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

**TB-57(R) – Revised June 15, 2026 Tax: Gross Income Tax**

**General Rule**

When payment is required: In general, a nonresident individual, estate, or trust that sells or transfers real property in New Jersey must make an estimated Gross Income Tax payment prior to the recording of the deed as provided by N.J.S.A. 54A:8-8 through 8-10. The seller (or transferor or grantor, as appropriate) is required to 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.

Calculation: The nonresident taxpayer will calculate the estimated tax due by multiplying the reportable gain for federal income tax purposes, if any, by a tax rate equal to the highest rate for the tax year provided in N.J.S.A. 54A:2-1. In addition, the law requires that the estimated tax payment is not less than 2% of the seller's consideration for the sale or transfer stated in the deed affecting the conveyance.

Prohibition on recording without payment and forms. 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 GIT/REP form, as prescribed by the Director of the Division of Taxation, and the payment of any estimated tax due.

**Exception to form Requirement for Sheriff's Deeds**

However, 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).

**Required Estimated Payment GIT/REP Forms Overview**

To have a deed recorded, the seller, transferor, grantor, buyer, transferee, or grantee, must complete the appropriate **GIT/REP** forms, which are discussed below. These forms are available on the Division's website under the tab "Real Estate Sellers." This is in addition to the realty transfer fee form that is also required when recording a deed.

## GIT/REP-1: Nonresident Seller's Tax Declaration

Who must use it. A nonresident individual, estate, or trust selling or transferring property in New Jersey must complete the GIT/REP-1, unless they meet an exemption (GIT/REP-3) or qualify for a waiver (GIT/REP-4), and present that form to the settlement agent (usually the buyer's attorney or title company) at closing, along with the required estimated income tax payment.

Settlement agent's role. The settlement agent must file the GIT/REP-1, RTF-1 payments, and deed with the appropriate county clerk for recording.

Payment Procedure When a Non-U.S. Citizen Does NOT Have a Social Security Number or Federal Tax Identification Number. If you do not have a Social Security number or Federal Tax Identification number, one can be obtained by contacting the Internal Revenue Service (IRS) for federal Form W-7 to apply for an individual taxpayer identification number (ITIN). Enter your ITIN in the boxes provided for your Social Security number on the GIT/REP-1. However, if the seller is not applying for an ITIN with the IRS, it is acceptable (for the purposes of the GIT/REP-1) for the seller to complete a proforma federal Form W-7 and attach it to the GIT/REP-1. The county clerk will forward the nonresident withholding tax, the bottom part of the GIT/REP-1, and the W-7, if applicable, to the State. Note: Prepaying at a Division of Taxation Regional Information Center, in order to obtain an approved GIT/REP-2 prior to closing, may reduce potential delays in such a situation (see below).

## GIT/REP-2: Nonresident Seller's Tax Prepayment Receipt

When and how to prepay. A nonresident individual, estate, or trust selling or transferring property in New Jersey may make their estimated income tax payment prior to closing by submitting the GIT/REP-1 and payment with the completed GIT/REP-2 for certification at one of the Division's Regional Information Centers (RIC). The Division **will not** certify a GIT/REP-2 without the required estimated income tax payment.

What makes it valid. Upon receipt of the payment, a RIC employee will stamp (i.e., certify) 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 GIT/REP-2 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, RTF-1 (and associated realty transfer fees), and the deed with the appropriate county clerk for recording.

Estimated Payment Sent In Error**.** A nonresident seller must give the completed GIT/REP-1 and estimated tax payment to the settlement agent at closing. However, if a nonresident seller submits the GIT/REP-1 and estimated payment to the Division of Taxation in error, instead of prepaying at a Division of Taxation Regional Information Center to obtain a certified GIT/REP-2, the seller (or appointed representative) must complete the GIT/REP-2 and bring it to one of the Division's Regional Information Centers 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.

A Regional Information Center 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.

Deed(s) E-filed with the County When Estimated Payment is Electronic and Made Directly to the State. If a nonresident seller electronically filed a deed with the county and electronically made the estimated payment to the Division of Taxation, see *Estimated Payments Sent in Error* procedures above.

