

**CERTIFICATES CONCERNING PROMULGATION OF ADMINISTRATIVE RULES AND REGULATIONS**

The following certificates are made in connection with the promulgation by the Town Manager of the Town of Breckenridge, a Colorado municipal corporation, of the following administrative rules and regulations:

Promulgating Authority: Timothy J. Gagen, Town Manager

Title of Administrative Rules and Regulations: "Third Amended Administrative Rules and Regulations Concerning Town of Breckenridge 'Real Estate Transfer Tax Ordinance.'"

Effective Date of Administrative Rules and Regulations: April 23, 2014

**TOWN ATTORNEY'S CERTIFICATE**

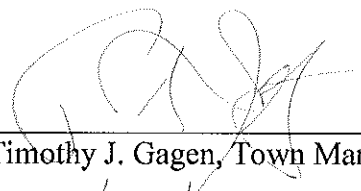
I, Timothy H. Berry, do certify that I am the Town Attorney for the Town of Breckenridge, Colorado; that the administrative rules and regulations described above were submitted to me in accordance with the requirements of Section 1-18-3(A) of the Breckenridge Town Code; and that I have reviewed and approved such rules and regulations as required by Section 1-18-3(A) of the Breckenridge Town Code.

  
\_\_\_\_\_  
Timothy H. Berry

4/15/14  
\_\_\_\_\_  
Date

**CERTIFICATE OF FILING**

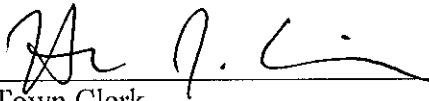
The undersigned certifies that one copy of the administrative rules and regulations described above were filed this date with each of the following persons: (i) the Town Clerk, (ii) the Town Attorney, (iii) the promulgating authority, all as required by Section 1-18-3(B)(2) of the Breckenridge Town Code.

  
\_\_\_\_\_  
Timothy J. Gagen, Town Manager

4/15/14  
\_\_\_\_\_  
Date

**TOWN CLERK'S CERTIFICATE OF PUBLICATION OF NOTICE OF ADOPTION**

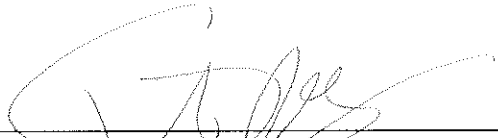
The undersigned certifies that the Notice of Adoption, a copy of which is marked Exhibit "A" and attached hereto, was published on the Town of Breckenridge's official website from April 10, 2014 through April 14, 2014 in accordance with Section 1-22-2 of the Breckenridge Town Code.

  
\_\_\_\_\_  
Town Clerk

4/15/14  
\_\_\_\_\_  
Date

**CERTIFICATE CONCERNING PROVISION OF ADMINISTRATIVE RULES AND REGULATIONS TO TOWN COUNCIL**

The undersigned person, being the promulgating authority of the administrative rules and regulations described above, certifies that not later than two weeks prior to their effective date a copy of the proposed administrative rules and regulations was provided to the Town Council of the Town of Breckenridge, Colorado in accordance with the requirements of Section 1-18-3(C) of the Breckenridge Town Code.

  
\_\_\_\_\_  
Timothy J. Gagen, Town Manager

4/15/14  
\_\_\_\_\_  
Date

**Exhibit "A"**

**TOWN OF BRECKENRIDGE, COLORADO**

**NOTICE CONCERNING ADOPTION OF ADMINISTRATIVE RULES AND REGULATIONS**

The administrative rules and regulations described below have been adopted by a promulgating authority of the Town of Breckenridge, a Colorado municipal corporation. The following information is provided pursuant to Section 1-18-3(B)(2) of the Breckenridge Town Code:

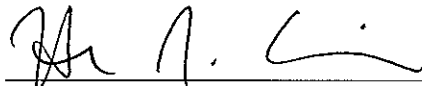
Promulgating Authority: Timothy J. Gagen, Town Manager, Town of Breckenridge

Authority For Adoption of the Administrative Rules and Regulations: Section 3-3-9(A) of the Breckenridge Town Code

Title of Administrative Rules and Regulations: "Third Amended Administrative Rules and Regulations Concerning Town of Breckenridge 'Real Estate Transfer Tax Ordinance'"

