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Diana Beinart
General Counsel/Deputy Commissioner

November 9, 2020

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XXXX
XXXX

RE: Request for Ruling
NYC Real Property Transfer
Tax FLR No.: 19-4997

Dear XXXX:

This is in response to your request for a ruling as to the appropriate tax rate to be applied under the New York City Real Property Transfer Tax ("RPTT") to the conveyance of XXXX, (Block XXXX, Lot XXXX ("the Property"))

FACTS:

According to the facts presented, the Property consists of a two-family house with a ten-car garage. From the time you purchased the Property in XXXX until its sale by XXXX (the "LLC") on XXXX for \$1,080,000, the house and garage were used for residential and personal purposes. According to your affidavit dated May 3, 2019, you placed the Property in the LLC because of concern about a potential lawsuit.

On the New York City Assessment Roll for 2018-2019 the Property was classified as Tax Class 1, Building Class B2.

ISSUE:

You have requested a ruling that the conveyance of the Property is subject to the rate of 1.425 percent applicable to the conveyance of a one, two or three family-house where the consideration is more than \$500,000.

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 interest in real property located in the City where the consideration for the conveyance or transfer exceeds \$25,000. For a conveyance of a one, two or three-family house or an individual residential condominium unit, the RPTT is imposed at a rate of 1.425 percent if the consideration is more than \$500,000. Code §11-2102(a)(9)(i). For all other types of conveyances, the rate is 2.625 percent where the consideration is more than \$500,000. Code §11-2102(a)(9)(ii).

Based on the facts presented, we have determined that the tax rate applicable to the conveyance is 1.425 percent because the Property is a one, two or three family house and is categorized for real property tax purposes in Class 1. Class 1 real property includes one, two and three family homes that are "used in part for nonresidential purposes but which are used primarily for residential purposes," subject to certain exceptions not relevant here. See New York Real Property Tax Law §1802(1). The tax classification reflects that the Property is used for residential purposes. The building Code B2 (two- family frame) is consistent with the tax classification. In the absence of information suggesting the Department of Finance's classification of the Property as Class 1 is incorrect, that classification is controlling for RPTT purposes. The presence of a large garage is consistent with this classification and does not prevent the use of 1.425 percent when calculating the RPTT due upon the conveyance of the Property.

The Department of Finance reserves the right to verify the facts submitted and modify its decision accordingly.

Very truly yours,



Diana Beinart
General Counsel

CGS:cgs