## GIT/REP-3: Seller's Residency Certification/Exemption

Who can use it. The GIT/REP-3 can be used by both residents and nonresidents of New Jersey, provided that one of the seller's assurances applies to the seller's situation. The seller's U.S. citizenship status is not relevant for the purposes of the GIT/REP-3.

Explanation of key boxes. While box 1 can only be used by New Jersey residents (including non-U.S. citizens), boxes 2 through 16 can be used by nonresidents (including non-U.S. citizens). As long as one of the boxes applies to their situation, an individual can complete the GIT/REP-3 and it will be acceptable, regardless of citizenship status.

If a seller is not required to prepay the estimated tax because they meet one of the recognized exemptions on the GIT/REP-3, they must complete the GIT/REP-3 and provide it to the settlement agent at closing. The settlement agent must file the GIT/REP-3, RTF-1, and the deed with the appropriate county clerk for recording.

Clarifications for Common Seller's Assurances:

Box 1. This box is based on the date of closing. If the seller was a resident at the time of the closing, they can check this box even though subsequent to the recording of the deed by the county the seller becomes a nonresident. For example: Mary sells her house in New Jersey in April, and the deed is recorded in May. The house was her primary residence. So at the time of closing, Mary was a New Jersey resident and box 1 is acceptable.

Box 2. Provided the seller(s) meet the principal residence requirement and the time period set forth at 26 U.S.C. section 121, the seller(s) is eligible to check box 2. If the seller's proceeds exceed the excludable capital gains, the seller must pay tax on those gains when they file their NJ-1040 or NJ-1040NR. Note: If the seller's proceeds exceed the excludable amounts and the seller is concerned about underpayment penalties, the seller may make an estimated payment to the State online or by using form NJ-1040-ES after recording the deed.

Box 5. Sellers that are corporations, partnerships, limited partnerships, S corporations, Qualified Subchapter S corporations, business trusts (not owned by individuals), limited liability companies, non-profit organizations, or another business entity that is taxed as a corporation, partnership, or S corporation, should check box 5.

Box 7a and 7b. The seller has 2 options for partially exempt 1031 exchanges for paying the estimated tax withholding on the nonexempt amount. The seller may either:

(1) Complete the GIT/REP-1, Nonresident Seller's Tax Declaration, show the greater of the consideration or the fair market value of the non-like kind property received, and remit an estimated tax payment of 2% of the nonexempt amount at the time of recording so the seller does not need to make additional future estimated payments for that nonexempt portion; **or**

(2) Make an estimated payment to the State online or by using form NJ-1040-ES after recording the deed.

*If the seller chooses the first method,* then at the time of the recording, the seller will submit the RTF-1, GIT/REP-3, and a GIT/REP-1 to the county along with the realty transfer

fees, the nonresident estimated tax withholding for the nonexempt amount, and the county recording fees imposed by the county to the county clerk at the time of recording. With regard to the consideration amounts on the RTF-1, GIT/REP-3, and GIT/REP-1, the sum of the exempt and nonexempt consideration on the GIT/REP-1 and GIT/REP-3 must equal to the consideration listed on the RTF-1.

*If the seller chooses the second method,* then at the time of recording, the seller will submit the RTF-1 and GIT/REP-3 forms to the county along with the realty transfer fees and country recording fees to the county, and then subsequently make an estimated tax withholding payment to the state online by using form NJ-1040-ES. The consideration listed on the RTF-1 and the GIT/REP-3 forms must match. The estimated payment amount made to the State must be based on the non-exempt portion.

Box 10. In general, most deeds dated before 2004 have already been recorded with the counties. For the limited instances where they have not been recorded and the original grantor cannot be found, the seller can request a waiver, which the Division will grant as a courtesy (see the GIT/REP-4 information below for the process and documents to be submitted with the GIT/REP-4 form).

Box 12. A seller is eligible to check Box 12 for transfers incidental to a divorce decree or property settlement agreement under 26 U.S. Code section 1041. The transfer of property is incidental to the divorce if such transfer:

- Occurs within 1 year after the date on which the marriage ceases; **or**
- Is related to the cessation of the marriage.

