

## Mansion Tax and Transfer Tax Update

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### Client Advisory

April 9, 2019 by Barbara B. Brown, Macculloch M. Irving and Marc A. Kushner

As part of its just-approved fiscal year 2019-2020 budget, New York State has increased the 0.4% real estate transfer tax and imposed an additional supplemental "mansion" tax on conveyances of residential real property (and interests in residential real property) in New York City having a consideration of at least \$2 million. These changes take effect as of July 1, 2019, but do not apply to sales that are made pursuant to contracts entered into on or before April 1, 2019. The date of execution of the contract must be confirmed by independent evidence, such as the date the contract is recorded, or the date the down payment under the contract has been paid.

New York State currently imposes a real estate transfer tax at the rate of 0.4% (\$2.00 per \$500) of consideration on conveyances of real property. This tax is imposed upon the grantor, or the party conveying its interest in the real property. The new budget imposes an additional transfer tax of .25% (\$1.25 per \$500) for conveyances of: (i) residential real property (or interests in such property) in New York City having consideration of at least \$3 million, and (ii) other New York City real property (or interests in such property) having consideration of at least \$2 million. "Residential real property" is generally defined as any premises that is or may be used in whole or in part as a personal residence, and includes a one, two, or three-family house, an individual condominium unit or a cooperative unit.

New York State also currently imposes a "mansion tax" on conveyances of residential real property for consideration of \$1 million or more, at a rate of 1% of the consideration. The new budget imposes a supplemental mansion tax (in addition to the 1% tax) on conveyances of residential real property (or interest in such properties) in New York City for a consideration of \$2 million or more, with the tax rate increasing as the consideration for the conveyance increases. The rates of this supplemental mansion tax are as follows:

Consideration	Additional Mansion Tax
\$2 million or more but less than \$3 million	0.25%
\$3 million or more but less than \$5 million	0.50%
\$5 million or more but less than \$10 million	1.25%
\$10 million or more but less than \$15 million	2.25%
\$15 million or more but less than \$20 million	2.50%
\$20 million or more but less than \$25 million	2.75%

\$25 million or more

2.90%

Both the 1% mansion tax and the new supplemental mansion tax are imposed upon grantees of the New York City residential real property. But, if the grantee is exempt from the tax or otherwise fails to pay the tax (in which case the tax would become a joint and several liability of grantor and grantee), then the grantor becomes responsible for payment of the tax. Both of these mansion taxes are payable whether or not the residential property is the grantee's primary residence.

In addition to both the existing and newly enacted increases to the New York State real estate transfer taxes and "mansion taxes" described above, conveyances of real property in New York City are also subject to the existing New York City real property transfer tax (up to 1.425% for residential properties and 2.625% for other properties, payable by grantors).

While this advisory gives a general overview of the New York City and New York State transfer tax regime, there are other factors that may affect the calculation of these taxes, and purchasers and sellers of real property in New York City are well-advised to consider these issues when structuring property conveyances.

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