

**TO: COUNTY CLERKS/RECORDING OFFICERS,
COUNTY CHIEF FINANCIAL OFFICERS,
ATTORNEYS AND TITLE OFFICERS**

**FROM: ROBERT K. THOMPSON, DIRECTOR
DIVISION OF TAXATION**

**SUBJECT: AMENDATORY REALTY TRANSFER FEE LEGISLATION:
CHAPTER 19, LAWS OF 2005**

DATE: JANUARY 28, 2005

On January 19, 2005, Assembly Bill No. 3302 [2R] was signed into law as Chapter 19, Laws of 2005. Chapter 19 becomes effective on February 1, 2005. Chapter 19 revises the Realty Transfer Fee law (Chapter 66, Laws of 2004) to eliminate the zoning provisions used to impose the 1% fee for an entire consideration in excess of \$1,000,000.

Chapter 19 revises the law to impose the 1% fee based on property class, not zoning. The classification of real property located within the taxing district is determined annually by the municipal assessor. Classification data is a public record to be found in the official tax list of the municipality where the property is located for the year in which the transfer was made.

The new law amends Chapter 66, Laws of 2004 to impose the 1% fee on the grantee (buyer) of a deed for consideration in excess of \$1,000,000 for a real property transfer classified as:

1. Class 2 "residential";
- 2(a). Class 3A: "farm property (regular)" but only if the property includes a building or structure intended or suited for residential use; and
- 2(b). any other real property, regardless of class, that is effectively transferred to the same grantee in conjunction with farm property as described above; or
3. a cooperative unit as defined in section 3 of P.L. 1987, c. 381 (C.46:8D-3).

The Division of Taxation will publish updated regulations in March 2005 that define all real property classes; however, the pertinent ones follow which should be adhered to until the formal regulations are readopted.

1. "Class 2: Residential means property described generally as a dwelling house including the lot or parcel of land on which the dwelling house is situated. The dwelling is functionally designed for use and enjoyment by not more than four families. This class includes residential condominiums. A dwelling functionally designed for use and enjoyment by more than four families should be designated Class 4C."

2. "Class 3A: Farm property (Regular) means land being used for agricultural or horticultural purposes, including its use for the breeding, pasturing and production of livestock and animal products. Farm property also includes land, together with improvements, where the use of the land and function of the buildings thereon are for agricultural or horticultural purposes, as well as farm houses and the lots or parcels of land on which they are situated." The 1% fee is imposed upon Class 3A property that is transferred with any other real property, regardless of class, to the same grantee in conjunction with the transfer of Class 3A property for consideration in excess of \$1,000,000.

A "Cooperative" is defined in N.J.S.A. 46:8D-3 as "any system of land ownership and possession in which the fee title to the land and structure is owned by a corporation or other legal entity in which the shareholders or other coowners each also have a long term proprietary lease or other long term arrangement of exclusive possession for a specific unit of occupancy space located within the same structure." Cooperative units are classified as Class 4C for property tax purposes.

EXEMPTIONS

The law also exempts from the 1% fee an organization determined by the federal Internal Revenue Service to be exempt from federal income taxation pursuant to section 501 of the federal Internal Revenue Code of 1986, 26 U.S.C. s. 501, that is the grantee in a deed for consideration in excess of \$1,000,000.

Chapter 19 also requires the Division to issue refunds of the 1% fees paid on transactions that occurred on or after August 1, 2004 but before February 1, 2005 which would not have been required to pay the 1% fee under Chapter 66, Laws of 2004 as amended by Chapter 19 if the transaction had occurred on or after February 1, 2005. Grantees who remitted the 1% fee in these instances will be allowed to file a Claim for Refund with the Division of Taxation on or after February 1, 2005 but before May 1, 2005. The revised Affidavit of Consideration for Use by Buyer (RTF-1EE) is enclosed for use on transfers of property occurring on or after February 1, 2005. This Affidavit and all other RTF forms are available on the Division's Internet Website at:

<http://www.state.nj.us/treasury/taxation/lpt/localtax.shtml>

Please review this amendatory legislation and distribute it to your staff members. If you have any questions regarding the implementation of the revised law, please contact the Realty Transfer Fee Section at (609) 292-7813.

RKT: GDC
Enclosures