



## Estimated Gross Income Tax Payment Requirements on Sales of New Jersey Real Property by Nonresidents

**TB-57(R) – Issued September 30, 2015**

**Tax: Gross Income Tax**

A nonresident individual, estate, or trust that sells or transfers real property in New Jersey is required to make an estimated Gross Income Tax payment prior to the recording of the deed. N.J.S.A. 54A:8-8 through 8-10 The seller (or transferor or grantor, as appropriate) must remit the payment to the Division of Taxation before or at the closing and file the estimated tax form, whether or not they have a gain on the sale or transfer. N.J.S.A. 54A:8-10(a). N.J.S.A. 54A:8-9(a) states:

A nonresident taxpayer shall estimate the Gross Income Tax due on a form prescribed by the Director of the Division of Taxation, using an estimated tax rate that is equal to the highest rate of tax for the taxable year provided in N.J.S.A. 54A:2-1. The estimated tax due shall equal the gain, if any, multiplied by that rate. The amount of gain used in the computation shall equal the amount of gain reportable for federal income tax purposes for the taxable year. However, the estimated tax payment shall not be less than 2% of the consideration for the sale or transfer stated in the deed affecting the conveyance.

The law prohibits a county recording officer from recording, or accepting for recording, any deed for the sale or transfer of real property, unless it is accompanied by the appropriate form, as prescribed by the Director of the Division of Taxation, and the payment of any estimated tax due. N.J.S.A. 54A:8-10(d). No estimated tax payment or GIT/REP form is needed to record a sheriff's deed in a foreclosure sale (see Memorandum, Sheriff Sale), or a bankruptcy trustee's deed in a bankruptcy action (see Memorandum, Bankruptcy Trustee Sales).

To have a deed recorded, the seller or, in the case of the GIT/REP-4 or 4A, the seller or buyer (or transferee or grantee, as appropriate) must complete one of the forms discussed below. These forms are available on our website or at the Division's regional offices. You may call the Division's Customer Service Center at (609) 292-6400 or visit the website to find the nearest field office.

**GIT/REP-1** A nonresident individual, estate, or trust selling property in New Jersey must complete the GIT/REP-1 and give it to the settlement agent (usually the buyer's attorney or title company) at closing, along with the required estimated income tax payment. The settlement agent must file the GIT/REP-1, payment, and deed with the appropriate county clerk for recording.

**GIT/REP-2** A nonresident individual, estate, or trust selling property in New Jersey may make their estimated income tax payment prior to closing by presenting it with the completed GIT/REP-2 for certification at one of the Division's regional offices. The Division will not certify a GIT/REP-2 without the required estimated income tax payment. Upon receipt of the payment, a regional office employee will stamp the form with the Division's raised seal. The GIT/REP-2 is only valid if the Division's raised seal is affixed.

Once certified, the form serves as a receipt, which the seller must give to the settlement agent at closing. The settlement agent must file the GIT/REP-2 and the deed with the appropriate county clerk for recording.

**GIT/REP-1 sent in error.** As discussed above, a nonresident seller must give the completed GIT/REP-1 and estimated tax payment to the settlement agent at closing. If a nonresident seller sends a GIT/REP-1 and payment to the Division of Taxation in error, the seller (or appointed representative) must complete the GIT/REP-2 and bring it to one of the Division's regional offices for certification, along with the following:

- A copy of the deed;
- A copy of the settlement statement or closing disclosure form;
- The completed and signed GIT/REP-1;
- Power of Attorney or Letter of Authority, if applicable; and
- A copy of the cancelled check showing proof of payment of estimated taxes.

The regional office employee will verify receipt of payment and then stamp the GIT/REP-2 with the Division's raised seal so the seller may have the deed recorded with the county clerk.

**GIT/REP-3** A nonresident individual, estate, or trust selling property in New Jersey that is not required to prepay the estimated tax because they meet one of the recognized exemptions must complete the GIT/REP-3 and give it to the settlement agent at closing. The settlement agent must file the GIT/REP-3 and the deed with the appropriate county clerk for recording.

**GIT/REP-4** In addition to the exemptions listed on the GIT/REP-3, there may be situations in which the waiver of the estimated tax payment requirement may be appropriate. To request a waiver, the buyer must send the completed GIT/REP-4, along with a copy of the deed, the settlement statement or closing disclosure form that verifies the transaction date, and a letter detailing the reason(s) for the waiver request to:

Regulatory Services Branch  
NJ Division of Taxation  
P.O. Box 269  
Trenton, NJ 08695-0269

If the property is being transferred pursuant to a court order, a copy of that order also must be included. If the buyer is filing the GIT/REP-4 because he or she is unable to obtain the buyer's signature for the GIT/REP-3, the waiver request must include a copy of the deed, prior deed, and other supporting documentation.

After it receives the GIT/REP-4, the Regulatory Services Branch will review the documentation.

If the waiver request is approved, the Division will affix the raised seal to the form and send it to the buyer for forwarding to the appropriate county clerk to record with the deed. If the waiver request is rejected, the Division will send an explanation for the denial along with the proper form for the buyer to use to record the deed.

**NOTE: In order to expedite the waiver process, the request should include either a telephone number or email address in case Division personnel have questions regarding the transaction or require further documentation in order to grant the waiver.**

**GIT/REP-4A** The buyer uses the GIT/REP-4A to correct errors on the original deed such as typographical/spelling errors or incorrect metes and bounds descriptions. The buyer must sign and date the GIT/REP-4A and file it with the deed.

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**Note:** A Technical Bulletin is an informational document designed to provide guidance on a topic of interest to taxpayers and describe changes to the law, regulations, or Division policies. It is accurate as of the date issued. However, taxpayers should be aware that subsequent changes in the tax law or its interpretation may affect the accuracy of a Technical Bulletin. The information provided in this document does not cover every situation and is not intended to replace the law or change its meaning.