Department of Finance

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Michael Smilowitz
General Counsel/Deputy Commissioner

April 27, 2026

XXXXXXXXXXX
XXXXXXXXX
XXXXXXXXXXX

RE: Request for Letter Ruling
Real Property Transfer Tax
FLR 25-5036

Dear Mr. XXXXX:

This letter is in response to your request for a ruling, dated December 4, 2025, regarding which New York City Real Property Transfer Tax ("RPTT") rate applies to the transfer of two residential condominium units in a sale described below. The New York City Department of Finance ("Department") received along with the request for a ruling: a Letter of Completion and various documents related to permits issued by the Department of Buildings, a Contract of Sale, a Bargain and Sale Deed, including a "Schedule A" description of the applicable premises, a Title Affidavit, a Title Closing Invoice, a letter from a title company confirming that there are no open permits on the applicable premises, a New York State Real Estate Transfer Tax Return Schedule of Apportionment, and a brief summary of certain redacted copies of New York City Department of Finance Letter Rulings, including FLR-16-4977 (June 9, 2016), FLR-16-4980 (July 30, 2018), FLR 19-4995 (April 17, 2019), and FLR 22-5023 (August 23, 2022). The Department completed additional research to find the RPTT return filed for the transaction and an online real estate listing for the two units.

FACTS

On XXXXXXX X, XXXX, XXXXXXXXX ("Taxpayer") sold residential condominium units XXXX and XXXX, located at XXXXXXXXXX, New York, New York 10014, for $XXXXXX to two buyers, XXXXXXXXX and XXXXX, who assigned their interest to their wholly owned limited liability company, XXXXXXXXXXX ("Purchaser"). The Taxpayer's spouse purchased unit XXXX in 2005. The Taxpayer and their spouse purchased unit XXXX in 2012. In 2020, the Taxpayer became the surviving tenant by entirety of both units.

The two units are adjacent to each other and were physically combined by removing the demising walls and one kitchen. Additionally, the units' plumbing, electrical, and mechanical systems were combined. As proof, the Taxpayer provided a Letter of Completion from the Department of Buildings issued on XXXX XX, XXXX under Job #XXXXXX which listed as a description of the work performed: "Combination/renovation of residential apartments; removal on non-bearing partitions." Additionally, the Taxpayer provided work permits from the Department of Buildings for the combination of the units approved on XXXX XX, XXXX. The two units were marketed and sold together as one primary residence, as shown by a real estate website listing for the units. The listing contains photographs and a floor plan that show that the units have been physically combined. The sale price for the combined units was $XXXXXXXX. There was one contract of sale for both units. The Taxpayer apportioned 100% of the consideration to unit XXXX according to the New York State Real Estate Transfer Tax Return Schedule of Apportionment. The Taxpayer filed a NYC RPTT return, listing both unit XXXX and XXXX, and paying tax at a rate of 1.425 percent for $XXXXXXXX, that was entirely attributed to unit XXXX.

ISSUE

Is the Taxpayer's sale of two combined residential condominium units subject to the "bulk sale" RPTT rate or the lower rate applicable to the transfers of individual residential condominium units?

CONCLUSION

The sale of the two combined residential condominium units described above should be treated as a sale of an individual residential condominium unit subject to the lower tax rate schedule.

DISCUSSION

Section 11-2102(a) of the Administrative Code of the City of New York (the "Code") states that a New York City tax is imposed on each deed transfer of real property if consideration for the transfer exceeds $25,000. Code Section 11-2102(a)(9)(i) states that the RPTT rate is 1 percent of the consideration for conveyances of one, two, or three-family houses, and individual residential condominium units if the consideration is $500,000 or less and 1.425 percent if the consideration is more than $500,000. Code Section 11- 2102(a)(9)(ii) states that the RPTT rate is 1.425 percent of the consideration for all other deed conveyances if the consideration is $500,000 or less, and 2.625 percent if the consideration is more than $500,000.

The Department applies the higher transfer tax rate schedule to a transaction when a grantor transfers more than one residential condominium or cooperative unit to the same grantee, often referred to as a "bulk sale." *See generally Emerson Unitrust v. Comm'r of Fin. of City of New York*, 16 A.D.3d 201 (1st Dep't 2005). Finance Memorandum 00-6REV, dated September 8, 2011, clarifies further that the facts and circumstances of a particular case will determine whether a bulk sale has taken place.

In *Matter of Rosenblum*, TAT (E) 2001-31 (RP), the New York City Tax Appeals Tribunal (the "Tribunal") addressed the question of the rate applicable to the transfer of a primary residential condominium unit and a "suite unit" located on a separate floor from the residential condominium unit. The Tribunal determined that the sale constituted the transfer of an individual residential condominium unit, and not a bulk sale, and was subject to the lower tax rate schedule. In reaching its determination in *Rosenblum*, the Tribunal concluded that the suite unit was an integral part of the primary residential condominium unit and was not a separate individual residential unit for the purposes of applying the RPTT. The Tribunal relied on the fact that, except in the case of the condominium's sponsor, ongoing ownership of a residential unit was a prerequisite to ownership of a suite unit. The Tribunal further relied on the limited uses of the suite units proscribed by the condominium's by-laws, specifically noting the suite units (i) may only be used for residential purposes; (ii) may only be occupied by domestic employees, family members and non-paying guest; and (iii) may be occupied by family members and guest for periods not to exceed three months without prior written consent from the condominium board. The Tribunal also noted that the presence of a kitchenette and bathroom in the suite unit is not determinative of whether such unit is an integral part of the same residence as the individual residential unit.

In *Matter of Gruber*, TAT (E) 2003-7 (RP), TAT (E) 2003-8 (RP), TAT (E) 2003-9 (RP), the petitioner purchased three units intending to combine them into a single residence. In Gruber, the units at issue were not combined prior to closing; however, the interiors of the units were prepared with the minimal amount of outfitting to obtain a temporary certificate of occupancy, the offering plan of the condominium contemplated the combination of units, the petitioner prepared plans and obtained rights consistent with the combination of the units, and the work to integrate the units commenced after closing. For these reasons, the Tribunal held that for the purpose of the RPTT, the sale in Gruber did not comprise the conveyance of more than one residential condominium unit. Therefore, the Tribunal held that the sale should be taxed as a sale of a single residential condominium unit and the lower RPTT rate applied.

The facts of the present case have substantial similarities to those of *Gruber,* except that in the present case, the Taxpayer transferred to the Purchaser two adjacent units that were physically combined into one unit before the closing of the sale of the units. During the Taxpayer's ownership, the units were physically combined by removing demising walls, removing a kitchen, and combining plumbing, electrical, and mechanical systems. It is clear from the photographs and floor plan in the online real estate listing that the units were intended to function as an individual residential condominium unit and in fact could no longer function as two separate residential units. Based on the above set of facts, submitted documentation, and City records, the sale of these two residential condominium units that were combined as described prior to the closing should be treated as the sale of an individual residential condominium unit under Code section 11-2102(a)(9)(i).

The RPTT is applied to each applicable deed transfer. Because in the present case both units were transferred by one bargain and sale deed, the RPTT rate will be applied to the total consideration, and it is not necessary to apportion the total consideration received between the two units transferred. Therefore, because the total sales price for the two units transferred by one deed that should be treated as the sale of an individual residential condominium unit is greater than $500,000, the RPTT rate of 1.425 percent applies to the total consideration received.

Notwithstanding the analysis and conclusions discussed above, the Department reserves the right to verify the information submitted. Please advise the Department of any material change in the facts presented.

Sincerely,

Michael Smilowitz
General Counsel

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