Summary of Purpose and Content of the Administrative Rules and Regulations: The purpose of the adopted administrative regulations is to update and clarify the Town's administrative regulations with respect to the treatment of public trustee's deeds and sheriff's deeds under the Town's "Real Estate Transfer Tax Ordinance." The summary description of the adopted administrative rules and regulations set forth in this Notice is not intended to be complete or comprehensive; there are other provisions of the adopted administrative rules and regulations. Interested parties should obtain and review the full text of the adopted amended administrative rules and regulations. Copies of the adopted administrative rules and regulations are available for inspection and copying at the Town Clerk's office, 150 Ski Hill Road, Breckenridge, Colorado during normal business hours, Monday through Friday.

Effective Date of the Administrative Rules and Regulations: April 23, 2014

  
\_\_\_\_\_  
Town Clerk

Published on the Town of Breckenridge's official website from April 10, 2014 through April 14, 2014 in accordance with Section 1-22-2 of the Breckenridge Town Code.

THIRD AMENDED ADMINISTRATIVE RULES AND REGULATIONS CONCERNING  
TOWN OF BRECKENRIDGE “REAL ESTATE TRANSFER TAX ORDINANCE”

1. **Effective Date.** These amended regulations are effective April 23, 2014
2. **Authority.** These amended regulations are issued by the Town Manager of the Town of Breckenridge pursuant to the authority granted by Section 3-3-9(A) of the Breckenridge Town Code.
3. **Adoption Procedures.** The procedures set forth in Chapter 18 of Title 1 of the Breckenridge Town Code were followed in connection with the issuance of these amended regulations. Notice of the adoption of these amended regulations was given in accordance with the requirements set forth in Section 1-18-3 of the Breckenridge Town Code.
4. **Conflict With Real Estate Transfer Tax Ordinance.** These amended regulations do not amend the Town’s “Real Estate Transfer Tax Ordinance” (found at Chapter 3 of Title 3 of the Breckenridge Town Code). If there is an irreconcilable conflict between these amended regulations and the Real Estate Transfer Tax Ordinance, the ordinance will control.
5. **Effect of Amended Regulations.** These amended regulations amend and restate in their entirety the Town’s administrative regulations under the Real Estate Transfer Tax Ordinance. As such, they supersede all previous editions of the Town’s administrative regulations under the Real Estate Transfer Tax Ordinance.
6. **What is the Breckenridge “Real Estate Transfer Tax”?**

The Town of Breckenridge “Real Estate Transfer Tax” (called the “**RETT**” in these amended regulations) is a local tax on the transfer of land located within the boundaries of the Town. Under the RETT Ordinance, a tax must be paid to the Town each time real property is transferred, unless that particular transfer is specifically exempted. The presumption is that a transfer of land is subject to the tax, and the burden is on the purchaser of the land to demonstrate that the transfer is not taxable because it is specifically exempt under the RETT Ordinance.

7. **Is the purchase or sale of a “timeshare” subject to the RETT?**

Yes. A timeshare interest is treated as real property under the RETT Ordinance.

8. **How do I find out if my property is located within the Town?**

Visit the **Summit County Assessor's website**  
(<http://www.co.summit.co.us/index.aspx?nid=86>)

9. **How much is the RETT?**

The RETT is equal to 1% of the “consideration” paid for the land.

*Example:* You purchase a lot in Breckenridge for \$250,000. The RETT due to the Town is \$2,500 [ $\$250,000 \times 1\% = \$2,500$ ]

10. **What does “consideration” mean?**

The term “consideration” is broadly defined in the RETT Ordinance. It is the “gross consideration” paid for the land affected by the transfer, and includes actual cash paid, the money equivalent of real and personal property delivered or conveyed in exchange for the transfer, or contracted to be paid or delivered or conveyed, in return for the transfer of ownership or interests in real property. Consideration also includes the amount of any lien, mortgage, contract indebtedness, or other encumbrance or debt, either given to secure the purchase price, or any part thereof, or remaining on the property at the time of the transfer. It is important to note that the consideration includes the transfer of the current fair market value of the property.

