

NRS 375.090 (1): Exemption 1 § 9

Guidance Letter 05-001

Prepared by Nevada Department of Taxation

The model affidavit and guidelines suggested here are to assist the County Recorder and the taxpayer when the following exemption from the real property transfer tax is claimed:

NRS 375.090 (1): The taxes imposed by NRS 375.020, 375.023 and 375.026 do not apply to: (1) a mere change in identity, form or place of organization, such as a transfer between a corporation and its parent corporation, a subsidiary or an affiliated corporation if the affiliated corporation has identical common ownership.

The following guidelines apply:

1.) Plan of Reorganization.

The transfer of property must be pursuant to a plan or reorganization. The affidavit must indicate the reason or purpose for the reorganization as well as the type of change, such as change in identity (one LLC to another LLC), change in form (from an LLC to a corporation; from a general partnership to a limited partnership), or place (from a California corporation to a Nevada corporation). The affidavit must also indicate that the transfer does not constitute a sale of assets or affairs which would be taxable.

2.) Continuity of Interest.

The taxpayer must be able to show through documentation that the ownership of the transferring organization is identical to the organization receiving the transfer. Documents such as articles of incorporation, partnership agreements, operating agreement, or similar documents showing the organization of the business, including each owner and the percentage of ownership, must be available for examination by the County Recorder.

3.) Continuity of the Business Enterprise.

In addition, the Attorney General has opined that any reorganization qualifying for the exemption must also exhibit continuity of the business enterprise. (See AGO 95-24). This means that the acquiring corporation or business entity either continue the acquired corporation or business entity's historic business or uses a significant portion of the historic business assets in the surviving business. The affidavit must state what the prior and continuing use of the business assets are.

4.) Legitimate Business Purpose.

The Attorney General has also stated that the reorganization must take place for a bona fide reason and must be an "ordinary and necessary incident of the conduct of the enterprise and must provide for a continuation of the enterprise."

In addition to the documentation required for Item 2, Continuity of Interest, the County Recorder may ask for documentation to verify the continuity of the business enterprise, and the legitimate business purpose, such as the reorganization plan.

Real Property Transfer Tax Model Affidavit for Exemption 1 & 9

List the complete name of the claimant and contact information, as applicable:

Name of Transferring Organization	Name of Organization to which property is transferred	
Name of Petitioner	Contact Person (if different than Petitioner name)	
Street Address	Mailing Address (if different from street address)	
City	State	Zip Code
Daytime Telephone Number (include area code) (optional)	Fax Number (optional)	E-mail address

I, the undersigned duly authorized representative of the organization named herein, do hereby make the following declarations:

- The transfer referred to on the attached Declaration of Value is eligible for exemption from the real property transfer tax pursuant to NRS 375.090 (1), and is not otherwise a taxable event under NRS 375.
- The organization to which property is transferred has identical common ownership with the transferring organization, if for an affiliated company.
- The property transferred will continue to be used in the same manner as it was used by the transferring organization. The business use of the property prior to the transfer was: _____ The business use after the transfer is: _____

4. The purpose of this transfer is to recognize:

- Change in the identity of the business entity
- Change in the business entity form of organization
- Change in the location of the business entity

Description of the change: _____

Documentation supporting these statements is attached.

Signature	Title	Date	Representing
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 State of Nevada)
) ss.
 County of)

Signed and sworn to (or affirmed) before me on _____ (date)
by _____
(name(s) of person(s) making statement).

Notary Stamp, if applicable:

Notary Public or Officer Administering Oath

Title of Officer Administering Oath