

Miscellaneous/Transfer:

New York City: Real Property Transfer Tax Deemed Not Applicable Even Under Step Transaction Doctrine

TAT(H)20-18(RP), *TAT(H)20-19(RP)*, N.Y.C. Tax App. Trib., ALJ Div. (9/17/24). In a ruling involving a deed transfer of real property to a limited liability company (LLC) by a related entity where an interest in the LLC was then subsequently transferred to a third-party, an administrative law judge with the New York City (City) Tax Appeals Tribunal (Tribunal) held that even after application of the “step transaction doctrine,” what remained is “a transaction that qualifies as a non-taxable transfer of a non-controlling economic interest” for City Real Property Transfer Tax (RPTT) purposes. According to the judge, the series of transactions, if viewed separately, were each considered nontaxable because while the parties disagreed on the exact percentage of the beneficial interest transferred, “there is no dispute that the beneficial interest transferred was less than 50 percent and is therefore non-taxable as a transfer of a non-controlling economic interest.” The judge also reasoned that the substance of the “collapsed transaction” is the expansion of a joint venture through the transfer of a minority economic interest and, therefore, the transfer still qualifies as an exempt transfer of a non-controlling (*i.e.*, less than 50%) economic interest. This ruling was contrasted with a previous Tribunal ruling where the substance of the collapsed transaction was a deed transfer to a third-party that was held to be taxable. Please contact us with any questions.

URL: <https://www.nyc.gov/assets/taxappeals/downloads/pdf/2018DET0924.pdf>

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