



CITY OF STAMFORD, CONNECTICUT

INTER-OFFICE CORRESPONDENCE

To: Kathryn Emmett
From: Dana B. Lee
Copy:
Date: November 26, 2014
Re: A14-0339 - Conveyance Tax Issue

Issue: Is the following proposed amendment allowable under state law:

“WHEREAS, the Board of Representatives has determined that it is in the best interests of the City of Stamford and the residents of Stamford individually to limit the total local real estate conveyance tax (combined base tax and option tax) to no more than five per cent (5%) of the Seller's gain on the property being transferred. The gain being calculated as the consideration for the interest in the real property being conveyed less (or minus) the Seller's purchase price;”

Brief Answer:

No. Connecticut General Statutes § 12-494 imposes a mandatory tax on the consideration paid for residential real property. The majority of the tax is remitted to the state, and the remainder is made part of the general revenue of the municipality. The law does not grant municipalities with the authority to impose a limit on the total tax collected.

Discussion:

In Connecticut, “(m)unicipalities have no powers of taxation other than those specifically given by statute, and strict compliance with the statutory provisions is a condition precedent to the imposition of a valid tax.” *Empire Estates, Inc. v. Stamford*, 147 Conn. 262, 264 (1960).

Connecticut General Statute §12-494¹ provides in pertinent part, “**(t)here is imposed a tax on each deed, instrument or writing...at the rate three-quarters of one per cent of the**

¹ Connecticut General Statutes § 12-494, entitled, “Imposition of tax on conveyances of real property for consideration. One part payable to state and the other to municipality in which paid” provides:

(a) There is imposed a tax on each deed, instrument or writing, whereby any lands,

consideration for the interest in real property... the revenue from which shall be remitted by

tenements or other realty is granted, assigned, transferred or otherwise conveyed to, or vested in, the purchaser, or any other person by such purchaser's direction, when the consideration for the interest or property conveyed equals or exceeds two thousand dollars, (1) subject to the provisions of subsection (b) of this section, at the rate of three-quarters of one per cent of the consideration for the interest in real property conveyed by such deed, instrument or writing, the revenue from which shall be remitted by the town clerk of the municipality in which such tax is paid, not later than ten days following receipt thereof, to the Commissioner of Revenue Services for deposit to the credit of the state General Fund, and (2) at the rate of one-fourth of one per cent of the consideration for the interest in real property conveyed by such deed, instrument or writing, provided the amount imposed under this subdivision shall become part of the general revenue of the municipality in accordance with section 12-499.

(b) The rate of tax imposed under subdivision (1) of subsection (a) of this section shall, in lieu of the rate under said subdivision (1), be imposed on certain conveyances as follows: (1) In the case of any conveyance of real property which at the time of such conveyance is used for any purpose other than residential use, except unimproved land, the tax under said subdivision (1) shall be imposed at the rate of one and one-quarter per cent of the consideration for the interest in real property conveyed; (2) in the case of any conveyance in which the real property conveyed is a residential estate, including a primary dwelling and any auxiliary housing or structures, regardless of the number of deeds, instruments or writings used to convey such residential real estate, for which the consideration or aggregate consideration, as the case may be, in such conveyance is eight hundred thousand dollars or more, the tax under said subdivision (1) shall be imposed (A) at the rate of three-quarters of one per cent on that portion of such consideration up to and including the amount of eight hundred thousand dollars, and (B) at the rate of one and one-quarter per cent on that portion of such consideration in excess of eight hundred thousand dollars; and (3) in the case of any conveyance in which real property on which mortgage payments have been delinquent for not less than six months is conveyed to a financial institution or its subsidiary which holds such a delinquent mortgage on such property, the tax under said subdivision (1) shall be imposed at the rate of three-quarters of one per cent of the consideration for the interest in real property conveyed. For the purposes of subdivision (1) of this subsection, "unimproved land" includes land designated as farm, forest or open space land.

(c) In addition to the tax imposed under subsection (a) of this section, any targeted investment community, as defined in section 32-222, or any municipality in which properties designated as manufacturing plants under section 32-75c are located, may, on or after March 15, 2003, impose an additional tax on each deed, instrument or writing, whereby any lands, tenements or other realty is granted, assigned, transferred or otherwise conveyed to, or vested in, the purchaser, or any other person by his direction, when the consideration for the interest or property conveyed equals or exceeds two thousand dollars, which additional tax shall be at a rate of up to one-fourth of one per cent of the consideration for the interest in real property conveyed by such deed, instrument or writing. The revenue from such additional tax shall become part of the general revenue of the municipality in accordance with section 12-499.

the town clerk of the municipality in which such tax is paid...to the Commissioner of Revenue Services...and...at the rate of one-fourth of one per cent **of the consideration** for the interest in real property...provided the amount imposed under this subdivision shall become part of the general revenue of the municipality..." Conn.Gen.Stat. § 12-494(a)(1-2). In addition, the statute imposes an additional tax on sales price amounts above \$800,000.00. The statute reads, in pertinent part, that the tax "**shall be imposed** (A) at the rate of three-quarters of one per cent **on that portion of such consideration** up to and including the amount of eight hundred thousand dollars, and (B) at the rate of one and one-quarter per cent on that portion of such consideration in excess of eight hundred thousand dollars..." *Id.*, at § 12-494(b)(2).

The proposed amendment could result in an effective tax that is less than the amount mandatorily imposed. There is no provision in the law that would allow the City to limit the total tax collected and remitted to the state or to the City's general fund. Consequently, the amendment would not strictly comply with General Statutes § 12-494 and would not be permissible.

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