



# This Week in State Tax (TWIST)

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## Pennsylvania: Realty Transfer Tax Not Applicable to Division of Ownership

The Commonwealth Court of Pennsylvania recently held that the allocation of property by Kunj Harrisburg LLC (Kunj), as memorialized by a deed, to its five new associations did not constitute transfers of a beneficial interest in real property subject to the Pennsylvania Realty Transfer Tax. Kunj, a Pennsylvania LLC, converted real property it owned into a condominium consisting of seven units. Kunj subsequently divided itself into six limited liability companies consisting of Kunj and five new associations. Pursuant to the state Entity Transfer Law (ETL), Kunj filed documents with the Department of State explaining it would maintain control of two units, while allocating the remaining five units to its five new associations. After Kunj recorded deeds memorializing the allocations, the Department of Revenue advised Kunj that its recording did not qualify for the claimed transfer tax exemption and issued an assessment. Appeals to the Board of Appeals and the Board of Finance and Revenue were denied, and Kunj then appealed to the Commonwealth Court.

The court began by noting that it has long recognized that not all conveyances of real property are subject to the Realty Transfer Tax, but that the tax is limited only to transfers in which an interest in the property is passing to a person or persons other than the grantor. It cited to *Exton Plaza*, in which a general partnership established a limited partnership and recorded a deed to convey a shopping center to the limited partnership. The court in *Exton Plaza* held that the conveyance was “not a document” within the meaning of Pennsylvania law. It explained the deed “did not effect a meaningful transfer of title” but “merely memorialized the conversion from a general partnership to a limited partnership.”

The court went on to explain that the General Assembly had enshrined the principle of *Exton Plaza* into law. Under that law, the court determined that Kunj and its five new associations was not a conversion, but a division accomplished under the ETL, which provides that “a domestic entity may divide into ... the dividing association and one or more new associations ....” The court noted the ETL allows property allocated to the new associations to vest “without reversion or impairment, and the division shall not constitute a transfer, directly or indirectly, of any property.” The court concluded that Kunj’s deeds did not convey, transfer, demise, vest, confirm, or evidence any transfer or demise of title to real estate; therefore, the deeds were not “documents” subject to Realty Transfer Tax as contemplated by Pennsylvania law. For information on [Kunj Harrisburg LLC v. Commonwealth](#), contact [Michelle Dohra](#) or [Halie Baker](#).

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