/sister/brother-in-law, step father/mother/sister/brother/son/daughter, common-law marriage, domestic partners etc.;
- Household bills held or paid jointly;
- Jointly-owned investment/savings/bank accounts;
- Beneficiary designation on life insurance policies or retirement benefits;
- Designation as executor/executrix or beneficiary in a will, trust or other estate planning tool;
- Individual is or was the legal guardian of another;
- The presence of the same address on legal documents such as driver's licenses, voter registration cards, tax returns etc.;
- Common ownership of a motor vehicle;
- Appointment as a medical or financial power of attorney or health care agent.

(iii) If the Records Department or Revenue Department finds that the individuals are not Financially Interdependent Persons and assesses the Realty Transfer Tax, an appeal of the decision may be filed with the City of Philadelphia's Tax Review Board pursuant to Philadelphia Code § 19-1702.

EFFECTIVE DATE

This amendment is for transfers on or after November 15, 2007.

[] Brackets indicate matter deleted.
 ___ Underlining indicates new matter added.



 Keith J. Richardson
 Revenue Commissioner

1/2/10

 Date