

SENATE BILL REPORT

SB 5584

As Passed Senate, March 17, 1999

Title: An act relating to preventing the use of step transactions to avoid real estate excise tax.

Brief Description: Preventing the use of step transactions to avoid real estate excise tax.

Sponsors: Senators Fraser and Winsley; by request of Department of Revenue.

Brief History:

Committee Activity: Ways & Means: 2/16/99, 2/17/99 [DP].
Passed Senate, 3/17/99, 48-0.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Loveland, Chair; Fairley, Fraser, Honeyford, Kline, Kohl-Welles, Long, Rasmussen, B. Sheldon, Snyder, Spanel, West and Wojahn.

Staff: Terry Wilson (786-7433)

Background: The real estate excise tax applies to transfers of real property. The real estate excise tax also applies to the transfer or acquisition within any 12-month period of a controlling interest in any entity with an interest in real property in this state. However, real property transfers involving the formation, liquidation, dissolution, or reorganization of entities that are not subject to federal income tax are not subject to the real estate excise tax. The tax is generally imposed on the seller of the property.

The real estate excise tax can be avoided on the purchase of real property when business entities hold the property. The purchaser can contribute capital to the corporation or partnership to dilute the current owner's interest to less than 50 percent. The buyer can then purchase the minority interest and liquidate the business. Since real property transfers involving the formation, liquidation, dissolution, or reorganization of entities are not subject to the real estate excise tax, the result is the transfer of real property without payment of the tax.

Summary of Bill: The exemption from the real estate excise tax for real property transfers involving the formation, liquidation, dissolution, or reorganization of entities that are not subject to federal income tax does not apply if:

- (1) There is more than one of these transfers within a 12-month period and the result is the transfer or acquisition of a controlling interest in any entity with an interest in real property in this state; and
- (2) One or more persons previously holding a controlling interest in the entity receive cash or property for the interest.

The tax is imposed on the person who previously held the controlling interest in the entity. The tax does not apply (a) to real property received that was originally contributed to the entity by the person, or (b) to other persons who did not contribute real property or have an interest in the entity when real property was purchased who receive cash or personal property in exchange for the person's interest in the entity.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The purpose of these step transactions is to avoid the tax. This does not increase a tax, it just closes a loophole.

Testimony Against: None.

Testified: PRO: Tim Sekerak, DOR.