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TAX NEWSFLASH

Major Florida Tax Case Provides Opportunity for Major Tax Savings and Refunds on Transfer of Real Estate

Recently the Florida Supreme Court ruled that transfers of unencumbered real property between related entities for no consideration (as a contribution to capital, for example) is not subject to Florida documentary stamp tax if properly structured. The case involved Miami Center in Miami, Florida. The Court held that there was no consideration and no purchaser of the real estate under the facts of the case and granted the taxpayer a \$1,212,750 REFUND.

The most savings for taxpayers under the Court's holding applies to unencumbered property, if the transfer is properly structured. However, if properly structured, documentary stamp tax can be reduced or eliminated on nearly every transfer or sale of Florida real property whether the property is encumbered or not. In addition, we offer other tax savings opportunities that can be used to eliminate the tax on a transfer to an SPE, a sale, or any other disposition of real property even if the property is subject to a mortgage.

In addition, if you have made a transfer in the past three years between related entities or from an individual to an entity (corporation, partnership, or limited liability company) you may be entitled to a refund of the tax paid.

Because of the fiscal impact of the ruling, the Florida legislature may act to amend the applicable statute to take away this planning option. You should act quickly if you would like to use this opportunity to reduce or eliminate the tax on property transfers, especially if you would like to move property among related entities to restructure the ownership. Please review prior transfers and contact us to discuss whether a refund claim should be made. And keep in mind that we have other structures that can be used to reduce or eliminate the tax that we would be appreciate the opportunity to discuss with you. Even if you are involved in the purchase or sale of property and you are not the party responsible to pay the tax. We can help you generate savings for the party who has that obligation that you could share in.

For more information, please contact
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