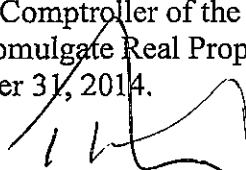


**CITY OF CHICAGO  
DEPARTMENT OF FINANCE  
RULES AND REGULATIONS**

Pursuant to Sections 2-32-80, 2-32-096, 3-4-030, 3-4-150 and 3-33-140 of the Chicago Municipal Code, I, Dan Widawsky, as Comptroller of the City of Chicago Department of Finance, do hereby adopt and promulgate Real Property Transfer Tax Ruling #5, as set forth below, effective December 31, 2014.

Dated: December 16, 2014

  
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Dan Widawsky  
Comptroller  
Department of Finance

Real Property Transfer Tax Ruling #5  
Subject: Creation of Long-term Ground Leases  
Effective date: December 31, 2014

Section 1. Chapter 3-33 (the "Transfer Tax Ordinance") of the Chicago Municipal Code (the "Code") imposes the Real Property Transfer Tax (the "Transfer Tax") upon the privilege of transferring a beneficial interest in real property located in the City of Chicago (the "City"). See Code Section 3-33-030.

Section 2. Code Section 3-33-020(A) lists examples of the types of beneficial interests in real property that are subject to the Transfer Tax. One example of such a beneficial interest is the "lessee interest in a ground lease (including any interest of the lessee in the related improvements) that provides for a term of 30 or more years when all options to renew or extend are included, whether or not any portion of the term has expired." Code Section 3-33-020(A)(2). The purpose of this ruling is to discuss the application of the Transfer Tax Ordinance to the creation of a ground lease that provides for a term of 30 or more years when all options to renew or extend are included (referred to herein for convenience as a "long-term ground lease"). This ruling does not address long-term space leases, although the Department of Revenue (the "Department") may address this issue at a later date.

Section 3. By granting a lessee the right to use and occupy real property under a long-term ground lease, a lessor is transferring a beneficial interest in real property within the meaning of the Transfer Tax Ordinance. Therefore, the lessee of a long-term ground lease is primarily obligated to pay the "City portion" of the Transfer Tax on the "transfer price," with the lessor secondarily liable under certain circumstances. See Code Sections 3-33-030(C) and 3-33-050.<sup>1</sup>

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<sup>1</sup> Effective April 1, 2008, the Transfer Tax Ordinance was amended to create a supplemental tax for the benefit of the Chicago Transit Authority (the "CTA"). This supplemental tax is referred to as the "C.T.A. portion" of the Transfer Tax. The transferor is primarily liable for the C.T.A. portion of the Transfer Tax. In the context of a long-term ground lease, the lessor is the transferor. This ruling addresses the liability of

Section 4. The Transfer Tax is due upon the earlier of the delivery or recording of the deed, assignment or other instrument of transfer. Code Section 3-33-030(B)(1). Thus, upon the execution of a long-term ground lease, the lessee is required to pay the City portion of the Transfer Tax.

Section 5. Code Section 3-33-070 requires the filing of a real property transfer declaration (Form 7551) "[a]t or before the time that the tax imposed by this chapter is due ... signed by at least one of the transferors and also signed by at least one of the transferees, or .... agents." Thus, upon the effective date of a long-term ground lease, the lessee and lessor are required to file Form 7551 with the Department.

Section 6. Penalties and Interest. A taxpayer's failure to file a Transfer Tax declaration (Form 7551) prior to the Department issuing a notice of tax audit, investigation, or liability in connection with the transfer of title to, or beneficial interest in, real property, subjects the taxpayer to a penalty equal to the amount of tax due. Code Section 3-33-110. If the declaration is filed, but filed late, a penalty in the amount of 5% of the tax is imposed under Code Section 3-4-200. If the declaration is not filed late, but the payment is either not paid or is paid late, Code Section 3-4-200 imposes a penalty in the amount of 5% of the tax. Code Section 3-4-220 imposes an additional penalty of 25% of the tax for negligently or for willfully failing to pay the tax.

Code Section 3-4-190 imposes interest on unpaid Transfer Taxes at the rate of 12 percent per annum simple interest, calculated daily, based on a 365 day calendar year.

Section 7. Transferor Liability. If a Form 7551 is not filed as required, then the transferor is liable, with the transferee, for any tax liability. See Code Section 3-33-050.

Section 8. This Ruling is a restatement or clarification of current law and applies to all periods, prior to and subsequent to the effective date.

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the lessee for the City portion of the Transfer Tax. Therefore, the Transfer Tax Ordinance should be consulted to confirm correct treatment under any given set of facts with respect to the lessor.