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FINANCE MEMORANDUM OO-6

June 19, 2000

Real Property Transfer Tax on Bulk Sales of Cooperative Apartments and Residential Condominium Units

This Finance Memorandum articulates the Department's position on the treatment of bulk transfers of cooperative apartments and residential condominium units under the New York City Real Property Transfer Tax, (the "RPTT").

Under the RPTT, transfers of real property are taxable provided the consideration for the transfer is more than \$25,000 unless the transfer is otherwise exempt for reasons not relevant to this Finance Memorandum. Two rate schedules apply. A transfer of an individual cooperative apartment or individual residential condominium unit is taxed at 1 percent of the consideration if the consideration is \$500,000 or less and at 1.425 percent of the consideration if the consideration is over \$500,000. The rates for all other transfers are 1.425 percent if the consideration is \$500,000 or less and 2.625 percent if the consideration exceeds \$500,000. The Department of Finance applies the higher rate schedule to a transaction where a single grantor transfers more than one cooperative apartment or residential condominium unit to a single grantee. These transactions generally are referred to as bulk sales.

The Department will not treat a transfer of adjacent cooperative apartments or residential condominium units that have been physically combined into a single residence as a bulk sale. The Department will treat such a transfer as a transfer of an individual apartment or unit taxable under the lower rate schedule. The Department will examine all of the applicable facts and circumstances in determining whether two or more apartments or units have been physically combined. The issuance of a revised Certificate of Occupancy, a letter of completion from the Buildings Department or a revised tax lot designation reflecting the joining of two or more apartments or units will be acceptable evidence of such a combination. However, the absence of any of these documents will not be determinative. The fact that two or more units or apartments will be combined following the transfer will not be sufficient to permit the transaction to be treated as a transfer of an individual apartment or individual residential condominium unit taxable at the lower rates.

The lower rate structure applies also to transfers of leasehold interests in individual cooperative apartments and residential condominium units, however, the treatment of such leaseholds is beyond the scope of this Finance Memorandum. In the case of a bulk sale of cooperative apartments or residential condominium units, the higher rate schedule is applied to the consideration for the transaction as follows:

Because condominium units are transferred by deeds, in a bulk sale of condominium units, the higher rate schedule is applied to the consideration for each deed separately if the units are transferred by separate deeds, provided each deed represents not less than a single condominium unit or tax lot. The Department will accept the taxpayer's apportionment of the consideration for the bulk sale to each deed provided that apportionment reasonably reflects the relative values of the units transferred. In contrast, because cooperative apartments are not transferred by deed, in a bulk transfer of cooperative apartments, the higher rate schedule will be applied to the amount of consideration for the entire transfer and not separately to the consideration for each apartment.

The Department of Finance has issued this Finance Memorandum for the purpose of advising taxpayers and tax professionals of, and explaining the Department's current position and procedures with respect to, the issue addressed so that they may act accordingly. Finance Memoranda are advisory in nature and are merely explanatory. Finance Memoranda are not declaratory rulings or rules of the Department of Finance and do not have legal force or effect, do not set precedent and are not binding on taxpayers.