



Recent Development Affecting New York City Transfer Taxes on Transfers of Mixed-Use Property

The New York City real property transfer tax has separate rates for residential and commercial transactions. An issue can arise if a taxpayer conveys a property that contains both residential and commercial use portions. The residential (defined as a conveyance of a 1-, 2- or 3-family house or an individual residential condominium unit) rates range from 1 to 1.425%, and the commercial rates range from 1.425% to 2.625%.

The Department of Finance recently addressed that issue in the context of a taxpayer's conveyance of a 7-story building, containing two residential units and a medical office, at a sales price in excess of \$500,000. The Department of Finance ruled that the conveyance will be subject to the lower residential rate of 1.425%. The lower residential tax rate applies to

the taxpayer's property because the property is categorized for real property tax assessment purposes as Class 1 (there are four classes depending on the use of a property). That tax classification reflects the fact that the property is used primarily for residential purposes. The presence of a doctor's office occupying less than 10% or the approximate gross square footage of the property does not disqualify the taxpayer from using the reduced rate. New York City Finance Memorandum 064845-021, 03/06/2006.

If you are going to or have recently entered into a transaction involving a mixed-use property located in New York City, please contact us to determine whether you may be entitled to the lower rate or a refund of excess tax paid to the New York City Department of Finance.

For more information, contact:

American Land Services, Inc.

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(212) 239-1000

T.W. Lewis & Co., LLC

A tax law firm with expertise in the tax aspects of real estate transactions
-Timothy Lewis (212) 785-7600
-www.twllaw.com