

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



October 5, 2017

OTR TAX NOTICE 2017-07

This Notice Replaces and Supersedes OTR Tax Notice 2017-02, dated July 21, 2017

**REDUCED RECORDATION TAX RATE FOR FIRST-TIME
HOMEBUYERS**

Recently enacted legislation will lower the recordation tax rate payable on eligible residential properties (including housing cooperative units) acquired by first-time District homebuyers. *See* D.C. Law 21-268, as amended by the Fiscal Year 2018 Budget Support Emergency Act of 2017 (D.C. Act 22-104) and the Fiscal Year 2018 Budget Support Clarification Emergency Amendment Act of 2017 (D.C. Bill 22-491).

For improved residential real property, the recordation tax rate is reduced to 0.725%. The transfer tax of 1.1% or 1.45% owed by the seller is unchanged. For transfers of economic interests in a housing cooperative unit, the recordation tax rate is reduced from 2.2% to 1.825% for units transferred for consideration of less than \$400,000, and from 2.9% to 2.175% for units transferred for consideration of \$400,000 or greater. Recordation tax rates on transfers of economic interests are higher because there is no corresponding transfer tax.

These rate reductions will apply to deeds of title or transfers of economic interests in housing cooperative units recorded on or after October 1, 2017. While an end date for the reduced rate has not been set, this legislation requires that, in 4 years, a report concerning the reduced rate be submitted to the City Council to assist it in determining whether the reduced rate should be continued.

This notice is intended to provide general information concerning the reduced tax rates, as well as the procedures for establishing entitlement to the reduced rate of tax.

In general, the reduced rate of recordation tax applies to the purchase of eligible property by a first-time District homebuyer. "Eligible property" is defined as improved residential real property, including an economic interest in a housing cooperative unit, that qualifies for the homestead deduction and is purchased for no more than \$625,000. D.C. Official Code § 42-1101(17). All lots purchased on the same deed are included for purposes of applying the reduced rate and the purchase price ceiling. The purchase price ceiling will be adjusted annually beginning with real property tax year 2019 by the addition to the prior purchase ceiling of an

amount equal to the percentage increase in the Washington, D.C., Standard Metropolitan Statistical Area Consumer Price Index for All Urban Consumers for the preceding calendar year in which the real property tax year begins, rounded to the next lowest multiple of \$500.

A “first-time District homebuyer” is defined as an individual purchaser who has never owned improved residential real property or an economic interest in a cooperative unit that qualified for the homestead deduction as the individual’s principal residence. D.C. Official Code § 42-1101(16). The term also includes an individual who has divorced or separated and who, by a written settlement agreement or court order, did not obtain an ownership interest in a principal residence that had previously been jointly owned. In order for a deed to qualify for the reduced rate, the applicant signing the application for the reduced recordation tax rate for first-time homebuyers (Form ROD 11) must be a first-time District homebuyer. It is not necessary that each grantee be a first-time District homebuyer, as long as the applicant qualifies.

The combined adjusted gross income for federal income tax purposes of the owners (whether they reside in the property or not) and other persons residing in the property must be no higher than an amount equal to 180% of the Area Median Income as provided before the beginning of the real property tax year (and effective for such tax year) by the United States Department of Housing and Urban Development as a direct calculation without taking into account any adjustment. The income test is applied using the adjusted federal gross income shown on all the owners’ and household members’ federal income tax returns originally due or filed immediately before (if filed before the original due date) the deed is offered for recordation. Tenants occupying a separate dwelling unit under a written lease for fair market value are not part of the household for purposes of this income test. Household income figures will be provided by the Recorder of Deeds in the application form. The form will be updated as new AMI figures are released by HUD, and the applicable AMI amount shown in the version of the form in effect when the deed is offered for record will be utilized to determine eligibility for the reduced rate.

In order to qualify for the reduced rate of tax, the entire benefit of the reduced rate must be allocated to the grantees of the deed, as shown on the settlement statement or closing disclosure form. Accordingly, the benefit of the reduced tax cannot be shared with the transferor of the real property, who should be allocated the full amount of the transfer tax due on the sale of the property.

An application for the reduced rate must be made at the time the deed of title is offered for recordation. The reduced rate cannot be applied for after the deed is recorded. The Recorder of Deeds will accept properly completed applications for purposes of allowing the reduced rate of tax at the time of recordation. These applications will be subject to audit thereafter, and additional information may be requested in order to substantiate entitlement to the reduced rate of tax. If additional tax is determined to be due at the conclusion of the audit, the grantee or grantees of the deed will be responsible for payment of any additional tax, interest and penalties owed.

To be eligible for the reduced rate, the applicant must provide the following:

1. Certification that the applicant signing the application (Form ROD-11) is a bona fide District resident. If the applicant is not a District resident when the deed is recorded, the applicant must state that he or she intends to become a District resident in the immediate future.
2. Proof that the combined federal adjusted gross income of the owners (whether they reside in the property or not) and the household residing at the property is under the income ceiling. For purposes of filing the application (Form ROD 11) copies of all the owners' and household members' entire federal income tax returns that were originally due or filed immediately before (if filed before the original due date) the deed is offered for recordation, must be submitted with the application. The application will be subject to audit after filing, and additional information may be requested.
3. Proof that the property is eligible property, including the settlement statement or closing disclosure statement showing the purchase price does not exceed the ceiling and that the full benefit of the reduced recordation tax rate was allocated to the grantees of the deed.
4. A copy of the homestead deduction application (Form FP-100 for a house or condominium unit, or Form FP-111/COOP for a cooperative unit) that is signed by the applicant for the reduced tax rate. This application must also be filed with the Homestead Unit so that it can be processed and a determination made as to the property's eligibility for the homestead deduction.
5. A divorced or separated individual who previously jointly owned a principal residence and who claims first-time District homebuyer status must provide a copy of the written settlement agreement or court order showing that the individual did not obtain an ownership interest in the residence.

The reduced rate of tax applies only to the total consideration paid on the deed of title to the eligible property including other properties on such deed, or to the economic interest deed for the eligible property. Deeds of trust and other taxable documents will be taxed under the otherwise applicable rules.

Only property acquired by purchase is eligible for the reduced rate. Property acquired for no consideration, such by gift or inheritance, is not eligible for the reduced rate and is taxable or exempt as provided under applicable law.

Because the new law only reduces the applicable tax rate, the nominal consideration rules for deeds of title remain applicable. In the event that purchase price is nominal, but the property is otherwise eligible, the reduced tax rate will be applied to the fair market value of the property.

If the property fails to qualify for the homestead deduction, the reduced rate will not be available and any additional tax due under the generally applicable rules will be imposed. If additional tax is determined to be due, the grantee or grantees of the deed will be liable for the tax, interest and penalties owed.

The Recorder of Deeds of the District of Columbia will issue an application form for the reduced tax rate which will be designated as Form ROD 11. This form will be periodically revised, and each revision will supersede all prior versions of the form. Only the latest version of Form ROD 11 may be submitted to this office, and prior versions will be considered obsolete and will not be accepted by the Recorder of Deeds. Persons preparing this form are advised to download it from the Recorder of Deeds website to ensure that the most current version is being used.

No claim for refund will be allowed due to the issuance after the recordation of a deed of an updated version of the application reflecting an increased purchase price or household income ceiling. Eligibility for the reduced tax rate will be determined only on the basis of the limits stated in the application form in effect when the deed is submitted for recordation.

For additional information, please contact the Recorder of Deeds at (202) 727-5374.