WASHINGTON STATE SENATE BILL 5998 PASSED: REET CHANGES FOR 2020 AND BEYOND

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NEW REET RATE STRUCTURE

Last week, the Washington State legislature passed Senate Bill 5998, resulting in a new graduated state rate scale for real estate excise taxes ("REET"). This Bill has not yet been signed by the Governor, but is anticipated to be signed in due course. The previous flat state REET tax of 1.28% will be replaced on January 1, 2020, by the following rates:

- 1.1% – Portion of selling price less than or equal to $500,000
- 1.28% – Portion of selling price greater than $500,000 and equal to or less than $1.5 million
- 2.75% – Portion of selling price greater than $1.5 million and equal to or less than $3 million
- 3.0% – Portion of selling price greater than $3 million

This legislation does not affect rates for timberland or agricultural land, which will remain subject to REET at a 1.28% state tax rate. A local REET may apply in addition to the state REET.

These thresholds may be adjusted in 2022 (and every four years following) to reflect the lesser of growth in inflation on the seasonally adjusted index for the shelter expenditure category of the Consumer Price Index for all urban consumers ("CPI-U") or 5%. If such growth is equal to or less than 0%, the current selling price threshold will continue to apply. The legislation provides specific definitions for these growth measures and generally looks to statistics published by July 31.

EXPANDED REET CONTROLLING INTEREST OBLIGATIONS

In Washington State, REET applies to the direct transfer of real property and to the transfer of a controlling interest in an entity holding real property. Special rules apply to so-called "controlling interest" transfers. For Washington State REET purposes, a transfer of a "controlling interest" is the combined transfer of 50% or more of the interests in an entity. In separate changes, also effective January 1, 2020, the legislation (i) extends the time

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period for determining whether a controlling interest has been transferred (triggering REET on the transfer of certain business interests) from 12 months to 36 months and (ii) requires the Washington Secretary of State to adopt rules requiring annual reporting for the transfer of at least one-third of a controlling interest in an entity. These changes will increase the number of transactions that are potentially subject to REET reporting obligations without changing the overall 50% or more threshold that defines a "controlling interest" transfer.

Please contact the K&L Gates tax team with any questions or for assistance in complying with this new legislation.

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