

1 AN ACT in relation to taxes.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Property Tax Code is amended by changing  
5 Sections 31-5, 31-10, and 31-20 as follows:

6 (35 ILCS 200/31-5)

7 (Text of Section after amendment by P.A. 93-657)

8 Sec. 31-5. Definitions.

9 "Recordation" includes the issuance of certificates of  
10 title by Registrars of Title under the Registered Titles  
11 (Torrens) Act pursuant to the filing of deeds or trust  
12 documents for that purpose, as well as the recording of deeds  
13 or trust documents by recorders.

14 "Department" means the Department of Revenue.

15 "Person" means any natural individual, firm, partnership,  
16 association, joint stock company, joint adventure, public or  
17 private corporation, limited liability company, or a receiver,  
18 executor, trustee, guardian or other representative appointed  
19 by order of any court.

20 "Value" means the amount of the full actual consideration  
21 for the real property or the beneficial interest in real  
22 property located in Illinois, including the amount of any lien  
23 on the real property assumed by the transferee buyer.

24 "Trust document" means a document required to be recorded  
25 under the Land Trust Recordation and Transfer Tax Act and,  
26 beginning June 1, 2005, also means any document relating to the  
27 transfer of a taxable beneficial interest under this Article.

28 "Beneficial interest" includes, but is not limited to:

29 (1) the beneficial interest in an Illinois land trust;

30 (2) the lessee interest in a ground lease (including  
31 any interest of the lessee in the related improvements)  
32 that provides for a term of 30 or more years when all

1 options to renew or extend are included, whether or not any  
2 portion of the term has expired; or

3 (3) the indirect interest in real property as reflected  
4 by a controlling interest in a real estate entity.

5 "Controlling interest" means more than 50% of the fair  
6 market value of all ownership interests or beneficial interests  
7 in a real estate entity.

8 "Real estate entity" means any person including, but not  
9 limited to, any partnership, corporation, limited liability  
10 company, trust, other entity, or multi-tiered entity, that  
11 exists or acts substantially for the purpose of holding  
12 directly or indirectly title to or beneficial interest in real  
13 property. There is a rebuttable presumption that an entity is a  
14 real estate entity if it owns, directly or indirectly, real  
15 property having a fair market value greater than 75% of the  
16 total fair market value of all of the entity's assets,  
17 determined without deduction for any mortgage, lien, or  
18 encumbrance.

19 (Source: P.A. 92-651, eff. 7-11-02; 93-657, eff. 6-1-04.)

20 (35 ILCS 200/31-10)

21 (Text of Section after amendment by P.A. 93-657)

22 Sec. 31-10. Imposition of tax. A tax is imposed on the  
23 privilege of transferring title to real estate located in  
24 Illinois, on the privilege of transferring a beneficial  
25 interest in real property located in Illinois, and on the  
26 privilege of transferring a controlling interest in a real  
27 estate entity owning property located in Illinois, at the rate  
28 of 50¢ for each \$500 of value or fraction of \$500 stated in the  
29 declaration required by Section 31-25. If, however, the  
30 transferring document states that the real estate, beneficial  
31 interest, or controlling interest is transferred subject to a  
32 mortgage, the amount of the mortgage remaining outstanding at  
33 the time of transfer shall not be included in the basis of  
34 computing the tax. The tax is due if the transfer is made by  
35 one or more related transactions or involves one or more

1 persons or entities and whether or not a document is recorded.

2 (Source: P.A. 93-657, eff. 6-1-04.)

3 (35 ILCS 200/31-20)

4 (Text of Section after amendment by P.A. 93-657)

