

# NYS Real-Estate Transfer Tax on Conveyances of Real Property

**I**n New York state, sellers who convey an interest in real property are required to pay a state real-estate transfer tax. In the usual sale of real property, the real-estate transfer tax is computed at a rate of \$2 for each \$500 of consideration or fractional part thereof. For example, in



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a transaction in which the consideration paid is \$100,000, the real-estate transfer tax will be \$400. The transfer tax is due when the instrument effecting the conveyance, which is a deed in the case of an interest in real property, is delivered from the grantor/seller to the grantee/buyer in the transaction.

The transfer tax is paid to the county clerk of the county where the real property being sold is located when the deed conveying the real property is recorded in the county clerk's office. In addition, the transfer tax must be paid no later than the 15th day after the delivery of the deed from the grantor/seller to the grantee/buyer irrespective of whether the deed has been recorded by said date.

In certain situations, a deed conveying real property does not necessarily need to be recorded in order for New York State real-estate transfer tax to be due. Real-estate transfer tax must be paid on the sale of a cooperative unit, the conveyance of a controlling interest in an entity if such entity owns real property, an option to purchase real property, and a lease in which the sum of the term and any renewal options exceeds 49 years.

A controlling interest in an entity means 50 percent or more of the total

interest in an entity, and the transfer tax due is based on the fair market value of the real property apportioned based on the percentage ownership interest of the entity being transferred. In the case of an option, the real-estate transfer tax due is based on the consideration paid for the option. In the event the grantee/buyer exercises such option in the future and purchases the real property then the grantor/seller will be entitled to a credit for the transfer tax paid for the option when the deed conveying the real property is recorded in the county clerk's office. For a lease, transfer tax in the amount of the value of all lease payments is due. Real-estate transfer tax must be paid directly to the New York State Tax Department in Albany when an instrument effecting the conveyance is not to be recorded in the county clerk's office.

Finally, an additional tax, or "mansion tax," is imposed on the conveyances of one-to-three family houses, individual condominium units, and residential cooperative apartments when the value is \$1 million or more. Unlike the real-estate transfer tax, the mansion tax is paid for by the buyer. The rate of the mansion tax is 1 percent of the price paid. For example, in a transaction in which a house is sold for \$1.2 million, the buyer will be required to pay a mansion tax of \$12,000. ■

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