11. **Which transfers of land are exempt under the RETT?**

The following transfers of land are exempt from the RETT. Section references in the table are to the sections of the RETT Ordinance describing exempt transfers of real property<sup>1</sup>:

Exemption Section	Description of Exemption Transfer
A	A transfer where there is no consideration or when the actual consideration is \$500 or less. See the discussion of consideration under Question 9 of these amended regulations.  Note: If it is claimed that no consideration was given or received as part of a transfer of the land, the burden of

<sup>1</sup> See Section 3-3-6 of the Town of Breckenridge Real Estate Transfer Tax Ordinance (Section 3-3-6 of the Breckenridge Town Code).

	proving that rests upon the purchaser. The Town presumes that land is not simply given away for no consideration, and the purchaser must overcome that presumption by demonstrating that the transfer was actually and in good faith made without payment of any consideration.
B	A transfer when a governmental entity is the purchaser.
C	A transfer made as a gift where there is no consideration other than love and affection, or a charitable donation.  Note: To qualify under the "love and affection" portion of this exemption the deed must state on its face that it was given for no consideration other than "love and affection" or that it was made "as a gift." To qualify under the "charitable donation" portion of this exemption the deed must specifically state that it was made as a charitable contribution, or the grantee of the deed by an entity qualified under Section 501(c)(3) of the Internal Revenue Code.
D	A transfer creating or terminating a joint tenancy in the land.
E	A transfer of title by reason of death made pursuant to a will or an estate proceeding, the law of intestate succession (i.e., transfer without a will), transfer pursuant to an unrevoked beneficiary's deed, or otherwise.
F	Certain transfers made pursuant to a reorganization, merger, or consolidation of business entities, such as corporations, limited liability companies, general or limited partnerships, or other business associations.
G	A transfer made to implement an approved bankruptcy plan.
H	Certain transfers made to correct a prior recorded deed; making a minor boundary adjustment; removing clouds on title; or granting rights of way, easements, or licenses in land.
I	A quiet title decree or a court order transferring title in a condemnation proceeding.
J	A transfer between spouses or former spouses made in connection with a divorce or legal separation
K	A transfer of a cemetery lot.
L	Certain leases of land.
M	A transfer of only a mineral or royalty interest in land.
N	A transfer of land to secure a debt or other obligation.

O	A deed in lieu of foreclosure.
P	A sheriff's confirmation deed, a public trustee's confirmation deed, or similar transfer (but the RETT is owed if the property is conveyed to a person who submitted an "overbid" as defined by Section 38-38-100.3(17.3), C.R.S.) See the answer to Question 17(C).
Q	An executory (unperformed) contract for the sale of real property of less than 3 years under certain terms and conditions.
R	[Repealed by Ordinance No.7, Series 2014].
S	[Repealed by Ordinance No.7, Series 2014].
T	A sale or conveyance of real property for the purpose of constructing or providing low or moderately priced housing for sale or lease to persons of lower or moderate income.

Under the RETT Ordinance there are special rules and limitations that may apply to certain of the exemptions. No attempt has been made in these amended regulations to set forth in detail such special rules and limitations. If you believe your transfer is or may be exempt from the RETT, you should obtain a copy of the RETT Ordinance and review it carefully to determine whether your transfer falls into one of the exempt categories.

12. **What are examples of documents that can be used to support a claim of exemption under the RETT?**

Exemption Section	Example of Acceptable Documentation to Support Claim of Exemption
A	Credible evidence that the fair market value of the transferred property is \$500 or less, such as an appraisal, or where the Grantor and Grantee on the deed are the same person. If the deed involves a name change, the exemption application should be accompanied with Court documentation, marriage license or other legal proof of change of name.
B	Proof that the Grantee in the deed is a government agency, municipality, or political subdivision.
C	The deed must reflect that the transfer is a gift or charitable donation. For a gift, the deed must state: "For no consideration other than love and affection", "as a gift", or similar language clearly expressing a donative intent. For a charitable donation, the deed must

