

March 23, 1999

RE: Exemption Request

Block , Lot
Real Property Transfer Tax
FLR#: 994744-021

Dear :

This letter is in response to your request received for an exemption from the New York City Real Property Transfer Tax ("RPTT") on behalf of (the "Taxpayer"). The facts presented are as follows:

FACTS

The Taxpayer is a corporation formed under Article Two of the New York Stock Corporation Law in . Its certificate of incorporation was amended to conform to section 805 of the Business Corporation Law of New York. The Taxpayer is wholly owned by the (the "Parent,") which you have represented is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code ("IRC"). The Taxpayer is exempt from federal income tax as a title holding company under IRC section 501(c)(2). The Taxpayer owns property located at . The certificate of incorporation of the Taxpayer describes the corporate purpose as follows:

to purchase, lease or otherwise acquire and hold title to real estate and property; to collect the income therefrom and after deducting expenses to pay any amount thereof representing surplus in the form of dividend to , so long as shall be the sole stockholder of the corporation; to sell any such real estate and property to which the Corporation holds title whenever desired in its interest to do so.

RULING REQUESTED

You have requested a ruling that the Taxpayer is exempt from paying the RPTT on a sale of the Property.

CONCLUSION

Based on the information presented, we have determined that the Taxpayer is not exempt from the RPTT.

DISCUSSION

Code section 11-2102 imposes a tax 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. Code section 11-2106.b exempts from the tax any deed, instrument or transaction conveying or transferring real property or an economic interest therein by or to any entity

organized or operated exclusively for religious, charitable, or educational purposes, or for the prevention of cruelty to children or animals, and no part of the net earnings of which inures to the benefit of any private shareholder or individual...; provided, however, that nothing in this paragraph shall include an organization operated for the primary purpose of carrying on a trade or business for profit, whether or not all of its profits are payable to one or more organizations described in this paragraph;....

Based upon the facts presented, we have determined that a deed, instrument or transaction by or to the Taxpayer is not exempt because the Taxpayer's principal purpose is the ownership and operation of real property for the purpose of paying over the profits therefrom to the Parent. The fact that the Taxpayer is exempt from the New York City General Corporation Tax as a title holding company under Code section 11-603(9) is not relevant to exemption from the RPTT.

The Department reserves the right to verify the information submitted.

Very truly yours,

Devora B. Cohn
Assistant Commissioner for Legal Affairs