

SELLERS BEWARE!

Nothing is more aggravating to the Seller of real estate than to watch their sale proceeds gobbled up in bits and pieces by the various charges they have to pay to get the deal done.

Sellers are frequently surprised and dismayed when they find out that they have to pay conveyance taxes to the State of Connecticut and the city or town where their property is located. While the amounts a Seller pays varies based on the type and use of the property being sold, and the amount of the sale, in a typical residential real estate sale, the Seller will pay the State one-half of one percent (0.5%), or 0.005 times the sales price. If that weren't enough, the Seller also pays the municipality from one-quarter of one percent (0.25%) to one-half of one percent (0.5%), depending on the city or town in which the property is located.

By statute, cities or towns that are targeted investment communities (those with enterprise zones) or that have qualified manufacturing plants, are permitted to opt for an additional conveyance tax of up to one-quarter of one percent (0.25%). New London has done so, bringing its conveyance tax rate to a total of one-half of one percent (0.5%). Of course, so have Bloomfield, Bridgeport, Bristol, East Hartford, Groton, Hamden, Hartford, Meriden, Middletown, New Britain, New Haven, Norwalk, Norwich, Southington, Waterbury and Windham. Under the same statute, Stamford has opted for an increase of 1/10 of 1% bringing its total conveyance tax rate to 0.35%. So, in the typical New London real estate closing, a Seller is paying a total of 1% of their sales price in conveyance taxes!

While this article focuses on a typical residential real estate sale of a home for less than \$800,000, the State also imposes a variety of different conveyance taxes on non-residential property (1%), property sold for more than \$800,000 (1% on the amount over \$800,000), and property transferred by a seriously delinquent debtor to their bank holding their mortgage (0.05% of the consideration). When the land sold is designated by the city or town as farm, forest or open space land, there is an additional conveyance tax imposed, in addition to the standard real estate conveyance tax, depending on how long the property has been so designated.

Lee Cole-Chu receives an AV Rating from Martindale-Hubbell

Martindale-Hubbell surveys attorneys and judges every year to rate the ability and ethical standards of practicing members of the Bar. An AV® certification mark is a significant accomplishment - a testament to the fact that a lawyer's peers rank him or her at the highest level of professional excellence. Martindale-Hubbell notified Lee Cole-Chu in February of this year that he received an AV® rating from his fellow attorneys. Only 21 lawyers in New London County have an AV® rating. See the list at www.martindale.com. Lee's peers recognize the skill and knowledge that he has gained from 32 years practicing in the areas of Land Use, Real Estate, Business, Litigation, Arbitration, Mediation, and Personal Injury. Congratulations, Lee!

Where does the money go?

The State Real Estate Conveyance Tax goes into the general fund of the State of Connecticut; and, the municipal tax goes to the general fund of the city or town. In towns where the Town Clerk is paid from fees collected, all but \$1 of the municipal tax goes to the general fund of the city or town. The remaining dollar is retained by the Town Clerk.

Is there any way around it?

The tax is only imposed when the sale amount is two thousand dollars (\$2,000.00) or more. Anything less enables the seller to take advantage of the "little or no consideration" exemption. Additionally, there are a number of other exemptions which might apply in a standard residential real estate sale, depending on the circumstances, such as:

- Deeds to or from the State, a city or town, or their agencies;
- Deeds of partition;
- Deeds made to any nonprofit organization which is organized for the purpose of holding undeveloped land in trust for conservation or recreation purposes;
- Deeds between spouses;
- Certain land transfers to a water company;
- Transfers or conveyances to effectuate a mere change of identity or form of ownership or organization, where there is no change in beneficial ownership; and,
- Conveyances by a qualified relocation company within six (6) months of their acquisition pursuant to an employee relocation plan.

There are other less common exemptions involving corporations or other special circumstances beyond the scope of this article. It is imperative that you consult your attorney regarding the applicability and claim of any conveyance tax exemption.

The Best Kept Secrets.

While the exemptions mentioned above apply to both the State and local conveyance taxes, the following are exempt from the State conveyance tax only:

- Certain deeds of the principal residence of elderly and disabled persons, approved for assistance under specified programs, or their surviving spouses;
- Deeds of property located in an area designated as an enterprise zone; and,
- Deeds of property located in an entertainment district.

Property Tax Relief for the Elderly and Disabled

Elderly and disabled individuals that qualify for property tax relief must have income that does not exceed \$32,300 if unmarried, or \$39,500 if married. Proof of disability must come from the Social Security Administration. Any property owner entitled to tax relief must make application to the Assessor of the municipality in which he or she resides by May 15. The qualification for tax relief lasts for a 2-year assessment period.

Enterprise Zones

The best kept secret regarding the State Real Estate Conveyance Tax is the exemption for properties sold that are located within an Enterprise Zone. Currently, Enterprise Zones have been designated in Bridgeport, Bristol, East Hartford, Groton, Hamden, Hartford Meriden, Middletown, New Britain, New Haven, New London, Norwalk, Norwich, Southington, Stamford, Waterbury, and Windham.

There is also another zone that is treated like an enterprise zone, called an Enterprise Corridor Zone. The communities located in Enterprise Corridor Zones are: Ansonia, Beacon Falls, Derby, Griswold, Killingly, Lisbon, Naugatuck, Plainfield, Putnam, Seymour, Sprague, Sterling, Thompson, Torrington and Winchester.

Entertainment Districts

Finally, Entertainment Districts have been designated in Bridgeport, New Britain, Stamford, and Windham. Contact your local economic development office to see a map locating those districts, and to find out if your property is within an Enterprise Zone, Enterprise Corridor Zone or Entertainment District.

What if I paid the tax, but should have claimed an exemption?

According to the Department of Revenue Services, you can get a refund of erroneously paid conveyance taxes if you make your claim within three (3) years of the payment date. For the Enterprise Zone exemption, you will need to get a letter from your town Department of Economic Development (which might be called something else from town to town), on their letterhead, identifying the property and stating that it was in an Enterprise Zone. Send a letter to the State of Connecticut Department of Revenue Services making your request for a refund, along with the letter from your local Department of Economic Development, a copy of your original Real Estate Conveyance Tax Form - Form OP-236, a copy of the transacted check showing that the tax was paid, and a new form OP-236 claiming the exemption (type the word "Amended" at the top of the form). You may need to contact your closing attorney to get some of this information. Send it all to the following address:

DRS
Attn: Corrections, 15th Floor
25 Sigourney Street
Hartford, CT 06106

John C. Zaccaro, Jr., wrote this edition. Mr. Zaccaro serves on the Executive Committee of Real Property Section of the Connecticut Bar Association. No taxpayer can avoid tax penalties based on the advice given in this newsletter. This information is for general purposes only and does not constitute legal advice. For specific questions related to your situation, you should consult a qualified attorney.

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