

New York State Increases Transfer, Mansion Taxes for New York City

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Real estate transfer tax rates on conveyances of real property located in New York City are increasing. This article discusses the new rates.

As part of the New York State 2020 Budget, the State Senate and Assembly adopted legislation¹ that increases real estate transfer tax rates (including the so-called mansion tax) on conveyances of real property located in New York City.²

These changes, described below, apply to real property transfers including cooperative apartments occurring on or after July 1, 2019; however, real property transfers pursuant to contracts entered into on or before April 1, 2019, are exempt (even if they close after July 1), provided that the contract's date of execution can be confirmed by independent evidence.³

Transfer Tax

New York State imposes a real estate transfer tax, for which the seller (or "grantor") is generally responsible, on conveyances of real property in New York State.⁴ Prior to the adoption of the new legislation, a transfer tax rate of 0.4 percent (2 dollars for every 500

dollars of consideration) applied to all taxable conveyances of real property; this tax still applies. On top of this, pursuant to the newly adopted legislation, an additional 0.25 percent (for a total of 0.65 percent) is added for (1) conveyances of "residential real property"⁵ for consideration of \$3 million or more, and (2) conveyances of any other real property (*i.e.*, multiunit or commercial) for consideration of \$2 million or more.

For commercial transactions under \$2 million and residential transactions under \$3 million, the New York State transfer tax rate remains at 0.4 percent.

Mansion Tax

New York State also imposes a "mansion" tax on transfers of residential real property including cooperative apartments for consideration of \$1 million or more. Unlike the transfer tax, the mansion tax is the responsibility of the buyer (or "grantee"). Prior to the adoption of the new legislation, the applicable mansion

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tax rate was one percent of the total consideration. The new legislation preserves this “original” mansion tax of one percent, *and* imposes an additional “progressive” mansion tax on top of it, ranging from 0.25 percent on transfers for \$2 million or more of consideration to 2.9 percent on transfers for \$25 million or more of consideration.

Provided below is a chart summarizing the various tax rates and the total New York State transfer and mansion tax that would be imposed on a transaction.

As noted, the grantor is generally responsible for the transfer tax, whereas the grantee is responsible for the mansion tax,⁶ and these taxes are in addition to any other local municipality transfer taxes that may apply. Both the transfer tax and the mansion tax are payable on the “first dollar” of consideration. That is, if a sale of residential real property were for precisely \$1 million, the tax would apply to the entire \$1 million of consideration.

Summary Chart			
Conveyances of Residential Real Property			
Conveyance	Transfer Tax	Mansion Tax	Total Tax Rate (paid by grantor and grantee)
≥ \$1M but < \$2M	0.4%	1%	1.4%
≥ \$2M but < \$3M	0.4%	1.25%	1.65%
≥ \$3M but < \$5M	0.65%	1.5%	2.15%
≥ \$5M but < \$10M	0.65%	2.25%	2.9%
≥ \$10M but < \$15M	0.65%	3.25%	3.9%
≥ \$15M but < \$20M	0.65%	3.5%	4.15%
≥ \$20M but < \$25M	0.65%	3.75%	4.4%
≥ \$25M	0.65%	3.9%	4.55%

Conveyances of Commercial Real Property	
Conveyance	Transfer Tax
< 2M	0.4%
≥ \$2M	0.65%

NOTES:

¹For the full text of the legislation, see https://nyassembly.gov/leg/?default_fld=&leg_video=&bn=A02009&term=2019&Actions=Y&Text=Y.

²The provisions apply in cities in New York State with a population of one million or more. The only city in New York State currently with such a population is New York City.

³The legislation provides that “independent evidence” shall include “recording of the contract, payment of a deposit or other facts and circumstances as determined by the commissioner of taxation and finance.”

⁴New York City also imposes a separate real property transfer tax (2.625 percent for commercial and 1.425 percent for residential), which is not addressed in this article.

⁵For purposes of both the transfer tax and the mansion tax, the legislation states: “Residential real property shall include any premises that is or 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, or a cooperative unit.”

⁶In the event that the grantor does not pay the transfer tax or the grantee does not pay the mansion tax, the other party may be held liable for the respective tax.