



**THE CITY OF NEW YORK
DEPARTMENT OF FINANCE**

Claiming a New York City Real Property Transfer Tax Exemption for Transfers to or from Housing Development Fund Companies (HDFC) – using ACRIS to create NYC-RPT

This document provides instructions for claiming a new Real Property Transfer Tax (“RPTT”) exemption for transfers of real property subject to certain affordable housing restrictions.

Beginning August 19, 2016, taxpayers may be eligible to claim a full or partial Real Property Transfer Tax exemption for transfers of real property, or economic interests therein, to or from Housing Development Fund Companies, or entities in which a Housing Development Fund Company owns a controlling interest (collectively known as an “HDFC Transfer”) under Section 11-2106(b)(9) of the Administrative Code of the City of New York (the “HDFC Exemption”).

If an HDFC Transfer satisfies the statutory exemption criteria, the HDFC Exemption reduces the consideration subject to tax in proportion to the floor area that is restricted to the purchase, lease, license or other use by Persons and Families of Low Income (as defined by Section 2 of the Private Housing Finance Law).

The HDFC Exemption may be claimed if: (1) the transfer is an HDFC Transfer; (2) at the time of conveyance, the property is bound by a regulatory agreement with the State of New York, a municipal corporation (i.e., the City of New York), or any other public corporation created by or pursuant to any law of the State of New York (for example, the New York City Housing Development Corporation); and (3) the regulatory agreement (a) binds the property for 30 years or more, (b) requires mutual consent for revocation or amendment, (c) restricts more than 50% of the floor area, other than common areas, to residential real property, and (d) restricts at least 66-2/3% of the residential real property to purchase, lease, license or other use by Persons or Families of Low Income.

If the regulatory agreement restricts less than 100% of the floor area, other than common areas, to purchase, lease, license or other use by Persons or Families of Low Income, then tax applies to the consideration in proportion to the floor area that is unrestricted. Taxpayers must complete Schedule L, in accordance with the instructions below, for each NYC-RPT that claims an HDFC Exemption. Taxpayers must also include (I) the regulatory agreement, and (II) if applicable, organizational documents that show the HDFC’s controlling ownership interest in any non-HDFC transferor or transferee (the “HDFC Supporting Documents”).

GENERAL INFO – CONDITION OF TRANSFER TAB:

On the Condition of Transfer tab, select w. Transfer to an HDFC or an entity controlled by an HDFC

SCHEDULE L

LINE 3 – REGULATORY AGREEMENT

Regulatory Agreement means an agreement with the State of New York, a municipal corporation, or any other public corporation created by or pursuant to any law of the State of New York, in particular, the NYC Department of Housing Preservation and Development, the NYC Housing Development Corporation, and/or the NYS Department of Homes and Community Renewal, which restricts the use of a property or a portion thereof to Persons or Families of Low Income.

LINE 4 – TOTAL FLOOR AREA

Total Floor Area is defined as the floor area within the exterior walls of a building, exclusive of vent shafts and courts but without deduction for Common Areas

LINE 5 – COMMON FLOOR AREA

Common Areas are all parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use (other than the portion restricted to purchase, lease, license, or other private use) such as: (a) halls, corridors, lobbies, stairs, stairways, fire escapes, and entrances and exits of the building; (b) the basements, cellars, yards, gardens, recreational or community facilities, parking areas and storage spaces; (c) the premises for the lodging or use of janitors and other persons employed for the operation of the property; (d) Central and appurtenant installations for services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning and incinerating; (e) the elevators, escalators, and in general all apparatus and installations existing for common use; and (f) such facilities as may be designated as common areas in the agreements covering the use of the building, and in each case made available or used by Persons or Families of Low Income.

LINE 7 – RESIDENTIAL FLOOR AREA

Residential Floor Area is the portion of the Total Floor Area restricted to residential uses under the Regulatory Agreement, other than Common Areas.

LINE 10 – RESIDENTIAL FLOOR AREA RESTRICTED TO PERSONS OF LOW INCOME AND FAMILIES OF LOW INCOME

The portion of the Residential Floor Area restricted to purchase, lease, license or other use by Persons or Families of Low Income under the Regulatory Agreement. Persons of Low Income and Families of Low Income are defined in Article I, Section 2 of the Private Housing Finance Law, which states: Persons or families who are in the low income groups and who cannot afford to pay enough to cause private enterprise in their municipality to build a sufficient supply of adequate, safe and sanitary dwellings.

PART 3: COMPUTATION OF REFUND

Taxpayers have one year from the date tax is paid to request refunds, except that a modified period for claiming refunds applies for purposes of this exemption, as more fully explained below.

Some HDFC Transfers may not have a regulatory agreement in place at the time of transfer, but the property owners may subsequently obtain a regulatory agreement. In that case, RPTT is due within 30 days of the transfer on the total consideration subject to tax, but DOF will grant a refund if the transferred real property is made subject to a regulatory agreement that meets the requirements of the HDFC Exemption after the RPTT is paid and within two years from the date of the conveyance or transfer and a refund is claimed within 12 months of the effective date of the regulatory agreement.

To claim a refund on the basis of qualifying for this exemption after the date of transfer, taxpayers should (1) file an amended NYC-RPT Return after the transfer becomes eligible (reflecting the amount of RPTT that should have been paid after the HDFC exemption and the amount of refund claimed) and (2) file a Full or Partial Refund Request for Real Property Transfer Tax For Affordable Housing Development form available at:

(http://www1.nyc.gov/assets/finance/downloads/pdf/land_records/lr_1123.pdf)

ACRIS COVER PAGE

When bringing the NYC-RPT into the ACRIS Cover Page on the Supporting Document tab, the NEW Supporting Document entitled “**HDFC EXEMPTION SUPPORTING DOCUMENTATION**” will be checked. You must enter a page count that is one or more for this supporting document and submit all required information with the RPT.

The REQUIRED Supporting Document consists of the HDFC Supporting Documents (as defined above).

When an amended NYC-RPT (claiming a refund) is complete, select **Pay Tax for Unrecorded Transfer** on the **ACRIS TAX FORMS / COVER PAGE** menu screen and then:

- A. On the Document tab, select Document Class = OTHER DOCUMENTS and select Document Type = NYC REAL PROPERTY TRANSFER TAX.
- B. On the Cross Reference tab, enter the CRFN or Document ID of the ACRIS document with which the original NYC-RPT was filed.
- C. When bringing the NYC-RPT into ACRIS Cover Page, on the Supporting Document tab, the NEW Supporting Document entitled “**HDFC EXEMPTION SUPPORTING DOCUMENTATION**” will be checked. You must enter a non-zero page count for this supporting document and submit all required information with the RPT.

The REQUIRED Supporting Document consists of HDFC Supporting Documents (as defined above).