

## Executive Summary

### 2019 Speculative Builder Amendment

At the February 22, 2019 meeting of the Municipal Tax Code Commission (MTCC) meeting, cities and towns will be presenting an amendment to the Model City Tax Code (MCTC), the "2019 Speculative Builder Amendment". The purpose of this amendment is to address certain issues presented in recent bills at the legislature by resolving the concerns of proponents, along with numerous clean-up edits, and the transfer of selected Regulations to the main body of the MCTC as new Sections.

Here is a brief recap of the changes made to Spec Builder by the MTCC on 2/22/2019. These changes are effective on April 1, 2019.

- Changed the definition of "Improved Real Property" to clarify that only the first sale after the Certificate of Occupancy or similar document is issued is subject to tax, and any subsequent improvements, remodeling or expansion of the original building is not considered taxable as reconstruction or the creation of a new structure.
- Changed the definition of "Partially Improved Residential Real Property" by removing the word "residential" in several places and making grammatical edits, opening up the exemption for sales between two developers for both residential and commercial builders, including those who only do non-structural improvements to vacant land or add water, power, and streets.
- Eliminated Local Option #M which allowed a deduction from the selling price for the cost of land. Local Option #N remains in place, allowing for a deduction based on the "fair market value" of land, with 20% of total selling price as the default safe harbor.
- Removed the requirement that developers attach a written statement to their tax return for any sale to another developer.
- Added an exemption for in-place leases allowing a reduction in total selling price for the present value of obligated future lease receipts. This recognizes the sale of a property with existing leases is really the sale of a building combined with the sale of the business of residential or commercial lease.
- Placed in code a deduction that has been applied for decades in accordance with a practice decision and written direction provided by the cities, allowing a seller to reduce the selling price by the amount of taxes paid by their contractor to the state and county.
- Added language clarifying that a tax credit is allowed for any Spec builder tax paid by a prior owner if a subsequent sale is subjected to the tax.
- Added "Qualified Trust" to the list of persons who can make a bona fide sale of a home and thus be exempt from the tax, provided at least one resident in the home is a beneficiary of the trust.