Note: In situations where the former spouse is uncooperative in signing the GIT/REP-3, an individual may request a waiver (see below for more information).

Box 14. Acceptable uses indicating no net proceeds from the sale include:

- The seller is required to pay money at the time of closing in addition to funds being transferred (other than the 2% nonresident withholding) and the seller is not receiving any proceeds and does not have a gain; or
- One of the sellers was merely a co-signer to the mortgage and the bank originally required them to be listed, but all of the proceeds of the sale are going to the other seller(s); or
- Upon the sale, all of the proceeds are being paid to the bank and the seller is not receiving any funds.

Capital Loss**.** If the seller is selling for a capital loss, they must request a waiver from the Division. (See GIT/REP-4 (below) for more information).

What to do if a county clerk rejects a valid GIT/REP-3**.** While the GIT/REP-3 is generally the correct form to provide a seller's assurances, there are some situations that can create confusion and uncertainty causing a county clerk's office to reject the deed and forms, despite the GIT/REP-3 being validly filled out. As such, a seller may need to request a waiver from the Division (see below).

## GIT/REP-4: Waiver of Seller's Filing Requirement of GIT/REP Forms and Payment

As discussed above, 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.

Who cannot use it. However, for non-governmental sellers where a GIT/REP-3 assurance is applicable, the Division will not approve the GIT/REP-4 and will inform the applicant of the appropriate box(es) to complete on the GIT/REP-3. If the seller is the federal, State (or other state), or local government or an instrumentality thereof, is a federally recognized tribe or an instrumentality thereof, or is a foreign government or an instrumentality thereof, the seller may either request a waiver or the designated officer/agent may complete and sign the GIT/REP-3 and check box 5.

The GIT/REP-4 is only applicable prior to the recording of the deed. Waiver requests for deeds that have already been recorded with the county clerk will be rejected. No claims for refunds for deeds that have already been recorded can be made using the GIT/REP-4. In such circumstances, the seller can mail Form A-3128, Claim for Refund of the Estimated Gross Income Tax Payment for the Sale of New Jersey Real Estate, to the Division of Taxation's Taxpayer Accounting Branch. See *Refund Claims* below for more information.

Procedure if approved or denied. To request a waiver, the seller or their representative must send the completed GIT/REP-4, along with copies of the original deed into the seller, the proposed 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 the GIT/REP Unit (see our contact information on the last page of this Technical Bulletin).

Documentation to submit. 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 proposed deed, prior deed, and other supporting documentation.

If the property is being sold for a capital loss due to capital improvements, the seller must provide an itemized list of the improvements with corresponding dollar amounts.

Deadline to request waiver. It is recommended that the waiver requests are submitted at least 14 days prior to closing.

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 and RTF-1. 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.

Domestic Violence and Abuse Situations. The Division of Taxation takes matters of domestic violence and all forms of abuse seriously. In situations where there is a protective order in place and it may be impracticable to obtain a signature for personal safety reasons, please contact the GIT/REP Unit to discuss allowable methods for filling out the GIT/REP forms.

If the GIT/REP-4A (see below) is the proper form to complete, the Division will not approve the GIT/REP-4.

## GIT/REP-4A: Waiver of Seller's Filing Requirement of GIT/REP Forms and Payment for Corrected Deed with No Consideration

When and how to use it. Form GIT/REP-4A is used to correct errors on the original deed such as typographical/spelling errors or incorrect metes and bounds descriptions.

Who completes and how is it submitted. The current owner of the property, at the time the corrected deed is filed with the county clerk, completes the GIT/REP-4A. The owner must sign and date the GIT/REP-4A and file it with the deed. The GIT/REP-4A is submitted along with the RTF-1 and the county deed to the county clerk. The GIT/REP-4A does not need to be approved by the Division of Taxation prior to recording.

