



First American Title[™]
NATIONAL COMMERCIAL SERVICES

NEWSLETTER ► NO. 196 | APRIL 12, 2019

Current Developments Special Edition

First American Title
National Commercial Services

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Transfer Tax Increases

Part 000 of New York State's Budget Bill (Senate 1509-C/Assembly 2009-C), just enacted, amends Tax Law Sections 1402 ("Imposition of tax", for the state's real estate transfer tax) and 1402-a ("Additional tax") and adds to the Tax Law new Section 1402-b ("Supplemental tax in cities having a population of one million or more", which affects New York City). These provisions apply to conveyances made on or after July 1, 2019; they do not affect conveyances made pursuant to binding written contracts entered into on or before April 1, 2019.

Real Estate Transfer Tax

The State's real estate transfer tax of \$2.00 for each \$500 of consideration will increase for transfers of residential real estate in New York City "when the consideration for the entire conveyance of residential real estate is \$3,000,000 or more, and (ii) when the consideration for the entire conveyance **of any other property** is \$2,000,000 or more" (Emphasis added). Residential real property is defined, for Section 1402 and for Section 1402-b, below), to include "any premises that may be used in whole or in part as a personal residence and shall include a one, two or three family house, an individual condominium unit, or an apartment cooperative unit".

The rate of tax for transfers of residential real property and other real property, or an interest therein, in New York City affected by the change will be \$3.25 for each \$500 or fractional part thereof of consideration. The tax rate of \$2.00 for each \$500 of consideration remains in effect for all other transfers.

Additional ("Mansion") Tax

Tax Law Section 1402-a, as now in effect, provides that the Mansion Tax is payable by the grantee and, if the grantee is exempt from paying the tax, the grantor is required to pay the tax. Section 1401-a has been amended to read as follows:

"...the additional tax imposed by this section shall be paid by the grantee. If the grantee has failed to pay the tax ...or if the grantee is exempt from such tax, the grantor shall have the duty to pay the tax. Where the grantor has the duty to pay the tax because the grantee has failed to pay, such tax, such tax shall be the joint and several liability of the grantor and the grantee".

Supplemental Tax

A new, supplemental transfer tax will be payable on the conveyance of residential real property in New York City when the consideration for the conveyance is \$2,000,000 or more. Residential real property, for purposes of Section 1402-b is defined the same as set forth above for the real estate transfer tax. The supplemental transfer tax is payable by the grantee, but if the grantee fails to pay the tax or if the grantee is exempt, the grantor will be required to pay the tax. When the grantor is required to pay the tax because the grantee has failed to pay, the tax will be the joint and several liability of the grantor and the grantee.

The rate of tax is as follows:

1. One-quarter of 1 percent of consideration or part thereof attributable to the residential real property when the consideration for the entire conveyance is at least \$2,000,000 but less than \$3,000,000;
2. One-half of 1 percent of consideration or part thereof attributable to the residential real property when the consideration for the entire conveyance is at least \$3,000,000 but less than \$5,000,000;
3. One and one-quarter percent of consideration or part thereof attributable to the residential real property when the consideration for the entire conveyance is at least \$5,000,000 but less than \$10,000,000;
4. Two and one-quarter percent of consideration or part thereof attributable to the residential real property when the consideration for the entire conveyance is at least \$10,000,000 but less than \$15,000,000;
5. Two and one-half percent of consideration or part thereof attributable to the residential real property when the consideration for the entire conveyance is at least \$15,000,000 but less than \$20,000,000;
6. Two and three-quarters percent of consideration or part thereof attributable to the residential real property when the consideration for the entire conveyance is at least \$20,000,000 but less than \$25,000,000; and
7. Two and nine-tenths percent of consideration or part thereof attributable to the residential real property when the consideration for the entire conveyance is at least \$25,000,000.

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Current Developments since 1997
No. 196, April 12, 2019