



## INFORMATIONAL BULLETIN

### ■ Chicago Real Property Transfer Tax

#### **TO:** Owners of real estate cooperatives:

The purpose of this informational bulletin is to discuss specific issues identified by the Department of Revenue (the "Department") relating to the Chicago Real Property Transfer Tax (the "Transfer Tax"), chapter 3-33 of the Municipal Code of Chicago (the "Code"), as it relates to transfers of interests in real estate cooperatives ("cooperatives").

#### **What is a real estate cooperative?**

Generally, a cooperative is a corporation, the stockholders of which are entitled to occupy an apartment in a building owned or leased by such corporation. Often the owner of such stock receives from the corporation a lease of a particular apartment or unit in the building.

#### **Is the transfer of a cooperative interest taxable under the Chicago Real Property Transfer Tax Ordinance?**

Yes, the transfer of an interest in a cooperative is subject to the Transfer Tax. Under the Code, the Transfer Tax is imposed upon the privilege of transferring title to, or beneficial interest in, real property located in the City. Code Section 3-33-020.

An interest in a cooperative is considered a beneficial interest in real property. See Chicago Department of Revenue Real Property Transfer Tax Ruling #1 (April 28, 1994; republished June 1, 2004). Accordingly, the transfer of such interest is subject to the Transfer Tax.

#### **Does the form of transfer taking place have an impact on taxability?**

No, regardless of the form that the transfer takes – be it sale of stock in the cooperative with a lease, a transfer of a beneficial interest in a land trust that owns the cooperative interest, or otherwise - the transfer is considered a taxable transaction and subject to the Transfer Tax.

#### **Does it matter that a controlling interest in the cooperative is not transferred?**

No, taxability does not require that a controlling interest in a cooperative (e.g., 50 percent of the shares of a cooperative) be transferred. The transfer of a single share of stock in a cooperative is considered a taxable transaction and subject to the Transfer Tax.

#### **Does it matter that the instrument of transfer of the cooperative interest was not recorded?**

No, the Transfer Tax is due upon the earlier of the transfer of the interest in the cooperative or the recording of the instrument of transfer of the interest in the cooperative (e.g., the lease, stock transfer, or assignment). See Code Section 3-33-030(B)(1). The unintentional or purposeful omission to record such document does not affect the applicability of the Transfer Tax.

#### **How much tax is due on a transfer?**

As of the date of this bulletin, the tax rate is \$5.25 per \$500.00 of the transfer price, or fraction thereof, for the transfer of an interest in a cooperative. The buyer is responsible for \$3.75

which is the "City portion" and the seller is responsible for \$1.50 which is the "C.T.A. portion."

Please refer to the Code and to the Department's website for current tax rate information and other details. The Department's website address is:

[www.cityofchicago.org/revenue](http://www.cityofchicago.org/revenue)

#### **Are there any penalties and interest that apply to unfiled declarations or unpaid taxes?**

Generally, the Transfer Tax is due when the transfer occurs. See Code Section 3-33-020. When the Transfer Tax is not timely paid, interest accrues on the unpaid tax, and penalties are often assessed. If no Transfer Tax Form (Form 7551) was filed at the time of the transfer, a penalty equal to 100% of the amount of the Transfer Tax is due. Code Section 3-33-110. If the failure to pay the Transfer Tax is determined to have been negligent or willful, a penalty of 25% of the tax is due. Code Section 3-4-220.

#### **What should I do if I have failed to pay the Transfer Tax upon the transfer of my cooperative?**

If you discover that you have unpaid tax and enter our voluntary disclosure program, applicable penalties will be waived. However, if you fail to voluntarily disclose tax owed and you are discovered by the Department, all applicable penalties noted above will apply.

**For more information on voluntary disclosure please visit our website at:**  
[www.cityofchicago.org/revenue](http://www.cityofchicago.org/revenue).