

DISCLOSURE OF TRANSFER TAXES

DESCRIPTION OF CHANGE IN TRANSFER TAX DISCLOSURE POLICY:

HUD has recently revised their position by no longer requiring that all transfer tax charges must be disclosed in Block 8 the GFE - if locally it is "common practice" for sellers to pay for such charges. Further, only the amount actually paid by the buyer will now be compared to the GFE for tolerance violations, and the amount paid by the seller will be listed in the seller's column in the 1200 series on the HUD-1. Based on this, Pinnacle Capital Mortgage Corporation will accept GFEs that reflect transfer taxes in Block 8 as shown below, with the stipulation that the Broker or Operations Center agrees to absorb any tolerance violation charges - if a buyer pays more than the disclosed amount at close of escrow. GFEs should show:

1. ALL transfer taxes – where it is common practice for buyers to pay all or a portion
2. NO transfer taxes – where it is common practice for sellers to pay all
3. PARTIAL transfer taxes where the purchase contract indicates a split

The following are examples of how a transaction with \$2,000 in transfer taxes may be treated:

GFE BLOCK 8	BUYER PAYS	SELLER PAYS	TOLERANCE VIOLATION
\$0	\$0	\$2,000	\$0
\$1,000	\$1,000	\$1,000	\$0
\$1,000	\$1,500	\$500	\$500
\$2,000	\$2,000	\$0	\$0
\$3,000	\$1,000	\$1,000	\$0

Since HUD's revision does not insulate buyers from paying permissible transfer taxes, PCM encourages disclosure on the GFE when indicated in the purchase contract or 'common practice' is unclear, because we retain the liability for any charges to cure out-of-tolerance violations if a buyer pays more than the amount that was disclosed. PCM will not absorb any costs to cure tolerance violations for under-disclosed transfer tax charges.

UPDATED RESPA REFORM DOCUMENTS:

1. **PCM RESPA REFORM FREQUENTLY ASKED QUESTIONS:** Pinnacle Capital Mortgage Corporation has updated their RESPA Reform Frequently Asked Questions to reflect the change in transfer tax disclosure policy:
 41. **Q: Are we required to show the total transfer tax amount in Block 8 of the GFE – even when it is not local custom for it to be paid by the buyer, or it is known up-front that the seller intends to pay for all or a portion this charge?**
 A: HUD revised their position to allow lenders to omit transfer taxes from Block 8 of the GFE if locally it is not common practice for buyers to pay for such charges. These charges must still be disclosed in areas where it is likely to be paid by the buyer. However, lenders are still required to cure tolerance violations if the buyer pays more than the disclosed amount at close of escrow, therefore PCM will accept GFEs that reflect zero or partial transfer taxes in Block 8 with the provision that the Broker or Operations Center agrees to absorb any tolerance violation charges.
 42. **Q: Should the total transfer tax amount or only the amount actually paid by the buyer be compared to the amount disclosed in Block 8 of the GFE for RESPA tolerance compliance?**
 A: HUD issued a revised ruling on 04/02/10 that allows the amount paid by the buyer to be compared to the amount in Block 8 of the GFE for tolerance compliance testing.
2. **RESPA FEE SHEET:** Revised Block 8 description to reflect that Transfer Taxes must be disclosed in areas where it is likely to be paid by the borrower.

