

RE: Ruling Request

Real Property Transfer Tax
FLR 994756-021

Dear Ms. :

This letter is in response to your request received December 8, 1999, for a ruling concerning the applicability of the New York City Real Property Transfer Tax ("RPTT") to the transaction described below. Additional information was submitted by letter dated February 9, 2000.

FACTS

The facts you have presented are as follows:

Approximately three years ago the grantor purchased two adjacent condominium apartments for her personal use (Block , Lots and in the Borough of .) The grantor commissioned plans to renovate and combine the apartments and finished the combination in . After the combination was completed the grantor sold the combined unit to a single purchaser for his own personal residential use.

You have submitted the following documents:

1. A letter of completion regarding the combination issued by the New York City Department of Buildings on , 1999.
2. A condominium unit deed dated , 1999 conveying a combined unit . The deed reflects the combination of two units, and , into the one unit that was conveyed.
3. An assignment of a tentative tax lot number (Lot).
4. An affidavit from the Grantor attesting that the two units were combined prior to closing, a second kitchen was eliminated, a tentative tax lot number was obtained and a letter of completion was obtained.

ISSUE

You have requested a ruling that the transfer of previously separate residential condominium units that have been combined will be

taxed as a single residential unit for New York City Real Property Transfer Tax purposes.

CONCLUSION

The transaction will be treated as the sale of an individual residential unit. Therefore the lower rate scale applicable to sales of individual residential condominiums will apply.

DISCUSSION

The RPTT is imposed on each deed at the time of delivery by a grantor to a grantee when consideration for the real property and any improvement thereon exceeds \$25,000. Section 11-2102.a of the Administrative Code of the City of New York (the "Code"). The RPTT is imposed at a rate of one percent of the consideration for a conveyance of a one, two or three-family house or individual residential condominium unit where the consideration is \$500,000 or less, and 1.425 percent where the consideration is over \$500,000. For other conveyances of real property the rate is 1.425 percent where the consideration is \$500,000 or less, and 2.625 percent where the consideration is over \$500,000. Code §11-2101.2.

A bulk transfer of two or more residential condominium units from a single grantor to a single grantee does not qualify for the lower rate schedule applicable to the conveyance of an individual condominium unit. However, if two or more units are combined into a single unit prior to the conveyance, the transfer will be treated as the conveyance of an individual unit.

The question of whether the units have been combined prior to transfer depends on all the facts and circumstances. You have presented a letter of completion from the New York City Department of Buildings regarding the combination of the units in question, a single deed conveying the units as a single combined unit and an affidavit from the grantor that the combination was completed prior to the conveyance. Based on the information submitted, we have determined that the rate applicable to transfers of individual condominium units is applicable to your conveyance.

The Department of Finance reserves the right to verify the information submitted.

Sincerely,

Devora B. Cohn
Associate Commissioner
for Legal Affairs