

UPDATE ON AUDIT ISSUES

Real Property Transfer Tax

Transfer of Equitable Interest

June 2008

I. ISSUE

Whether the transfer of an equitable interest in real property is a taxable conveyance for purposes of the Real Property Transfer Tax.

II. CITE

The Real Property Transfer Tax applies to a conveyance of an equitable interest in real property per RCNY Sections 23-02 and 23-03 (formerly Articles 2, 5 and 17 of the Real Property Transfer Tax Regulations).

III. RECOMMENDATIONS

Many taxpayers seem to be unaware that the transfer of an equitable title or interest in real property, such as a beneficial interest in a trust or a life estate, must be reported for RPTT purposes. For example, if a business owner allows real property to which he or she holds title individually to be treated as an asset of the business in company records and on tax returns, a transfer of an equitable interest in that property has occurred, and a Real Property Tax Return must be filed.