

Notice to Real Estate Attorneys/Settlement Agents, Purchasers of Mixed Class Properties Subject to the 1% Fee on Grantees

As a result of the Tax Court decision in The Ridgewood Commons Group, LLC, v. Director, Division of Taxation, 2009 N.J. Tax Lexis 22 (Docket No. 010859-2007) (T.C. 2009), the Division has revised its form RTF-1EE (Affidavit of Consideration for Use by Buyer). The Tax Court held that where a grantee elects to combine the consideration paid totaling in excess of \$1,000,000 for more than one property in a single deed *without separately stating the amount paid for each property*, the 1% Fee imposed on the grantee is to be calculated only on the respective value of the consideration paid for the property that was of a classification subject to the 1% Fee. The Division has determined that in transfers that fall within the above scenario, a grantee should check off the box in paragraph(2)(C), circling the appropriate classifications for properties that may be subject and not subject to the 1% Fee under N.J.S.A. 46:15-7.2, and then indicate the Equalized Assessed Value (EAV) of each property in paragraph (2)(D). The ratio of the EAV of the property that may be subject to the 1% Fee over the total EAV of all the properties conveyed times (X) the total amount of consideration will provide an amount to be attributed to the consideration paid for the property or properties covered by N.J.S.A. 46:15-7.2. If that amount is greater than \$1,000,000, the 1% Fee will be due on that amount.

Example:

Where class 4A and non-classified properties are conveyed, use the following formula:

$$\frac{\text{(EAV of 4A properties)}}{\text{(EAV of 4A + non-4A properties)}} \quad X \quad \$ \text{ consideration stated in deed}$$

1% (grantee) fee applies if the Class 4A is in excess of \$1 million.