	specifically state that it was made as a charitable contribution and the grantee of the deed must be an entity qualified under Section 501(c)(3).
D	The names of the Grantor and Grantee listed on the deed must match exactly. Additionally, the exemption application must affirm that no additional consideration was paid in connection with the transfer, or must describe the amount of such additional consideration.
E	Death certificate, will, Personal Representative's deed, Decree of Distribution, or other formal transfer of real property made for the purpose of transferring a decedent's interest in real property to those persons entitled to take the property by law or pursuant to the decedent's will. Also, an unrevoked Beneficiary's Deed together with proof of the grantor's death as required by Colorado law.  Note: This exemption does not apply to a sale of real property by a decedent's estate.
F	Proof that the percentage of ownership has not changed. Examples include: Articles of Organization, Operating Agreement, Stock certificate(s), Membership Ledger, Trust Agreement, Affidavit of Trust, or Memorandum of Trust. See the discussion under Question 25 of these amended regulations.
G	Certified copy of court documentation (bankruptcy or receivership)
H	The wording of deed should clearly describe the situation (example: Deed of Correction" or "Corrective Deed"), and a written explanation should be provided on the exemption application.
I	A certified copy of a final judgment of a court (a Quiet Title Decree, a Rule and Order or other court judgment) should accompany the exemption application.
J	A certified copy of a Separation Agreement, Decree of Legal Separation, or Decree of Dissolution of Marriage stating that the Grantor's interest in the subject property is to be transferred to the Grantee.
K	Documentation demonstrating that the land that is transferred is a cemetery lot.
L	A copy of the lease.
M	The deed must specifically described the mineral or royalty interest being transferred. Unless another exemption applies, this exemption does not apply if any



	interest in real property other than a mineral or royalty interest is conveyed.
N	A copy of the mortgage, deed of trust, or other legal documentation providing for the transfer of legal title to the real property to secure a debt or other obligation.
O	Copies of the Deed-In-Lieu of Foreclosure and Deed-In-Lieu Agreement and Estoppel Affidavit (if any).
P	Copy of sheriff's confirmation deed, public trustee's confirmation deed, or other real property conveyance representing a forced sale of property to satisfy a financial obligation, judgment, or debt of the property owner, If the grantee in the deed submitted an "overbid" as defined by Section 38-38-100.3(17.3), C.R.S., contact information for the grantee shall also be provided since the conveyance is taxable under the RETT Ordinance to the full extent of the amount paid by the person who submitted the overbid. See the answer to Question 17(C).
Q	Copy of the executory (unperformed) contract for the sale of real property. Evidence of relationship, such as 1031-reverse exchange documentation (or statement on deed).
R	[Repealed by Ordinance No.7, Series 2014].
S	[Repealed by Ordinance No.7, Series 2014].
T	Proof that the property has been approved by Town of Breckenridge Community Development Department as a qualifying deed-restricted property, and: (i) a copy of the deed, restrictive covenant or other legal restriction creating the qualifying deed restriction and (ii) if applicable, a copy of the Appreciation Limiting Deed of Trust.

13. **Are Transfers To or From Revocable Living Trust or an Irrevocable Trust Made For Estate Planning Purposes Exempt From RETT?**

The RETT does not apply to the transfer of real property to the trustee of a revocable living trust or an irrevocable trust if the trust provides for the further transfer of the real property to the beneficiaries designated in trust only upon the death of the trustor, or on a date certain after the trustor's death. The transfer of real property back to a trustor upon the revocation of a revocable living trust is also exempt from the Real Estate Transfer Tax. As used in this Rule "revocable living trust" is a trust created by a living person that can be revoked by such person at any time during his or her life.

14. **How do I make a claim that my transfer is exempt from the RETT?**

To make a claim that a particular transfer of land is exempt from the RETT a completed **RETT Exemption Application** must be submitted to the Town's Sales Tax Auditor. The application must be accompanied by adequate proof to support the claim of exemption. The Town has the right to require that additional evidence to support the claim of exemption be provided if the initial submission is found to be inadequate or incomplete. If the Town determines that a transfer is exempt from RETT, a Certificate of Exemption will be issued and the deed will be stamped to evidence that the transfer described in the deed is exempt from RETT.

15. **When must I make a claim that my transfer is exempt from the RETT?**

Except as provided in the answers to Question 16 and Question 17, an application for exemption must be properly submitted and approved by the Sales Tax Auditor prior to the recording of the deed with the Summit County Clerk and Recorder. If the Town has not approved a transfer as being exempt from RETT prior to the need to record it, the RETT must be paid before the deed is recorded. However, you may file an application for a refund of the RETT after the deed has been recorded.

