

# **REAL ESTATE TRANSFER TAX ACT of REPUBLIC OF CROATIA**

\*Refined text, „Official Gazette“ No. 115/16, 106/18

In force and effect from 1 January 2019.

## **PART ONE**

### **Introductory provisions**

#### **Article 1**

Real estate transfer tax shall be calculated and paid according to the provisions of this Act.

#### **Article 2**

Revenue from real estate transfer tax shall belong to the local self-government unit in the area where the real estate is located.

#### **Article 3**

Domestic and foreign natural or legal persons are equated with regard to payment of real estate transfer tax unless otherwise specified in an international agreement.

#### **Article 4**

(1) For the purposes of this Act, certain terms shall have the following meaning:

1. Real estate transfer shall refer to any acquisition of real estate in the Republic of Croatia (hereinafter: real estate acquisition)
2. Real estate acquisition shall refer to buying and selling, exchanging, inheriting, gifting, entering real property to and exempting it from a company, adverse possession, real estate acquisition in liquidation or bankruptcy proceedings, acquisition on the basis of a decision by a court or other authority, acquisition under law and other ways of acquiring real estate from other persons
3. Real estate shall refer to lands and buildings

4. Land shall refer to agricultural, building and other lands
  5. Building shall refer to residential, business and any other buildings and their parts
  6. Real estate market value shall refer to the price of real estate that is obtained or might be obtained on the market at the moment when the tax liability is incurred
  7. Real estate acquisition document shall refer to any document, notarial act or a decision of the competent authority that results in the acquisition or transfer of ownership over the real estate in the Republic of Croatia.
- (2) The gendered terms used in this Act shall refer equally to the male and female gender.

## **PART TWO**

### **Chapter I – taxation subject**

#### **Article 5**

- (1) The subject of translation shall be the transfer of real estate.
- (2) By way of derogation from paragraph 1 of this Article, the acquisition of real estate that is taxed according to the VAT Act shall not be considered the transfer of real estate within the meaning of this Act.

### **Chapter II – tax payer**

#### **Article 6**

- (1) The real estate transfer tax payer shall be the person acquiring the real estate.
- (2) The real estate transfer tax payer in real estate exchange shall be each exchange participant, for the value of the acquired real estate.
- (3) If an ideal (co-owned) part of the real estate is acquired, the real estate transfer tax payer shall be respectively each person acquiring the property.

#### **Article 7**

- (1) The real estate transfer tax payer in inheritance shall be the heir or legatee. If the heir renounces the inheritance during probate proceedings or surrenders it to another co-heir, the tax under this Act shall not be paid for the renouncement or surrender of inheritance.

(2) In real estate gifting or other acquisition of real property without payment, the real estate transfer tax payer shall be the gift recipient or another person who acquired the real estate without payment.

### **Article 8**

(1) If real estate is acquired under a lifelong support agreement or a support until death agreement, the real estate transfer tax payer shall be the support provider.

(2) In acquiring a real estate under a lifelong support agreement, the real estate transfer tax shall be reduced by 5 % for each support year passed after the date of the lifelong support agreement certified by the competent court judge or approved (solemnized) by a notary public or composed in the form of a notarial act, until the death of supported party.

## **Chapter III – tax basis and tax rate**

### **Section 1 – Tax basis**

#### **Article 9**

(1) The basis for the real estate transfer tax is the market value of the real estate at the moment when the tax liability is incurred.

(2) The Ministry of Finance, Tax Administration (hereinafter: Tax Administration) shall define, as a rule, the real estate transfer tax basis as the real estate market value from the acquisition document if the total price amount given or paid by the acquirer is approximately equal to the prices that are obtained or might be obtained on the market.

(3) The total price amount shall refer to anything given or paid for real estate acquisition by the acquirer or another person in the name of the acquirer, such as cash payment, transfer of other real estate, possessions or rights, takeover of debts from the previous owner or other.

