

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE CHIEF FINANCIAL OFFICER
OFFICE OF TAX AND REVENUE**



August 22, 2019

OTR TAX NOTICE 2019-05

**NOTICE REGARDING INCREASE IN TRANSFER AND RECORDATION TAX RATES
FOR DEEDS RELATING TO COMMERCIAL PROPERTIES WHERE CONSIDERATION IS
\$2 MILLION OR MORE**

Recently enacted legislation will increase the rate of transfer and recordation tax on transfers of commercial (class 2) property where the taxed or imputed consideration for the deed is \$2 million or greater. Fiscal Year 2020 Budget Support Emergency Act of 2019, D.C. Act 23-91, secs. 7022, 7023; Fiscal Year 2020 Budget Support Act of 2019, D.C. Act 23-92, secs. 7022, 7023.

The rate increase is effective October 1, 2019 and expires September 30, 2023.

This notice is intended to provide general information concerning the increase in the tax rates.

Taxable deeds of title and leases for a term of 30 years or more for such commercial properties are subject to an additional recordation and transfer tax in the amount of 1.05% each, bringing the total rate of transfer and recordation tax to 2.5% each, for a total overall rate of 5%.

An economic interest deed evidencing a transfer of real property, any portion of which is commercial (class 2), shall be taxed at 5% of the consideration allocable to the real property if such consideration is \$2 million or more. Deeds solely transferring an economic interest in a residential unit within a cooperative housing association are not subject to the increased rate.

A security interest instrument securing a debt of \$2 million or greater is also subject to the additional 1.05% rate of recordation tax if the instrument encumbers real property any part of which is class 2 for real property tax purposes, for an overall tax rate of 2.5%. The additional tax rate applies to the portion of the instrument which exceeds an exemption from the recordation tax.

For purposes of determining whether the \$2 million threshold is met, debts in security interest instruments recorded on the same day and pertaining to the same real property shall be aggregated.

Where the aggregate amount equals or exceeds \$2 million, the additional tax shall apply to each such security interest instrument regardless of the amount of debt secured by each such instrument.

The increased rate applies if the deed conveys real property (or an interest in real property) or the security interest instrument encumbers real property any part of which is commercial (class 2 for real property tax purposes). The additional tax applies to transfers of both improved and unimproved commercial property.

A deed shall be also considered to transfer commercial property and a security interest instrument shall also be considered to encumber commercial property if any portion of the building or structure in which the real property (or interest in the real property) being transferred by the deed or encumbered by the security interest instrument is classified as Class 2 Property (commercial), regardless of whether that portion is transferred in the deed or encumbered by the security interest instrument, if, prior to execution of the deed or security interest instrument, the majority ownership of the real property (or interest in real property) being transferred by the deed or encumbered by the security interest instrument and a portion of the building or structure that is classified as Class 2 Property (commercial) was common (whether direct or indirect).

This common ownership provision does not apply to a deed solely transferring real property which is granted the homestead deduction by application of the grantee simultaneously with the recordation of the deed, as well as an accessory lot included within such deed. Consequently, the 1.05% additional transfer or recordation tax is not applicable to such deeds.

The common ownership rule also applies to deeds transferring economic interests. A deed shall be considered to evidence a transfer of an economic interest in class 2 property if any portion of the building or structure in which the real property interest being transferred is located is classified as class 2 property, regardless of whether such commercial property is transferred by the deed, if, prior to execution of the deed, the majority ownership in the economic interest being transferred and the class 2 portion of the building or structure was common (whether direct or indirect).

For additional information, please contact OTR's Customer Service Center at (202) 727-4TAX (4829) or the Recorder of Deeds at (202) 727-5374.