



**Beth Goldman**  
Deputy Commissioner  
Legal Affairs  
GoldmanBeth@Finance.nyc.gov

June 6, 2013

**345 Adams Street**  
**3<sup>rd</sup> Floor**  
**Brooklyn, New York 11201**

Re: Request for Ruling  
Real Property Transfer Tax

+1 718 403-4908 tel  
+1 718 403-6287 fax

FLR-12-4932

Dear:

This letter is in response to request for a ruling dated July 12, 2012, regarding the applicable tax rate under the New York City Real Property Transfer Tax ("RPTT") for the transaction described below. Additional information was received on September 24, 2012, and January 28 and February 12, 2013.

## **FACTS**

has represented that, in June 2012, (the "Taxpayer") conveyed two adjacent parcels of real property located at 5 in (the "Purchaser") in separate deeds. Each parcel is improved with an attached two-family house and is a separate tax lot. The consideration for each parcel was \$387,500 in cash. There was a single contract of sale showing a total consideration of \$775,000 for the two parcels. The Taxpayer submitted a separate RPTT return for each parcel showing cash consideration of \$387,500 and applying the one percent RPTT rate applicable to the conveyance of a one, two or three family house or an individual condominium unit. At the closing, the Taxpayer's attorney withheld \$12,593.75 for the purpose of paying additional RPTT and subsequently paid this additional amount to the Department of Finance.

## **ISSUE**

Whether the Taxpayer's conveyance of the above-described parcels to the Purchaser would be treated as the conveyance of separate parcels of real property subject to the lower RPTT rate schedule applicable to the conveyance of a one, two or three family house or whether the conveyance of these two parcels would be aggregated triggering a higher RPTT rate schedule?

## **CONCLUSION**

The conveyance of these parcels to the Purchaser would be treated as a conveyance of separate parcels subject to the lower RPTT rate schedule applicable to the conveyance of a one, two or three family house and would not be aggregated to trigger a higher RPTT rate schedule.



## DISCUSSION

The New York City Administrative Code (the “Code”) section 11-2102 imposes the RPTT on any deed conveying an interest in real property or any instrument or transaction transferring a controlling economic interest in real property when the consideration exceeds \$25,000. The RPTT rate schedule for the conveyance of one, two or three family houses or individual condominium units is 1 percent of consideration if the consideration is \$500,000 or less and 1.425 percent of consideration if the consideration is greater than \$500,000. Code § 11-2012(a)(9)(i). For all other conveyances, the Code imposes a higher RPTT rate schedule: 1.425 percent of consideration if the consideration is \$500,000 or less and 2.625 percent of consideration if the consideration is greater than \$500,000. Code § 11-2012(a)(9)(ii).

With regard to the conveyances of real property, the RPTT is imposed on the deed. *See* Code §11-2012(a)(9). Here, each deed conveyed a two-family house. Unlike a conveyance involving a condominium unit, the conveyance of one, two or three family houses is not subject to the limiting term “individual” for the lower rate schedule to be applicable. *See* Code § 11-2012(a)(9)(i). Accordingly, the conveyance of each of these parcels using a separate deed is subject to the lower RPTT schedule applicable to the conveyance of a one, two or three family house. Given that there are separate deeds conveying each of the properties, each will be treated separately and the conveyances will not be aggregated to trigger the higher rate schedule. The taxpayer is entitled to a refund of any additional RPTT amount paid over and above the RPTT paid using the lower rate schedule as shown on the RPTT tax returns submitted.

The Department reserves the right to verify the information submitted, and to modify its opinion in the event the facts prove to be different than those represented.

Very truly yours,

Beth Goldman  
General Counsel

JM:jm