For good cause, the Town may consider an RETT exemption application that is filed after the deed has been recorded. The burden is on the applicant to show good cause for the late filing of the RETT exemption application.

16. **What happens if my deed would have been exempt if I had made an exemption application before the deed was recorded, but I failed to file the exemption application?**

- A. The RETT Ordinance requires an exemption application to be filed (and approved) before the deed is recorded. Occasionally, however, the Town receives an exemption application after a deed has been recorded demonstrating that the deed would have been exempted from the RETT had the application been timely filed (that is, filed before the deed was recorded). Reviewing such late-filed exemption applications takes additional staff time. Instead of denying the exemption application on the basis that it was not timely filed (and requiring payment of the full RETT on a deed that would have been exempted from the RETT had the application been timely filed), the Financial Services Manager may, upon the receipt of a properly completed exemption application, grant an exemption from the RETT after the deed has been recorded with the Summit County Clerk and Recorder if: (i) the exemption application is filed with Town not later than one (1) year after the deed was recorded;

(ii) the deed would have been exempt from the RETT had the exemption application been timely filed; and (iii) the person making the late exemption request pays a late filing fee as follows:

Number of Late-Filed RETT Exemption Applications Submitted By Same Applicant, Business, or Title Company Within Consecutive Twelve Month Period*	Amount of Late Filing Fee
First	\$100.00
Second	\$200.00
Third	\$300.00
Fourth (and each subsequent)	\$600.00

\*calculated from date of filing of exemption application

- B. Between the effective date of these amended regulations and December 31, 2014, the Financial Services Manager will, upon the receipt of a properly completed exemption application, grant an exemption from the RETT after the deed has been recorded with the Summit County Clerk and Recorder without requiring payment of the late filing fee if: (i) the exemption application is filed with Town not later than one (1) year after the deed was recorded; and (ii) the deed would have been exempt from the RETT had the exemption application been timely filed.

17. **How is RETT paid in connection with a Public Trustee's or Sheriff's sale proceeding?**

- A. Both a Public Trustee's confirmation deed and a Sheriff's confirmation deed are exempt from the RETT, unless the person to whom the property is conveyed submitted an "overbid" as defined by Section 38-38-100.3(17.3), C.R.S. If the person to whom the property is conveyed by a Public Trustee's confirmation deed or a Sheriff's confirmation deed submit an overbid the conveyance is taxable under the RETT Ordinance to the full extent of the amount paid by the person who submitted the overbid (see Subsection 17(C), below).
- B. If a Public Trustee's confirmation deed or a Sheriff's confirmation deed is issued to a junior lienholder who redeems the property from sale in accordance with applicable law, no RETT is due to the Town in connection with the recording of the confirmation deed. A "junior lienholder" is the holder of a bona fide lien on the property that is junior to

the lien that was being foreclosed.

- C. If the grantee in a Public Trustee's deed or Sheriff's deed is a person who submitted an "overbid" as defined in Section 38-38-100.3(17.3), C.R.S., or such person's assignee, a RETT is due to the Town based on the full amount paid by the successful overbidding party. *Example:* In a Public Trustee's foreclosure, the total amount owed to the foreclosing party is \$200,000 (including principal, interest, default interest, attorneys' fees, foreclosure costs, and any other amount allowed to be added to the obligation by Colorado law), and the successful bidder at the Public Trustee's sale submitted an "overbid" of \$250,000 and was the successful bidder at the sale. Upon the issuance of the Public Trustee's confirmation deed the grantee named in the deed (whether the person who submitted the overbid, or the person to whom the overbidder assigned the certificate of purchase) must immediately pay the Town the RETT based upon the full \$250,000 that was paid by the successful purchaser at the time of the public trustee's sale.

18. **How is the RETT calculated if either the Federal National Mortgage Association (Fannie Mae) or the Federal Home Loan Mortgage Corporation (Freddie Mac) is a party to the transfer?**

If either Fannie Mae or Freddie Mac is the grantee in a deed, the transfer is exempt from the RETT because of the special terms and conditions of their respective federal Charters. However, if either Fannie Mae or Freddie Mac is the grantor in a deed, and the transfer is not otherwise exempt under Section 3-3-6 of the RETT Ordinance, the grantee in the deed must pay the normal RETT to the Town.

