



Department of Finance

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Diana Beinart
General Counsel/Deputy Commissioner

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XXX
XXX

RE: Request for Ruling
NYC Real Property Transfer Tax
FLR 21-5014

Dear XXX:

This is in response to your request for a ruling as to the appropriate rate to be applied under the New York City Real Property Transfer Tax (“RPTT”) to the conveyance of XXX (the “Property”).

FACTS:

The Property was owned by XXX (the “Taxpayer”) and was sold on XXX, 2021 to XXX. The Taxpayer along with his deceased wife had owned the Property since 1997, first as sole shareholders of a corporation and since 1998 as joint tenants in the entirety. The Property consists of one building which is three stories high including a below grade cellar. The cellar is finished with a tile floor, and sheet rock walls and was used as storage for the Taxpayer during the time he used the store as his law office and to house the mechanicals for the building. Since 2001, the cellar has been used to store the Taxpayer’s personal belongings. The ground floor was used as the Taxpayer’s law office from 1998 to 2021. The office is now being used as an office space under a lease expiring on XXX. The upper two floors consist of a residence which was used as the Taxpayer’s primary residence until 2018. The Property is classified as Building Code S1 (Primarily 1 family with one store or office) on the New York City assessment roll for 2021-22. The building has a Certificate of Occupancy for a one family on two floors and a store on the ground floor.

The Property is approximately 2,820 square feet of which approximately one-third comprises the office (less the building mechanicals).

ISSUE:

You have requested a ruling that the conveyance of the property is subject to a tax rate of 1.425 percent applicable to the conveyance of a one, two or three-family house where the consideration is more than \$500,000.

DISCUSSION:

Section 11-2102 of the Administrative Code of the City of New York (the "Code") imposes the RPTT on the conveyance of real property or the transfer of an economic interest in real property located in the City where the consideration for the conveyance or transfer exceeds \$25,000. For a conveyance of a one, two or three-family house or an individual residential condominium unit, the RPTT is imposed at a rate of 1.425 percent if the consideration is more than \$500,000. Code §11-2102(a)(9)(i). For all other types of conveyances, the rate is 2.625 percent where the consideration is more than \$500,000. Code §11-2102(a)(9)(ii).

Based on the facts presented, we have determined that the tax rate applicable to the conveyance is 1.425 percent because the Property is a one, two or three family house and is categorized for real property tax purposes in Class 1. Class 1 real property includes one, two and three family homes that are "used in part for nonresidential purposes but which are used primarily for residential purposes," subject to certain exceptions not relevant here. See New York Real Property Tax Law §1802(1). The tax classification reflects that the Property is used for residential purposes. The building Code S1 (primarily 1 family with 1 store or office) is consistent with the tax classification. In the absence of information suggesting the Department of Finance's classification of the Property as Class 1 is incorrect, that classification is controlling for RPTT purposes. The presence of an office on the ground floor is consistent with this classification and does not prevent the use of a 1.425 percent tax rate when calculating the RPTT due upon the conveyance of the Property.

The Department of Finance reserves the right to verify the facts submitted and modify its decision accordingly.

Very truly yours,

Diana Beinart
General Counsel

CGS:cgs