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TAX LAW FOR BUSINESS

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Transfer Taxes

AS the name suggests, transfer taxes are impositions on the transfer of property from the owner to a buyer, beneficiary, donee or transferee. When one hears the words "transfer taxes," what immediately comes to mind are the estate and donor's taxes. An estate tax is levied upon the transfer of the net estate of a decedent to his heirs.

The estate-tax return, if required, shall be filed within six months from the decedent's death. Meanwhile, a donor's tax is imposed upon the transfer of a property by way of a gift. A donor's tax may also be imposed if the property, other than real property classified as capital assets, is transferred for less than an adequate and full consideration of money's worth. In this case, there shall be a deemed gift that is subject to donor's tax. The donor's tax return, if required, shall be filed within 30 days from the date the gift is made. Both estate and donor's taxes due shall be paid at the time the return is filed.

However, many may not be aware that there is another kind of transfer tax, albeit not imposed pursuant to the National Internal Revenue Code (NIRC). This is the transfer tax that is contemplated under the Local Government Code (LGC). It is a tax imposed on the sale,

donation, barter, or on any other mode of transferring ownership or title to real property. While estate and donor's taxes cover the transfer of any kind of property, whether it be real or personal, the transfer tax imposable under the LGC only covers transfers of real property. Further, estate and donor's taxes essentially involve gratuitous transfers but transfer tax under the LGC may be onerous, as it is also imposable on sale or barter of real property. Transfer taxes under the NIRC are generally paid at the Bureau of Internal Revenue Regional District Office, where the decedent or donor is domiciled. On the other hand, transfer tax under the LGC is to be paid at the Treasurer's Office where the property is located.

The person liable for the payment of both kinds of transfer taxes is the donor, transferor, executor/administrator and the seller, in case of onerous transfer of real property. Moreover, in all instances, late payment of the taxes due is subject to surcharges and penalties. Last, both taxes must be paid first, because evidence of payment of these taxes is required by the Register of Deed before issuing a transfer certificate of title if real property is involved.

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