

RPTT 2008-2
2/29/08

STATEMENT OF AUDIT PROCEDURE

REAL PROPERTY TRANSFER TAX RATE TO BE USED FOR TRANSFERS OF VACANT LAND

Background

Conveyances of one, two or three-family houses, individual residential condominium units and individual residential co-op apartments are subject to New York City Real Property Transfer Tax at a rate lower than the rate for all other transfers, including transfers of vacant land. On occasion, a vacant lot, situated adjacent to a one, two or three-family house, is transferred along with that house. The Department of Finance would like to clarify the appropriate rate for vacant land adjacent to a one, two or three-family house.

Scope

This Statement of Audit Procedure provides guidance to auditors and taxpayers about the proper tax rate applicable to transfers of vacant land.

Procedure

Under the New York City Real Property transfer tax, 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 Statement of Audit Procedure. Two rate schedules apply.

Currently, conveyances of one, two or three-family houses, individual residential condominium units and individual cooperative apartments are taxed at a rate of 1% of consideration if that consideration is \$500,000 or less, and at a rate of 1.425% of consideration if that consideration exceeds \$500,000. NYC Administrative Code Section 11-2102.

All other conveyances subject to the Real Property Transfer Tax¹ are taxed at the higher rate of 1.425% of consideration for transfers where that consideration is \$500,000 or less, and at a rate of 2.625% of consideration for transfers where the consideration exceeds \$500,000. NYC Administrative Code Section 11-2102.

¹ This SAP is limited to conveyances other than the grant, surrender or assignment of a leasehold interest.

A transfer of vacant land does not fall within one of the listed transfers for which the lower rate applies, and is therefore taxed at the **higher rate**.

However, when a vacant lot is transferred with a one, two or three-family house, the lower Real Property Transfer tax rate will apply if **all** of the following are true:

- 1) The vacant lot is adjacent to a one, two or three-family house;
- 2) The vacant lot is owned by the owner of that house;
- 3) The vacant lot is transferred pursuant to the same contract of sale as the adjacent house;
- 4) The vacant lot is sold to the same buyer as the adjacent house; and
- 5) The vacant lot is conveyed to that buyer as part of the same transfer as the adjacent house, as evidenced by a single deed and/or simultaneous delivery of deeds.

In this circumstance, the vacant lot is considered part of the adjacent house, and the entire transfer of the house is subject to Real Property Transfer Tax at the lower rate.

Owners of vacant land adjacent to their one, two or three-family house are encouraged to contact the Department of Finance Surveyor's office if they wish us to merge the house and vacant land into one tax lot.