5 Sec. 31-20. Affixing of stamps. Payment of the tax shall  
6 be evidenced by revenue stamps in the amount required to show  
7 full payment of the tax imposed by Section 31-10. Except as  
8 provided in Section 31-45, a deed, document transferring a  
9 controlling interest in real property, or trust document shall  
10 not be accepted for filing by any recorder or registrar of  
11 titles unless revenue stamps in the required amount have been  
12 purchased from the recorder or registrar of titles of the  
13 county where the deed, document transferring a controlling  
14 interest in real property, or trust document is being filed for  
15 recordation. The revenue stamps shall be affixed to the deed,  
16 document transferring a controlling interest in real property,  
17 or trust document by the recorder or the registrar of titles  
18 either before or after recording as requested by the grantee.  
19 The Department may prescribe a form to which stamps must be  
20 affixed that a transferee must file for recordation at the time  
21 a declaration is presented if a transferring document is not  
22 presented for recordation within 3 business days after the  
23 transfer is effected. A person using or affixing a revenue  
24 stamp shall cancel it and so deface it as to render it unfit  
25 for reuse by marking it with his or her initials and the day,  
26 month and year when the affixing occurs. The marking shall be  
27 made by writing or stamping in indelible ink or by perforating  
28 with a machine or punch. However, the revenue stamp shall not  
29 be so defaced as to prevent ready determination of its  
30 denomination and genuineness.

31 (Source: P.A. 93-657, eff. 6-1-04.)

32 Section 10. The Stock, Commodity, or Options Transaction  
33 Tax Exemption Act is amended by changing Section 3 as follows:

1 (35 ILCS 820/3)

2 (This Section may contain text from a Public Act with a  
3 delayed effective date)

4 Sec. 3. Construction of Act. Nothing in this Act shall be  
5 construed as prohibiting or otherwise invalidating any real  
6 estate transfer tax or fee authorized or permitted by Section  
7 31-10 of the Property Tax Code, Sections 5-1031 and Section  
8 5-1031.1 of the Counties Code, or Section 8-3-19 of the  
9 Illinois Municipal Code. This Section is intended as a  
10 clarification and not as a change to existing law.

11 (Source: P.A. 93-657, eff. 6-1-04.)

12 Section 15. The Counties Code is amended by changing  
13 Section 5-1031 as follows:

14 (55 ILCS 5/5-1031) (from Ch. 34, par. 5-1031)

15 Sec. 5-1031. County real estate transfer tax.

16 (a) The county board of a county may impose a tax upon the  
17 privilege of transferring title to real estate, as represented  
18 by the deed that is filed for recordation, and upon the  
19 privilege of transferring a beneficial interest in a land trust  
20 holding legal title to real estate located in such county as  
21 represented by the trust document that is filed for  
22 recordation, at the rate of 25 cents for each \$500 of value or  
23 fraction thereof stated in the declaration required by Section  
24 31-25 of the Property Tax Code. If, however, the real estate is  
25 transferred subject to a mortgage, the amount of the mortgage  
26 remaining outstanding at the time of transfer shall not be  
27 included in the basis of computing the tax.

28 A tax imposed pursuant to this Section shall be collected  
29 by the recorder or registrar of titles of the county prior to  
30 recording the deed or trust document or registering the title  
31 subject to the tax. All deeds or trust documents exempted in  
32 Section 31-45 of the Property Tax Code shall also be exempt  
33 from any tax imposed pursuant to this Section. A tax imposed  
34 pursuant to this Section shall be in addition to all other

1 occupation and privilege taxes imposed by the State of Illinois  
2 or any municipal corporation or political subdivision thereof.

3 (b) The county board may impose a tax at the same rate on  
4 the transfer of a beneficial interest, as defined in Section  
5 31-5 of the Property Tax Code. If, however, the transferring  
6 document states that the real estate or beneficial interest is  
7 transferred subject to a mortgage, then the amount of the  
8 mortgage remaining outstanding at the time of transfer shall  
9 not be included in the basis of computing the tax.

10 The tax must be paid at the time of recordation or, if a  
11 document is not recorded, at the time of presentation of the  
12 transfer declaration to the recorder, as provided in Section  
13 31-25 of the Property Tax Code. All deeds or documents relating  
14 to the transfer of a beneficial interest exempted in Sections  
15 31-45 or 31-46 of the Property Tax Code are also exempt from  
16 any tax imposed under this Section. A tax imposed under this  
17 Section is in addition to all other occupation and privilege  
18 taxes imposed by the State of Illinois or any municipal  
19 corporation or political subdivision thereof.

20 (c) Beginning June 1, 2005, a tax imposed under this  
21 Section is due if the transfer is made by one or more related  
22 transactions or involves one or more persons or entities,  
23 regardless of whether a document is recorded.

24 (Source: P.A. 89-626, eff. 8-9-96.)

25 Section 99. Effective date. This Act takes effect June 1,  
26 2005.