



Department of Finance

Legal Affairs Division
375 Pearl Street, 30th Floor
New York, NY 10038
Tel. 212.748.4680
Fax 212.748.6981

Diana Beinart
General Counsel/Deputy
Commissioner

August 23, 2022

XXXXXXXXXX
XXXXXXXXXX
XXXXXXXXXX

RE: Request for Letter Ruling
Real Property Transfer Tax
FLR 22-5023

Dear XXXXX:

This is in response to your request dated June 20, 2022 regarding the applicable tax rate under the New York City Real Property Transfer Tax ("RPTT") for the transaction described below. You submitted the sales closing proceeds statement with your original request. Additional information was received by this office on July 12, 2022 that consisted of: (1) print out from XXXX website of real estate listing; (2) letter dated 12/17/13 from architect, XXXXXXXX; (3) blueprints; (4) Invoice from XXXXX XXXXXXXXXXXX dated 3/7/14 for filing services; (5) letter from general contractor; (6) NYC Department of Environmental Protection Asbestos Assessment Report filing; and (7) Insurance Statement.

FACTS

The pertinent facts presented are as follows:

New York City property records shows that cooperative apartment units XXX and XXX at XXXXXX, New York, New York, were purchased from separate sellers on XXXX by XXXXXXXXXXXX ("Taxpayer") and XXXXXXXXXXXXXXXX. Taxpayer states that the two units were physically combined into one unit but the co-op shares were never combined. Taxpayer submits architect letter and blueprint plans for the combination of the units. Also submitted is a NYC Department of Environmental Protection Asbestos Assessment Report filing for the combination of the units. NYC Department of Buildings records show job application for the combination of the units under Job #XXXXXXX along with a letter of completion of the work. City property records shows the units were sold in one transaction to one purchaser on XXXXX. Submitted copy of real estate website listing includes photographs and floor plan showing combined units.

ISSUE

Whether the Taxpayer's sale of the above described two cooperative apartment units to the same purchaser should be treated as the sale of an individual cooperative apartment qualifying for the lower

RPTT rate, as provided in section 11-2102.b(1)(B)(i) of the Administrative Code of the City of New York (the “Code”)?

CONCLUSION

We have determined, under the facts and circumstances presented, the sale of the above-described cooperative apartment units should be treated as the sale of an individual cooperative apartment subject to the lower transfer tax rate under Code section 11-2102.b(1)(B)(i).

DISCUSSION

Code section 11-2102 imposes the RPTT on the conveyance of real property or the transfer of an economic interest in real property located in New York City (the “City”) where the consideration for such conveyance or transfer exceeds \$25,000. Code section 11-2102.b(1)(B)(i) imposes a special lower tax rate for transfers of an economic interest in real property when the real property the economic interest is in are certain types of real property, including one, two, or three-family houses and individual cooperative apartments. The RPTT rate for these transfers is 1 percent of the consideration if the consideration is \$500,000 or less, and 1.425 percent of the consideration if the consideration is more than \$500,000. Transfers or conveyances of economic interests in real property that do not qualify for these special lower rates are subject to an RPTT rate of 1.425 percent of the consideration if the consideration is \$500,000 or less, and 2.625 percent of the consideration if the consideration is more than \$500,000.¹

The New York City Department of Finance (the “Department”) applies the higher transfer tax rate to a transaction where a single grantor transfers more than one cooperative apartment unit to a single grantee, often referred to as a “bulk sale.”² In order to determine whether a bulk sale has taken place the Department will look to the facts and circumstances of the specific case. Based on the above set of facts, submitted documentation and City records, the sale of these two cooperative apartment units that were combined years prior to the sale should be treated as the sale of an individual cooperative apartment under Code section 11-2102.b(1)(B)(i). Therefore, the lower RPTT rate of 1.425 percent applies to the consideration, which is shown to be over \$500,000.³

The Department reserves the right to verify the information submitted. Please advise the Department of any material change in the facts presented.

Sincerely,

Diana Beinart
General Counsel

CCS:ccs

¹ Code section 11-2102.b(1)(B)(ii).

² Finance Memorandum 00-6REV, dated September 8, 2011.

³ Sales Proceeds Schedule dated XXXXXXX.