

DEPARTMENT OF REVENUE

RULE NO.: RULE TITLE:

12B-4.003 Public Use Forms

12B-4.060 Tax on Transfers of Ownership Interest in Legal Entities

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made in accordance with subparagraph 120.54(3)(d)1., F.S., to the proposed creation of Rule 12B-4.060, F.A.C., published in Vol. 37, No. 39, pp. 2985-2988, September 30, 2011, issue of the Florida Administrative Weekly.

Subparagraph 1. of paragraph (b) of subsection (1) of Rule 12B-4.060, F.A.C., has been changed so that, when adopted, that subparagraph will read:

1. "Conduit entity" means a legal entity, or its successor entity, to which real property is transferred without full consideration by a grantor who owns a direct or indirect interest in the entity.

Subsection (3) of Rule 12B-4.060, F.A.C., has been changed so that, when adopted, that subsection will read:

(3) The tax is based on the consideration paid or given for the ownership interest in the conduit entity, which includes the amount of any mortgage attached to real property that was transferred to the conduit entity. If the conduit entity owns assets other than the real property referred to in subsection (2), tax is calculated by multiplying the consideration for the interest in the conduit entity by the tax rate and then multiplying the result by a fraction, the numerator of which is the value of the real property referred to in subsection (2) and the denominator of which

is the value of all assets owned by the conduit entity.

Paragraph (d) of subsection (9) of Rule 12B-4.060, F.A.C., has been changed so that, when adopted, that paragraph will read:

(d) Example 4: On July 2, 2009, Pam and Mike transferred Walton County, Florida real property (the real property), which they owned equally, to a corporation. The corporation was owned equally by Mike and a limited liability company (LLC) owned by Pam alone. No documentary stamp tax was paid on the document that transferred the real property to the corporation. On July 10, 2009, Pam sold her interest in the LLC (thereby selling her indirect ownership interest in the corporation) for \$45,000. The corporation owned assets in addition to the real property transferred to it on July 2, 2009. The value of the real property was \$85,000, and the real property made up 95% of the value of all assets owned by the corporation. The only asset owned by the LLC was its interest in the corporation. Tax of \$299.25 ( $450 \times \$ .70 \times 95\%$ ) was due on the transfer of Pam's ownership interest, since tax was not paid on the full consideration for the real property when it was transferred to the corporation.

Paragraph (f) of subsection (9) of Rule 12B-4.060, F.A.C., has been changed so that, when adopted, that paragraph will read:

(f) Example 6: On July 2, 2009, Sue transferred Polk County, Florida real property (the real property), owned by her alone, to a limited liability company (LLC) she owned alone. The real property was encumbered by a mortgage at the time of the transfer. The mortgage balance at the time of the transfer was \$75,000, which was an amount less than the property's fair market value. Documentary stamp tax of \$525 was due and paid on the document that transferred the

real property to the LLC based on the mortgage balance of \$75,000. The LLC owned no assets other than the real property. On July 31, 2009, Sue sold her interest in the LLC for \$110,000. Tax of \$770 was due on the transfer of Sue's ownership interest in the LLC based on consideration of \$110,000.