(4) The Tax Administration shall be authorized to estimate the real estate market value if the total price amount referred to in paragraphs 2 and 3 of this Article is less than the prices that are obtained or might be obtained on the market at the moment when the tax liability is incurred.

(3) The estimate of the real estate market value referred to in paragraph 4 of this Article shall be determined by a Tax Administration officer based on comparable data on market value ranges for similar real estate from approximately the same area at approximately the same time.

(6) By way of derogation from paragraph 4 of this Article, if the real estate is acquired in a public tender, public sale (action) or bankruptcy proceedings with the appropriate application of provisions of enforcement regulations governing real estate enforcement and proceedings in which one party is a legal person majority-owned by the Republic of

Croatia, or the Republic of Croatia, units of local and regional self-government, state government bodies, institutions whose sole founder is the Republic of Croatia or a unit of local and regional self-government, the total price amount shall be everything given or paid for real estate acquisition by the acquirer or another person in the name of the acquirer.

#### **Article 10**

(1) If the subject is a real estate for which there is no comparable data under Article 9(5) of this Act, nor are there real estate acquisition proceedings referred to in Article 9(6) of this Act, the real estate market value estimate shall be carried out by an expert opinion of an expert appointed by the head of the Tax Administration regional office.

(2) The real estate owner or possessor is obliged to provide access to the land and building for the authorized person referred to in paragraph 1 of this Article in order to estimate the real estate market value.

#### **Article 11**

In exchanging real estate, the real estate transfer tax basis shall be determined for each exchange participant according to the market value of a real estate acquired by a respective participant through exchange.

### **Section 2 – Tax rate**

#### **Article 12**

The real estate transfer tax shall be paid at the rate of 3 %.

## **Chapter IV – tax exemptions**

### **Section 1 – General exemptions**

#### **Article 13**

The real estate transfer tax shall not be paid:

1 The Republic of Croatia, units of local and regional self-government, state government

bodies, institutions whose sole founder is the Republic of Croatia or a unit of local and regional self-government, foundations, any legal persons whose sole founder is the Republic of Croatia, the Red Cross and non-profit legal persons registered to provide humanitarian aid in accordance with a special regulation

2. Diplomatic or consular missions of a foreign country under the condition of reciprocity and international organizations which international agreements prescribe exemption from real estate transfer tax

3. Persons acquiring real estate in confiscated property repatriation proceedings and real estate reparcelling

4. Displaced persons and refugees acquiring real estate by exchanging their real estate abroad

5. Citizens buying a residential building or apartment (including land) for which they had occupancy rights or with the consent of the occupancy right holder under regulations governing the sale of apartments under occupancy rights. The same shall apply for protected tenants who are buying a residential building or an apartment which they occupy on the basis of a lease agreement

6. Persons acquiring real estate in accordance with the regulations governing the conversion of social ownership into other forms of ownership

7. Spouse, ancestors and descendants that make up a straight line and adoptees and adopters who have that relationship with the support recipient and who acquire real estate from them based on the lifelong support agreement or a support until death agreement

8. Persons who acquire individual parts of real estate by dissolving co-ownership or dividing shared ownership, regardless of shares prior to the dissolution of co-ownership or division of shared ownership.

## **Section 2 – Tax exemption when contributing real estate into a company**

### **Article 14**

(1) When real estate is contributed to the capital of a company, the real estate transfer tax shall not be paid.

(2) Real estate transfer tax shall not be paid when real estate is acquired in a merger or acquisition process within the meaning of acts regulating companies and in the process of company splitting into multiple companies.

(3) If during tax audition, the Tax Administration finds a semblance of a legal transaction based on which a real estate is acquired, in accordance to paragraphs 1 and 2 of this Article, the corresponding real estate transfer tax shall be determined.

## **Section 3 – Tax exemption in inheritance, gifting and other acquisition without charge**

### **Article 15**

Real estate transfer tax on inheritance, gifting and other real estate acquisition without charge shall not be paid by:

1. A spouse, ancestors and descendants who make a straight line and adoptees and adopters in that type of relationships with the deceased or donor
2. Legal or natural persons gifted or given real estate without charge by the Republic of Croatia or a unit of local and regional self-government as compensation or for other reasons related to the Croatian War of Independence
3. Former spouses when regulating their property relations.

