

Friends:

As some of you may know, in November 2007 Phila City Council amended the Realty Transfer Tax section of the Philadelphia Code to allow a tax exemption for property transfers between financially interdependent persons (FIP). FIPs are defined as “persons who live together as a single household and who, for at least six months, have agreed to share the common necessities of life and be responsible for each other’s common welfare”.

Property transfers between legal spouses have always been tax-exempt. In 1998, Phila City Council passed a law that extended that benefit to same-sex domestic partners, but in 2004, the Pa Supreme Court struck it down as unconstitutional.

In response, City Council passed the FIP ordinance, but no one has claimed the tax exemption because the Department of Revenue has not finished the regulations necessary to implement it. In November of last year, one of our clients requested help to transfer his property to his partner and himself.

After almost 6 months of our effort and 19 months since the ordinance was passed, we are happy to report that we have filed Philadelphia’s first FIP tax-exempt deed!! We received the recorded copy last this week.

We are grateful to the efforts of Rue Landau and the Philadelphia Human Relations Commission in drafting the interim regulations, which made it possible for the tax-exempt deed to be filed.

While tax exempt property transfers may not be a high priority given the City’s current financial crisis, the fundamental fairness of offering the same benefits to all committed households should always be in style.

Thanks –Ronda

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Explanation of FIP Exemption from Philadelphia's Realty Transfer Tax Philadelphia Code § 19-405 (28)

In 1998, the City of Philadelphia passed a package of laws granting certain rights to same-sex couples who registered as Life Partners (domestic partners). Those laws were challenged in court and the decisions were appealed. In 2004, the PA Supreme Court upheld all of the laws, except the law granting an exemption of the real estate transfer tax to Life Partners. The court ruled that the ordinance *as drafted* violated the Uniformity Clause of the PA Constitution. In other words, the court found that the way in which the law was worded and where it was placed in the Philadelphia Code was unconstitutional.

To remedy the situation, a new law was passed by City Council and signed by the Mayor in November 2007. The law covered a broader category, "financially interdependent persons" instead of Life Partners, and was placed in its own subsection of the Philadelphia Code. No one filed a lawsuit. The law as it is currently written is valid and must be enforced.

The current law defines Financially Interdependent People as: "Persons who live together as a single household and who, for at least six months, have agreed to share the common necessities of life and to be responsible for each other's common welfare, including but not limited to, domestic partners, whether of the same or opposite sex." Phila. Code § 19-1402 (7.1)

The law then excludes Financially Interdependent People from the Realty Transfer Tax as follows:

"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 first file a sworn affidavit with the Revenue Department certifying their status as financially interdependent persons. The Revenue Department shall by regulation specify any additional evidence such persons must submit to establish their eligibility for this exemption except where individuals are registered as Life Partners pursuant to § 9-1106, in which case such registration shall be deemed adequate evidence of eligibility." Phila. Code § 19-405 (28)

The Revenue Department is currently drafting a regulation to specify the evidence needed to determine eligibility. Until that regulation is finalized, people claiming Financially Interdependent Status need only submit an affidavit when filing their Philadelphia Real Estate Transfer Tax Certification.