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Indicates New Matter

AS PASSED BY THE SENATE

May 12, 2010

**H. 4174**

Introduced by Reps. Harvin, Bales, Harrison, G.M. Smith and Wylie

S. Printed 5/12/10--S.

Read the first time February 3, 2010.

**A** **BILL**

TO AMEND SECTION 12‑37‑3150, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DETERMINING WHEN A PARCEL OF REAL PROPERTY MUST BE APPRAISED AS A RESULT OF AN ASSESSABLE TRANSFER OF INTEREST, SO AS TO PROVIDE THAT A CONVEYANCE TO A TRUST DOES NOT CONSTITUTE AN ASSESSABLE TRANSFER OF INTEREST IN THE REAL PROPERTY IF THE SETTLOR OR SETTLOR’S SPOUSE CONVEYS THE PROPERTY TO A TRUST THE BENEFICIARIES OF WHICH ARE A CHILD OR CHILDREN OF THE SETTLOR OR THE SETTLOR’S SPOUSE AND TO PROVIDE THAT A CONVEYANCE BY DISTRIBUTION UNDER A WILL OR BY INTESTATE SUCCESSION DOES NOT CONSTITUTE AN ASSESSABLE TRANSFER OF INTEREST IN THE REAL PROPERTY IF THE DISTRIBUTEE IS A CHILD OR CHILDREN OF A DECEDENT AND THE DECEDENT DID NOT HAVE A SPOUSE AT THE DECEDENT’S DATE OF DEATH.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. A. Section 12‑37‑3150(A)(3) of the 1976 Code is amended to read:

“(3) a conveyance to a trust, except if:

(a) the settlor or the settlor’s spouse, or both, conveys the property to the trust and the sole present beneficiary or beneficiaries are the settlor or the settlor’s spouse, or both; or

(b) the settlor or the settlor’s spouse, or both, conveys property subject to the special four percent assessment ratio pursuant to Section 12‑43‑220(c) and the sole present beneficiary or beneficiaries are the child or children of the settlor or the settlor’s spouse, but a subsequent conveyance of this real property by the beneficiary child or children is not exempt from the provisions of this section;”

B. Section 12‑37‑3150(A)(6) of the 1976 Code is amended to read:

“(6) a conveyance by distribution under a will or by intestate succession, except if:

(a) the distributee is the decedent’s spouse; or

(b) the distributee is a child or children of the decedent, the decedent did not have a spouse at the time of the decedent’s death, and the property is subject to the special four percent assessment ratio pursuant to Section 12‑43‑220(c), but a subsequent conveyance of this real property by the distributee child or children is not exempt from the provisions of this section;”

C. Section 12‑37‑3150(A)(8) of the 1976 Code is amended to read:

“(8) a transfer of an ownership interest in a single transaction or as a part of a series of related transactions within a twenty‑five year period in a corporation, partnership, sole proprietorship, limited liability company, limited liability partnership, or other legal entity if the ownership interest conveyed is more than fifty percent of the corporation, partnership, sole proprietorship, limited liability company, limited liability partnership, or other legal entity. This provision does not apply to transfers that are not subject to federal income tax, as provided in subsection (B)(1), including, but not limited to, transfers of interests to spouses. The corporation, partnership, sole proprietorship, limited liability company, limited liability partnership, or other legal entity shall notify the applicable property tax assessor on a form provided by the Department of Revenue not more than forty‑five days after a conveyance of an ownership interest that constitutes an assessable transfer of interest or transfer of ownership under this item. Failure to provide this notice or failure to provide accurate information of a transaction required to be reported by this subitem subjects the property to a civil penalty of not less than one hundred nor more than one thousand dollars as determined by the assessor. This penalty is enforceable and collectible as property tax and is in addition to any other penalties that may apply. Failure to provide this notice is a separate offense for each year after the notice was required;”

D. Sections 12‑37‑3150(B)(8) and (9) of the 1976 Code are amended to read:

“(8) a transfer of real property or other ownership interests among corporations, partnerships, limited liability companies, limited liability partnerships, or other legal entities if the entities involved are commonly controlled. Upon request by the applicable property tax assessor, a corporation, partnership, limited liability company, limited liability partnership, or other legal entity shall furnish proof within forty‑five days that a transfer meets the requirements of this item. A corporation, partnership, limited liability company, limited liability partnership, or other legal entity that fails to comply with this request is subject to a civil penalty as provided in Section 12‑37‑3160(B); ~~or~~

(9) a transfer of an interest in a timeshare unit by deed or lease;

(10) a transfer of an undivided, fractional ownership interest in real estate in a single transaction or as a part of a series of related transactions, if the ownership interest or interests conveyed, or otherwise transferred, in the single transaction or series of related transactions within a twenty‑five year period, is not more than fifty percent of the entire fee simple title to the real estate;

(11) a transfer to a single member limited liability company, not taxed separately as a corporation, by its single member or a transfer from a single member limited liability company, not taxed separately as a corporation, to its single member, as provided in Section 12‑2‑25(B)(1);

(12) a conveyance, assignment, release, or modification of an easement, including, but not limited to:

(a) a conservation easement, as defined in Chapter 8 of Title 27;

(b) a utility easement; or

(c) an easement for ingress, egress, or regress;

(13) a transfer or renunciation by deed, release, or agreement of a claim of interest in real property for the purpose of quieting and confirming title to real property in the name of one or more of the existing owners of the real property or for the purpose of confirming or establishing the location of an uncertain or disputed boundary line; or

(14) the execution or recording of a deed to real property for the purpose of creating or terminating a joint tenancy with rights of survivorship, provided the grantors and grantees are the same.”

SECTION 2. Section 12‑37‑3140(B) of the 1976 Code is amended to read:

“(B) Any increase in the fair market value of real property attributable to the periodic countywide appraisal and equalization program implemented pursuant to Section 12‑43‑217 is limited to fifteen percent within a five‑year period to the otherwise applicable fair market value. This limit must be calculated on the land and improvements as a whole. However, this limit does not apply to the fair market value of additions or improvements to real property in the year those additions or improvements are first subject to property tax, nor do they apply to the fair market value of real property when an assessable transfer of interest occurred in the year that the transfer value is first subject to tax.”

SECTION 3. This act takes effect upon approval by the Governor, and shall apply to real property transfers after 2009. No refund is allowed on account of values adjusted by the changes to the provisions of Section 12‑37‑3150.

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