

## THE NEW CONVEYANCE TAXES

By Judith I. Johannsen

Paying money at a closing is typically thought to be the job of the buyer, with the seller being on the receiving end of the payment, but the seller also has to pay at closing - the seller has to pay to convey.

At the end of a closing, the seller receives a check. The amount of the check is not the same as the purchase price in the Purchase and Sale Agreement, but, rather, it is an amount determined by debiting and crediting various costs and expenses to and from the purchase price. Some of these closing costs are for routine homeowner expenses such as heating fuel, water and sewer and property taxes and are prorated between the buyer and seller. Other costs and expenses are charged specifically to the buyer and the seller and can include fees for financing, title insurance, mortgage payoff, brokers' commissions, legal representation and administrative fees. All of these costs and expenses are to be disclosed on the HUD-1 Settlement Sheet given to the buyer and the seller at closing.

Conveyance taxes are among the administrative fees charged to the seller. A conveyance tax is a statutorily created tax imposed on conveyances when the consideration (the purchase price) for real property (or an interest in a property) conveyed equals or exceeds two thousand dollars. Conveyance taxes are paid when the deed evidencing the transaction is recorded in the town in which the real property (or any part thereof) is situated, not later than ten days following the conveyance. And, as luck would have it, as property is located in both a municipality and the state, there are *two* conveyance taxes – a municipal conveyance tax and a state conveyance tax; each tax, however, is computed using different rates. The municipal conveyance taxes become a part of the municipality's general revenue and the state conveyance taxes are deposited into the State of Connecticut's General Fund.

The amount of the municipal conveyance tax for most real estate transactions (there are some exceptions) used to be \$1.10 for each \$1000 of the consideration. In March 2003, An Act Concerning Modifications to Current and Future State Expenditures and Revenues brought about 2 changes to the municipal conveyance tax - the municipal conveyance was upped to \$2.50 for each \$1,000 of the consideration and 18 Connecticut communities (Bloomfield, Bridgeport, Bristol, East Hartford, Groton, Hamden, Hartford, Meriden, Middletown, New Britain, New Haven, New London, Norwalk, Norwich, Southington, Stamford, Waterbury and Windham) could levy an *additional* \$2.50 per \$1,000 in conveyance taxes, if their community's town council/legislative body chose to do so. As of June 19, 2003, 11 of these towns listed have adopted this additional levy, Bloomfield, Bridgeport, East Hartford, Hartford, Meriden, Middletown, New London, Norwalk, Norwich, Waterbury and Windham.

The amount of the state conveyance tax did not change and remains \$5.00 for each \$1,000 of the consideration. As an example, if a home's purchase price is \$300,000, the municipal conveyance tax under the new \$2.50 per \$1000 would be \$750 and the state conveyance tax would be \$1,500. However, if the town in which this property was situated was one of the select municipalities that was allowed to levy an additional conveyance tax and opted to do so, the total conveyance tax for that \$300,000 property in that town would be \$1500.

Rarely is there good news when it comes to taxes, but the good news here is that there is a sunset provision in the Act for the new conveyance tax provisions to expire on July 1, 2004; however, there are efforts underway to make the new provisions permanent.

Some conveyance taxes are computed using rates different from those stated above. For instance, the conveyance tax for property used for any purpose *other than residential use* (i.e., commercial property), except unimproved land, is taxed at one per cent of the sales price, and, in the case of a residential estate conveyed for \$800,000 or more, the tax is one-half of one per cent on the amount up to and including \$800,000 and then one per cent on the amount in excess of \$800,000.

Land classified as farm land, forest or open space can be treated differently upon sale – an additional conveyance tax, a penalty, can be levied. This additional tax is based upon in which year after the classification the property is conveyed (ten percent the first year, nine per cent the second year, and so on, down to one percent in the tenth year). For farm land and forest, no "penalty" conveyance tax is imposed following the tenth year of ownership by the record owner; for land classified as open space, no penalty conveyance tax is imposed if the open space has been so classified for ten years or if the new owner agrees by deed restriction to keep the land as open space for at least eight years.

Not all transactions require payment of conveyance taxes. Some examples of exempt transactions include deeds where the state or any of its political subdivisions or agencies is a party; deeds of partition (where two or more parties are the owners of a property and wish to divide it among themselves); deeds made pursuant to a court decree (marriage dissolution, foreclosure by sale, partition); deeds where the consideration is for less than \$2,000; deeds made to any non-profit organization organized for holding undeveloped land in trust for conservation or recreation purposes; deeds between spouses or from parents to a child; deeds that correct, modify, supplement or confirm a deed previously recorded; and where property is transferred because of death.

Why does any property owner need to know this stuff? Well, if you're a buyer, you probably don't for purposes of your closing because it is the seller who traditionally pays the conveyance tax; but, if you ever contemplate selling your home, knowing that there is such a thing as conveyance taxes and having a general idea of how they are calculated may help you ballpark the amount of cash you have leaving the closing table. That's money you can use for another property.

While accurately calculating the amount of conveyance tax is your closing attorney's responsibility, knowing that conveyance taxes are normally a seller's responsibility and being able to loosely estimate the amount of tax you may owe could color your thinking on an acceptable selling price for your current property, provide insight into possible tax (re)classifications for property you purchase, and remove some of the mystery to the settlement sheet adjustments. Not bad for a tax.

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