

## Maryland Recordation and Transfer Tax Update

Pursuant to the recently enacted Maryland law, effective July 1, 2008, an alleged “loophole” affecting Maryland recordation and transfer taxes will be closed. For transactions closing on or after that date which involve the sale of controlling interests in corporations, partnerships, LLCs and other types of entities in which 80% or more of the value of its assets include Maryland real property, recordation and transfer taxes will be imposed on such a sale if more than 80% of the interests in such an entity is conveyed either within a 12 month period or pursuant to a “plan of transfer,” as defined in the law.

Consequently, if several members in an LLC sell their interests at different times within a 12 month period, upon the final transfer which ultimately causes the total transfers to exceed 80% of the ownership interest in the LLC, the taxes will be imposed upon the LLC, not upon the transferor or the transferee of those interests. This may have the unintended result of causing the unsuspecting remaining 20% of the members to have to make capital calls in the amount of their share of the taxes.

We recommend that the partners/members of such entities consider amending their organizational documents to provide that the selling partners/members will indemnify the ownership entity if such taxes are imposed.

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