19. **How is RETT paid?**

The RETT is paid by using the RETT Verification of Gross Consideration Form and submitting that form along with the tax due and the original deed to RETT Processing, 150 Ski Hill Road, PO Box 1237, Breckenridge, CO 80424. You should include a pre-paid, self-addressed envelope for where you would like it returned. The Town will send it to the Summit County Clerk & Recorder's office if you have included a self-addressed prepaid envelope for mailing, along with a check for the County's recording fees. Please contact Summit County government fees at 970-547-3475 if you have questions about the recording fees.

Please note that RETT is processed by the Finance Division between 9 A.M. and 10 A.M. Monday through Friday (holidays excepted). If a deed and RETT payment are submitted during other hours, the deed will be available for pick up

from the Town Clerk's office at 10 A.M. the next business day. If batches of 10 or more deeds are submitted together, they will be available for pick up two business days later at 10 A.M.

20. **Who is responsible for paying the RETT?**

It is the responsibility of the purchaser to pay the RETT.

21. **Are there penalties and interest due if the RETT is not paid when due?**

Yes. A penalty equal to 10% of the RETT is due if the RETT is not paid within 30 days after the deed transferring the property is recorded with the Summit County Clerk and Recorder. In addition, interest accrues at the rate of 1.5% per month from the date the taxes becomes delinquent until the tax is fully paid.

22. **What else can happen if I don't pay the RETT?**

Failure to pay the RETT when the tax is due is a violation of the Town Code, and upon conviction a violator is subject to a possible fine of up to \$2,650.00<sup>2</sup>; imprisonment in the county jail for a up to one year; or both a fine and imprisonment.

In addition, the RETT Ordinance provides that the Town has a lien against the property that was transferred without the tax being paid. The lien amount includes the RETT, penalty, interest and collection costs. The Town's lien is prior to any other lien on the land, except the lien of general property taxes and special improvement district liens. The Town's lien can be foreclosed through the courts. A valid tax lien against a parcel of land can cause the title to the land to be found to be "unmarketable" until the lien is paid and released. Unmarketable title can make it very difficult for the owner to sell the land.

Finally, unpaid RETT, penalty and interest is a debt owed to the Town. The Town can file a civil suit to collect the debt.

23. **Does the Town ever provide a "temporary amnesty" to allow for unpaid RETT to be paid without the payment of otherwise applicable penalties, interest and late filing fees?**

Yes. To encourage the payment of unpaid RETT, from April 23, 2014 to the close of business on December 31, 2014 the Financial Services Manager will

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<sup>2</sup> This amount is subject to an annual cost of living adjustment pursuant to Section 1-4-1 of the Breckenridge Town Code.

accept payment of previously unpaid RETT and will waive otherwise applicable penalties, interest, and late filing fees. This policy will expire at the close of business on December 31, 2014 without further notice.

24. **How does the RETT apply to an exchange of land?**

Both transfers are subject to the RETT. The RETT is based on the current fair market value of each of the parcels at the time of the transfer.

*Example:* You exchange your lot for a condominium. Both are located in Breckenridge. The current fair market value of the lot at the time of the exchange is \$250,000. The current fair market value of the condominium unit at the time of the exchange is \$275,000. The RETT due to the Town for the transfer of the lot is \$2,500 [ $\$250,000 \times 1\% = \$2,500$ ]. The RETT due to the Town for the transfer of the condominium is \$2,750 [ $\$275,000 \times 1\% = \$2,750$ ].

*Note:* If two parcels of land are exchanged, the consideration for the exchange can only be \$500.00 or less if the property exchanged has a current fair market value of \$500.00 or less. Current fair market value will be used when the consideration is in non-cash form.

25. **How does the RETT apply to land that is transferred by the owners to a new limited liability company or corporation?**

So long as the owners of the new limited liability company or corporation own the same percentage in the business entity that they owned in the land that was transferred the transfer is exempt.

*Example:* Bill, Sam, and Mary each own a one-third interest in a lot in Breckenridge. They decide to form a new corporation. They each convey their one-third interest in the lot to the new corporation in return for one-third of the issued stock in the new corporation. The transfers of the fractional interests to the new corporation are each exempt from the RETT.