## **Chapter V – tax liability incurrence**

### **Article 16**

(1) Tax liability shall be incurred at the time of conclusion of an agreement or another legal transaction resulting in real estate acquisition.

(2) If real estate is acquired on the basis of a decision by a court or another body, the tax liability shall be incurred at the moment the decision becomes final.

(3) If the court decision determines the right of ownership over the real estate through adverse possession, the tax liability shall be incurred the moment the decision becomes final.

(4) If the right of ownership of the real property is acquired under law, the tax liability shall be incurred at the moment the court decision approving entry becomes final.

(5) For a foreign national or legal persons who require consent of the minister responsible for judicial affairs for acquiring real estate in the Republic of Croatia, the tax liability shall be incurred at the moment consent is obtained.

### **Article 17**

(1) If real estate is acquired on the basis of a support until deal agreement, the tax liability shall be incurred at the moment the agreement is concluded.

(2) If real estate is acquired on the basis of a lifelong support agreement, the tax liability shall be incurred at the moment of the support recipient's death, with the application of relief referred to in Article 8(2) of this Act.

## **Chapter VI – real estate transfer registration**

### **Article 18**

(1) A notary public, after certifying signatures on sales documents or after another manner of property alienation or after compiling a notarial act, and no later than within 30 days, shall electronically submit one copy of the document, as well as any other document which forms the basis for real estate transfer (a partnership agreement, an agreement establishing the right of building, etc.), along with the personal identification number of participants, to the Tax Administration office of the area where the real estate is located.

(2) Courts and other public bodies shall submit their decisions to the Tax Administration office of the area where the real estate is located, along with the personal identification number of the participants in proceedings for acquiring or changing ownership over real estates in the land registers or in the official records within 15 days after the expiry of the month in which the decision became final, in accordance with the regulations on compulsory personal service of process.

### **Article 19**

(1) Submission of documents and decisions referred to in Article 18 of this Act shall be deemed as completed registration of real estate transfer.

(2) By way of derogation from paragraph 1 of this Article, if the real estate acquisition document was not certified by a notary public or issued by a court or another public body, the taxpayer shall register real estate transfer with the Tax Administration office of the area where the real estate is located by submitting a Real Estate Transfer Registration and the real estate acquisition document within 30 days of its creation.

(3) By way of derogation from paragraph 1 of this Article, if the real estate acquisition document was not certified by a notary public or issued by a court or another public body, the provider who assigns value added tax to the real estate provision, as well as for tax liability transfer, shall register the provision of that real estate within 30 days of provision by submitting a Real Estate Transfer Registration to the competent Tax Administration office according to the seat, residence or habitual residence of the provider.

(4) The form and content of the Real Estate Transfer Registration referred to in paragraphs 2 and 3 of this Article and the manner of submitting the Real Estate Transfer Registration shall be prescribed by the Minister of Finance in an ordinance.

## **Chapter VII – real estate transfer record**

### **Article 20**

(1) The information shown in the real estate acquisition document referred to in Article 18 and Article 19 paragraphs 2 and 3 of this Act shall be recorded in the Real Estate Transfer Record within 30 days of receipt.

(2) The owner of information in the Real Estate Transfer Record shall be the Ministry of Finance, Tax Administration.

(3) The establishment and maintenance of the Real Estate Transfer Record, as well as the manner of data use, shall be regulated by an ordinance of the Minister of Finance.

### **Article 21**

(1) The information from the Real Estate Transfer Record referred to in Article 20(1) of this Act shall be issued at the request of state government bodies, bodies of local and regional self-government units, courts and other institutions, if such obligation arises out of a separate regulation.

(2) By way of derogation from paragraph 1 of this Article, the information referred to in Article 20(1) of this Act may be sent to the units of local and regional self-government for the purposes of their work and this shall not constitute a violation of tax secrets.

