

Jun 03, 1997

Re: Technical Assistance Advise ment No. 97(B)4-007

Documentary Stamp Tax; Transfer from Trust to Individual
Retirement Accounts

Section 201.02, F.S., Rule 12B-4.013(33), F.A.C.

XXX (hereinafter Trustee/Beneficiary

XXX (hereinafter Trust)

XXX (hereinafter IRA)

XXX (hereinafter Custodian)

Dear :

This is in response to your letter dated February 19, 1997,
requesting a Technical Assistance Advise ment regarding the
application of documentary stamp tax under the facts and
documents set forth herein.

Statement of the Facts

The following is the description of the transaction
outlined in your letter:

The Trust holds title to encumbered real property located
in Florida. The Trustee of the Trust also has an IRA which
was set up pursuant to Section 408(a), U.S. Internal
Revenue Code. The IRA is held with an out of state
Custodian. The Trustee is the sole beneficiary of both the
Trust and the IRA.

The Trustee desires to transfer the property now in the
Trust to the IRA account. The properties currently titled
in the name of the Trustee will be titled in the name of
the Custodian of the IRA.

You request the Department's advice regarding the
applicability of documentary stamp tax in the described
transaction.

Provision of the Law

Rule 12B-4.013(33), F.A.C., provides

A deed to or from a trustee conveying real property is taxable to the extent that the deed transfers the beneficial ownership of the real property and to the extent there is consideration for the transfer.

Conclusion

In that the Trustee/Beneficiary is the same for both the Trust and the IRA, the conveyance of property from the Trust to the IRA would not constitute a transfer of beneficial ownership of the real property. Accordingly, no documentary stamp tax would be due in this transaction.

This response constitutes a Technical Assistance Advisement under s. 213.22, F.S., which is binding on the Department only under the facts and circumstances described in the request for this advice as specified in s. 213.22, F.S. Our response is predicated on those facts and the specific situation summarized above. You are advised that subsequent statutory or administrative rule changes or judicial interpretations of the statutes or rules upon which this advice is based may subject similar future transactions to a different treatment than expressed in this response.

You are further advised that this response and your request are public records under Chapter 119, F.S., which are subject to disclosure to the public under the conditions of s. 213.22, F.S. Your name, address, and any other details which might lead to identification of the taxpayer must be deleted by the Department before disclosure. In an effort to protect the confidentiality of such information, we request you notify the undersigned in writing within 15 days of any deletions you wish made to the request or the response.

Sincerely,

Celestine Grantham

Senior Tax Specialist

Technical Assistance and Dispute Resolution

Office of General Counsel

CG/mh