



FINANCE  
NEW • YORK  
THE CITY OF NEW YORK  
DEPARTMENT OF FINANCE

May 26, 2004

Re: Request for Ruling  
Real Property Transfer Tax  
FLR#044823-021

Dear \_\_\_\_\_ :

This letter is in response to your request received on March 29, 2004 for a ruling regarding the applicable rate of the Real Property Transfer Tax ("RPTT") to the real property conveyance described below. Additional information was received on April 12 and April 26, 2004.

#### FACTS

The facts presented are as follows:

\_\_\_\_\_ and his wife, \_\_\_\_\_, (the "Sellers") contracted to sell their one-half interest in an improved parcel of real property located at \_\_\_\_\_ (the "Premises"), to \_\_\_\_\_ (the "Purchaser") for a total sum of \$ \_\_\_\_\_. The owners of the other one-half interest in the Premises, \_\_\_\_\_ and \_\_\_\_\_ (the "Other Sellers") agreed to convey their one-half interest in the Premises to the Purchaser in a separate contract. The Other Sellers are the sole heirs at law and distributees of \_\_\_\_\_, the Sellers' original cotenant in common. The Premises is not a one, two or three family house. At a closing held on \_\_\_\_\_, the Sellers and the Other Sellers conveyed their respective interests in the Premises to the Purchaser through separate deeds. The Sellers and the Other Sellers took back one purchase money mortgage in the amount of \$ \_\_\_\_\_, 50 percent of which was payable to the Sellers and 25 percent of which was payable to each of the two individual Other Sellers. The Sellers and the Other Sellers agreed to take back a single mortgage to avoid the priority problems that would have arisen if separate mortgages had been used. The deeds and the mortgage have been filed for recording with the County Clerk of \_\_\_\_\_.

#### ISSUE

You have requested a ruling that the above transaction should be treated as separate conveyances of the Sellers' one-half interest in the Premises and of the Other Sellers' one-half interest in the

Premises for purposes of determining the applicable RPTT rate, and, therefore, that the RPTT rate applicable to the Sellers' conveyance is 1.425 percent and not 2.625 percent.

## CONCLUSION

Based on the facts presented and the representations submitted, we have determined that the Sellers' transfer and the Other Sellers' transfer of their respective interests in the Premises are separate conveyances for RPTT purposes, and, therefore, the Sellers' conveyance is subject to an RPTT rate of 1.425 percent.

## 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 in real property located in the City where the consideration for the conveyance or transfer exceeds \$25,000. Under Code section 11-2102(a), the RPTT is imposed on each deed at a rate of 1.425 percent if the conveyance is \$500,000 or less, and a rate of 2.625 percent if the consideration is more than \$500,000 for any conveyance other than the conveyance of a one, two or three-family house or an individual residential condominium unit. Code § 11-2102(a)(9)(ii). Title 19 of the Rules of the City of New York ("19 RCNY") section 23-02 defines "consideration" for real property as the "price actually paid or required to be paid..." Illustration (iii) of that definition of "consideration" states that if tenants in common of a parcel of real property convey their respective interests in a parcel of real property through separate deeds to a common grantee each for a consideration of less than \$25,000, none of the conveyances are subject to RPTT, even though the total consideration paid by the grantee is greater than \$25,000. Inasmuch as the Sellers conveyed their one-half interest in the Premises through a separate deed and a separate contract of sale, the consideration for RPTT purposes is the amount of consideration for the conveyance of the Sellers' one-half interest, which, according to the Sellers' contract of sale, is \$ . Accordingly, the applicable rate of RPTT is 1.425 percent, because the consideration for the conveyance is not greater than \$500,000. *See* Code § 11-2102(a)(9)(ii).

The Department reserves the right to verify the information submitted.

Sincerely,

Ellen E. Hoffman  
Assistant Commissioner for Tax Law and Conciliations