



STATE OF MAINE
MAINE REVENUE SERVICES
PROPERTY TAX DIVISION
PO BOX 9106
AUGUSTA, MAINE
04332-9106

ADMINISTRATIVE & FINANCIAL SERVICES

H. SAWIN MILLETT, JR.
COMMISSIONER

MAINE REVENUE SERVICES

JEROME D. GERARD
EXECUTIVE DIRECTOR

April 8, 2014

Registry of Deeds

RE: Fannie Mae and Freddie Mac Exemption from Real Estate Transfer Tax

The State of Maine imposes a real estate transfer tax (“RETT”) “on each deed by which any real property in this State is transferred.” 36 M.R.S. § 4641-A. Historically, Maine Revenue Services (“MRS”) has advised Maine’s county registries of deeds to collect RETT for transfers involving the Federal National Mortgage Association (“Fannie Mae”), the Federal Home Loan Mortgage Corporation (“Freddie Mac”), and the Federal Housing Finance Agency (“FHFA”), the conservator of Fannie Mae and Freddie Mac.

The federal statutes exempting Fannie Mae, Freddie Mac and FHFA from taxation provide that each entity “shall be exempt from all taxation.” 12 U.S.C.S. § 1723a(c)(2); 12 U.S.C.S. § 1452(e); 12 USCS § 4617(j)(2). Based on case law, Maine Revenue Services’ longstanding position was that “all taxation” referred only to direct taxation and that the RETT, as an indirect tax, could be imposed on Fannie Mae, Freddie Mac and FHFA. Furthermore, MRS determined that Fannie Mae, Freddie Mac, and FHFA were not eligible for any of the exemptions in 36 M.R.S. § 4641-C.

The question of whether Fannie Mae, Freddie Mac, and FHFA are subject to real estate transfer taxes in other states has been litigated in courts across the country. A consensus has recently developed whereby courts have held that Fannie Mae, Freddie Mac, and FHFA are exempt from state real estate transfer taxes on the theory that the phrase “all taxation” in the federal statutes noted above includes transfer taxes similar to the Maine RETT. Therefore, MRS now advises the county registries of deeds to cease the practice of collecting the Maine RETT from these organizations. Please contact Deb Maringola or Laurie Thomas at MRS Property Tax Division at 624-5600 if you have any questions.