## **PART THREE**

### **Chapter I – procedural provisions**

#### **Article 22**

If the real estate acquisition document referred to in Article 18 and Article 19 paragraphs 1 and 3 of this Act contains all of the facts relevant for establishing a tax liability, an official shall temporarily determine a tax liability by means of a direct decision and without verifying the information.

#### **Article 23**

(1) If the acquisition document fails to contain facts relevant for establishing a tax liability, and if those facts cannot be determined in the tax authority's official records, the taxpayer shall submit information relevant for determining a tax liability, as well as other requested information, at the request of an official.



(2) The information about the real estate subject to a tax liability shall also be submitted, at the request of an official, by the administrative bodies of local self-government responsible for determining real estate tax.

#### **Article 24**

(1) When an official establishes through subsequent verification that there is a basis for amending the tax liability established in the temporary tax decision referred to in Article 22 of this Act, a tax decision shall be issued determining the difference in relation to the subsequently determined tax liability.

(2) When an official finds all of the facts relevant for determining a tax liability under Article 23 of this Act, the official shall issue a tax decision.

(3) The decision referred to in paragraph 1 of this Article shall be deemed an independent decision with respect to remedies and execution.

(4) An appeal against the decision referred to in paragraphs 1 and 2 of this Article shall not delay its execution, and may be submitted to the Ministry of Finance.

#### **Article 25**

(1) Upon receipt of real estate acquisition documents referred to in Article 18 and Article 19(2) of this Act, for which the real estate transfer tax is not paid under Articles 13, 14 and 15 of this Act, as well as based on special regulations under which the taxpayer is exempt from paying tax, the tax authority shall not issue a decision.

(2) By way of derogation from paragraph 1 of this Article, the tax authority shall issue a decision if the taxpayer is exempt from paying tax under the conditions prescribed by a special regulation, but if tax is subsequently collected in the event of non-fulfilment of those conditions.

(3) The real estate acquisition documents referred to in paragraph 1 of this Article and the real estate acquisition documents referred to in Article 19(3) of this Act shall be recorded with the application of Article 20(1) of this Act.

### **Chapter II – tax collection**

#### **Article 26**

A taxpayer must pay the determined tax amount within 15 days from the delivery date of the decision determining the real estate transfer tax.

## **Article 27**

The real estate seller guarantees the collection of the real estate transfer tax from the buyer if he took over the obligation to pay that tax in an agreement.

## **Chapter III – tax return**

### **Article 28**

(1) The person who pays the real estate transfer tax, interest or the costs of forced collection which the person was not obligated to pay shall have the right to a return of paid or overpaid amounts.

(2) The paid or overpaid amount referred to in paragraph 1 of this Article shall be returned to the person from which it was collected, at their request, within 30 days of the request submission date.

### **Article 29**

(1) The termination of the real estate ownership transfer agreement through the agreement of parties prior to the transfer to the new owner in the land registry, as well as the termination, annulment and finding of agreement nullity by court decision shall constitute reasons for proceedings renewal and the annulment of the decision determining real estate transfer tax.

(2) A motion for the renewal of proceedings for the reasons referred to in paragraph 1 of this Article may be submitted within the time limits prescribed by the act governing administrative proceedings.

## **PART FOUR**

### **Misdemeanour provisions**

#### **Article 30**

(1) A fine of HRK 4,000.00 to 200,000.00 shall be imposed on a legal person if they fail to submit the Real Estate Transfer Registration to the competent Tax Administration office in the prescribed time limit (Article 19 paragraphs 2 and 3 of this Act).

(2) A fine of HRK 2,000.00 to 20,000.00 shall be imposed on a natural person for misdemeanors referred to in paragraph 1 of this Article.

(3) A fine of HRK 2,000.00 to 20,000.00 shall also be imposed on the responsible person at the legal person for misdemeanors referred to in paragraph 1 of this Article.

