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## “Tip of the Month”

### **New Exemption: Transfer Your Real Estate to Your LLC Without Transfer Tax**

For the longest time, people have wanted to put their investment real estate into a limited liability company (LLC), but would rather not because of the New Hampshire Real Estate Transfer Tax (RETT). At 0.015 % of fair market value, this tax would cost \$1,500 per \$100,000 of real estate transfer value.

Transferring an apartment building worth \$300,000 into an LLC would cost \$4,500 in RETT. As a result, many property owners would form the LLC just for property management purposes, to serve as landlord on the leases and collecting rents, without putting the real estate into the LLC.

Effective July 1, 2016, NH created a new RETT exemption for certain transfers of title. Now owners can transfer their real estate to their LLC without the RETT, provided the ownership of the real estate and the LLC remain the same.

Under the new law, which is an amendment to NH RSA 78-B:2, a transfer of NH real estate to a corporation or LLC will not be subject to the real estate transfer tax if it meets the following standard:

1. The transfer is coincidental to a change in the transferor’s form of organization;
2. The assets and liabilities of the transferor become the assets and liabilities of the transferee; and
3. The owner(s) of the transferor and the owner(s) of the transferee are the same, with identical ownership percentages.

The transfer must also be without consideration, meaning no money changed hands on the transfer.

Holding property in the name of a corporation or LLC offers valuable asset protection from creditors. For years, people holding NH real estate had to worry that these valuable assets could be subject to claims that might be made against them personally. Now, tax-free transfers to the owner’s LLC can help alleviate those concerns.

Under the new law, a transfer to or from a revocable trust that meets the criteria of the exemption also does not require the payment of the minimum transfer tax, which has been \$40.

The new law is a welcome change for New Hampshire businesses and individuals seeking asset protection.

If you would like to learn more about protecting your assets, please do not hesitate to call the attorneys at Mesmer & Deleault, PLLC (Tel. 603-668-1971) or contact us by sending an email to mailbox @ biz-patlaw.com. We are happy to help.

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