*Note:* If the owners of the land do not end up owning the same percentages in the new corporation or limited liability company, a RETT may be due to the Town.

*Example:* Same facts as above, but Bill and Mary each end up owning 40% of the stock in the new corporation. Sam ends up owning the remaining 20% of the stock. Because the percentages of ownership in the land and the stock are different, a RETT may be due to the Town on the deeds from Bill and Mary to the corporation.

26. **How does the RETT apply to a transfer that changes the percentage of ownership in the land?**

If the percentage of ownership of any of the owners has changed, the additional percentage of ownership acquired, multiplied by the current total fair market value of the property, is that amount on which the RETT will be calculated.

*Example:* Bill, Sam, and Mary each own a one-third interest in a lot in Breckenridge. They execute a deed (or series of deeds) resulting in Bill owning 40% of the lot; Sam owning 30%; and Mary owning the remaining 30%. Since Bill's interest in the lot increased from 33.3% to 40%, a RETT is due to the Town. Assuming the fair market value of the lot at the time of the conveyance is \$250,000, the RETT would be \$167.50 [40% – 33.3% = increase of 6.7% ownership interest in lot. 6.7% x \$250,000 x 1% = \$167.50] No RETT is due on the deeds resulting in the reduction of Sam's and Mary's ownership interest in the lot.

27. **How does the RETT apply to owner "upgrades" and "enhancements"?**

RETT is due based upon the current fair market value of the unit that is traded back to the timeshare company, in addition to the RETT that is due on the sale of the new unit.

*Example:* Steve owns a 1-bedroom unit in Pretty Breckenridge Condominiums. He likes the project, and wants to upgrade to a 2-bedroom unit. He deeds his 1-bedroom unit back to the developer and, in return, the developer deeds Steve a 2-bedroom unit. Both transactions are taxable under the RETT Ordinance, and the tax is based on the fair market value of the two units at the time of the transfer. If the fair market value of the 1-bedroom unit is \$150,000 the developer (the 'purchaser' of the 1-bedroom unit) owes a RETT to the Town of \$1,500 [\$150,000 x 1% = \$1,500]. If the fair market value of the 2-bedroom unit is \$300,000 at the time of the transfer, Steve (the purchaser of the 2-bedroom unit) owes a RETT to the Town of \$3,000 [\$300,000 x 1% = \$3,000]

28. **Aren't real estate transfer taxes prohibited in Colorado?**

The Taxpayers Bill of Rights amendment to the Colorado Constitution (the "TABOR" amendment) was passed in 1990. It prohibits any "new" or "increased" real estate transfer tax. However, Breckenridge's RETT Ordinance was adopted in 1981, well before the passage of the TABOR Amendment, and the Town has not adopted any "new" or "increased" real estate transfer tax after TABOR's adoption. As such, enforcement of the Town's RETT is not a violation of the TABOR Amendment.

29. **Is the Amount of RETT Paid To Town “Confidential” Information?**

No. The amount of RETT paid to the Town pursuant to the RETT Ordinance will be shown on the Town’s RETT stamp that is affixed to a deed. As such, the amount of the RETT paid to the Town is not confidential information, and may properly be disclosed to the general public or other interested parties. This policy is consistent with the State of Colorado’s position on its documentary fee (See 39-13-103, C.R.S.), and the fact that once recorded a deed, and the information contained in the deed, is a matter of public record.


30. **Disclaimer.**

The Town’s enforcement of the RETT Ordinance always involves applying the ordinance to the facts of a particular transaction. Not all possible factual scenarios involving the application of the RETT Ordinance are described in these amended regulations. Nothing in these amended regulations limits the Town’s authority to apply the RETT Ordinance to factual situations not specifically described in these amended regulations.

31. **Whom can I contact if I have any other questions concerning Town of Breckenridge Real Estate Transfer Taxes?**

The Town of Breckenridge, Tax Auditor, 150 Ski Hill Road, PO Box 1237,  
Breckenridge, CO 80424 970-547-3193

Dated: April 23, 2014



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Timothy J. Gagen, Town Manager  
Town of Breckenridge, Colorado