### **Article 31**

A fine of HRK 5,000.00 to 100,000.00 shall be imposed on notary public and the responsible person at a court or other public judicial body for a misdemeanors if they fail to submit to the competent Tax Administration office, in the prescribed manner, the document with a verified signature or any other document which services as the basis for real estate transfer (partnership agreement, an agreement establishing the right of building, etc.) along with the personal identification number of the proceedings participants (Article 18 of this Act).

### **Article 32**

(1) A fine of HRK 10,000.00 to 50,000.00 shall be imposed on a legal person if they fail to provide authorized persons with access to the land and buildings in order to estimate the real estate market value (Article 10 paragraph 2 of this Act).

(2) A fine of HRK 1,000.00 to 10,000.00 shall be imposed on a natural person for a misdemeanour referred to in paragraph 1 of this Article.

(3) A fine of HRK 1,000.00 to 10,000.00 shall also be imposed on the responsible person at the legal person for a misdemeanour referred to in paragraph 1 of this Article.

## **PART FIVE**

### **Transitional and final provisions**

#### **Article 33**

The real estate transfer tax, from which a citizen was exempt pursuant to Articles 11.a or 11.b of the Real Estate Transfer Tax Act ("Official Gazette" no. 69/97, 26/00, 127/00, 153/02, 22/11 and 143/14), shall be paid subsequently in cases referred to in Article 11.a paragraph 6 and Article 11.b paragraph 3 of the Real Estate Transfer Tax Act ("Official Gazette" no. 69/97, 26/00, 127/00, 153/02, 22/11 and 143/14), with the application of Article 11.a paragraph 7 and Article 18.a of the Real Estate Transfer Tax Act ("Official Gazette" no. 69/97, 26/00, 127/00, 153/02, 22/11 and 143/14).

#### **Article 34**

Administrative bodies of the local self-government units which shall be competent to determine the real estate tax under a special regulation and which shall establish the Real Estate Record for that purpose, shall, until the establishment of the Record and upon request of the competent Tax Administration office pursuant to Article 23 paragraph 2 of this Act, submit the real estate information they have at the time of the request on the basis of records kept in order to determine and collect the local rate.

### **Article 35**

(1) The provisions of the Real Estate Transfer Tax Act ("Official Gazette" nos. 69/97, 26/00, 127/00, 153/02, 22/11 and 143/14) shall apply until 31 December 2016 to all concluded agreements and other real estate acquisition documents, and on all final decision, regardless of the tax return application status.

(2) The real estate transfer tax payers who concluded a real estate purchase agreement for a real estate solving their own housing issue by the entry into force of this Act shall submit a request for exemption from the real estate transfer tax to the Tax Administration office for the area where the real estate is located within 30 days from the date of entry into force of this Act.

### **Article 36**

(1) The Minister of Finance shall adopt the ordinance referred to in Article 19(4) and Article 20(3) of this Act within 30 days from the date of entry into force of this Act.

(2) Until the entry into force of the ordinance referred to in paragraph 1 of this Article, the Ordinance on the Real Estate Transfer Registration Form and the Real Estate Transfer Record ("Official Gazette" no. 157/14) shall remain in force in the part that is not contrary to the provisions of this Act

### **Article 37**

On the date of entry into force of this Act, the Real Estate Transfer Tax Act ("Official Gazette" nos. 69/97, 26/00, 127/00, 153/02, 22/11 and 143/14) shall cease to be valid.

### **Article 38**

Within two years from the date of entry into force of this Act, the Ministry of Finance shall carry out a subsequent assessment of the effects of this Act.

### **Article 39**

This Act shall be published in the "Official Gazette" and shall enter into force on 1 January 2017.

## **NOTE, OG 106/18**

### **Transitional and final provisions**

#### Article 2

The provisions of the Real Estate Transfer Tax Act ("Official Gazette" no. 115/16) shall apply until 31 December 2018 to all concluded agreements and other real estate acquisition documents, and on all final decisions, regardless of the tax return application status.

#### Article 3

This Act shall be published in the "Official Gazette" and shall enter into force on 1 January 2019.