CLIENT ALERT

Measure ULA (Homelessness and Housing Solutions Tax)

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AUTHORS

Andrew Copans | Michele M. Mulrooney | Kathy L. Wunderli | Jonathan C. Lurie
Lucas Gelfen | Alec Lautanen

In December 2022, Los Angeles city voters passed Measure ULA (the "Homelessness and Housing Solutions Tax"), a ballot initiative which imposes additional transfer taxes of 4–5.5% on the sales of residential and commercial property valued at $5,000,000 or higher within the City of Los Angeles beginning on April 1, 2023. Taxes collected from such sales are intended to fund affordable housing programs and resources for tenants at risk of homelessness. There is no sunset date for the tax, which will continue unless repealed by ballot measure.

Currently, the existing Los Angeles city and county documentary transfer tax is 0.56% of sale value. Measure ULA provides for an additional 4% tax on properties valued between $5,000,000 and $10,000,000, and an additional 5.5% tax on properties valued at over $10,000,000. The additional taxes will be levied against the full value of the property (not just the amount over the threshold), and apply regardless of whether property is sold at a gain or a loss. The $5,000,000 and $10,000,000 thresholds will be increased annually based on inflation. Further, the new tax is *inclusive* of any liens or other encumbrances, compared to the existing documentary transfer tax, which does not take such encumbrances into account.

Although exemptions to the tax exist, they are limited to certain nonprofit organizations, community land trusts, and limited-equity housing cooperatives. Notably, 501(c)(3) organizations are only exempt if either (1) they have been in existence for at least 10 years prior to the property transfer and have assets of less than $1 billion or (2) they "demonstrate a history of affordable housing development and/or affordable housing property management experience, as determined by the Los Angeles Housing Department."

Importantly, though, the tax appears to apply only in situations where a documentary transfer tax would otherwise be assessed, i.e., when there is a true "change in ownership" that would also require a reassessment of the property for property tax purposes. The current exemptions are numerous.

As a general matter, property owned through a legal entity is not reassessed and documentary transfer tax is not collected upon transfer of interests in the entity (although, a "change of control" in which more than 50% of the interests change ownership does trigger this). Additionally, transfers into or out of revocable trusts, gift transfers, and transfers which only change the manner in which title is held (e.g., into or out of irrevocable trusts, when the transferor(s) and transferee(s) continue to hold the same proportionate interest), among other transfers, are exempt under the documentary transfer tax, and so would similarly be exempt from the Measure ULA tax.

Several issues remain unclear regarding the implementation and nuances of the Measure ULA tax. Among these are how and if sales of multiple properties in a series of transfers would be aggregated to determine achieving the threshold levels and what will become the established custom as to who pays (the buyer, the seller, or an even split).

As a reminder, the Measure ULA tax only applies to property sales within the *city* of Los Angeles, and not county-wide. As a result, the tax will not apply to sales of property situated within the 87 other incorporated cities in Los Angeles County, including Beverly Hills, Pasadena, and Santa Monica, among others.

Please contact a member of the Los Angeles Private Clients Group should you have additional questions or wish to discuss the Measure ULA tax and its impact further.

If you have any questions regarding this client alert, please contact the following attorneys or the Willkie attorney with whom you regularly work.

Andrew Copans
310 855 3040
acopans@willkie.com

Michele M. Mulrooney
310 855 3030
mmulrooney@willkie.com

Kathy L. Wunderli
310 855 3035
kwunderli@willkie.com

Jonathan C. Lurie
310 855 3050
jlurie@willkie.com

Lucas Gelfen
310 855 3162
lgelfen@willkie.com

Alec Lautanen
310 855 3120
alautanen@willkie.com