### Special Situations.

Administrators, Executors, and Trustees Completing GIT/REP Forms on Behalf of an Estate or Trust. Each administrator, executor, or trustee listed in that capacity on the deed on behalf of the estate or trust transferring the property must complete and sign the GIT/REP-1, 2, 3, or 4A. If the administrator, executor, or trustee is also listed as a beneficiary who joined as a seller, then the individual must complete the GIT/REP-1, 2, 3, or 4A in their individual capacity. Similarly, when completing the GIT/REP-4, each administrator, executor, or trustee must be included.
If a resident estate or trust is the seller, the administrators, executors, or trustees may complete the GIT/REP-3 and sign on behalf of the resident estate or trust. The administrators, executors, or trustees will provide documentation to the county clerk that the estate or trust is a resident estate or trust. Provided that the nonresident administrators, executors, or trustees provide proof to the county clerk that the estate or trust is a resident estate or trust, the county clerk will accept the GIT/REP-3. However, if the county clerk's office refuses to accept the validly completed GIT/REP-3, the administrator, executor, or trustee may request a waiver from the Division.

**GIT/REP Form Errors**. If there is an error on the GIT/REP-1, GIT/REP-2, GIT/REP-3, GIT/REP-4, or GIT/REP-4A that accompanied a validly recorded, accurately completed deed, pursuant to N.J.S.A. 54A:8-10.g, the recording of such deed is not invalid and the title is not impaired by errors made on the GIT/REP forms. Thus, the deed does not have to be re-recorded to correct errors on any GIT/REP forms.

Acceptable GIT/REP Form Signatures for E-Recording**.** The preferred method to sign and submit Forms GIT/REP-1, 3, and 4A is to print the completed GIT/REP form, and physically sign it. If the deed filing is being e-recorded, scan and attach the GIT/REP as a PDF and submit that along with the RTF-1 and any required payments when filing the deed.

Alternatively, if the seller e-signs a completed Form GIT/REP-1, 3, or 4A using DocuSign or similar application at the same time as the deed is e-notarized and e-signed, this is also acceptable, and no resubmission is required when the county clerk's office accepts and records the deed filing. However, if a county clerk rejects a deed filing solely due to the GIT/REP form, the seller must correct the GIT/REP form as requested by the county clerk and resubmit the filing. If the county clerk's office repeatedly rejects the deed on account of a properly completed, signed, and valid GIT/REP-3 or 4A, please contact the GIT/REP Unit (see our contact information on the last page of the technical bulletin).

For Forms GIT/REP-2 and 4, these forms require prior approval from the Division of Taxation and must include a physical raised seal. The originals must be physically submitted to the county clerk and cannot be submitted electronically.

**Missing or Unprocessed Payments**. If a payment of the nonresident withholding is lost or otherwise remains unprocessed, the seller should cancel the check and the GIT/REP-1, and resubmit a reissued check for the withholding payment to:

State of New Jersey
Revenue Processing Center
PO Box 222
Trenton, NJ 08646-0222

## Refund Claims

If the seller paid the nonresident withholding tax and the deed was subsequently recorded with the county clerk, the seller can either claim a refund of the excess withholding when the seller files their nonresident income tax return (Form NJ-1040NR) for the year of the sale, or the seller can complete and mail Form A-3128 (Claim For Refund of the Estimated Gross Income Tax Payment for the Sale of New Jersey Real Estate) along with supporting documents to:

Division of Taxation
Taxpayer Accounting Branch
PO Box 046
Trenton, NJ 08646-0046

A claim for refund using the A-3128 may also be filed if a circumstance listed on the GIT/REP-3 was applicable but the GIT/REP-3 had not been completed at the time of recording the deed with the county clerk. A copy of the GIT/REP-3 form should be filed along with Form A-3128 that is submitted to the Division of Taxation.

## Timing of the Refund Claim and the Applicable Form

*Nonresidents.* Generally, if the transaction occurs earlier in the year and the seller does not want to wait until filing their New Jersey income tax return, Form A-3128 is the quicker method to request a refund, although the taxpayer will still have to file their NJ-1040NR. If the transaction occurred towards the end of the year, the taxpayer can request their refund of the excess withholding on their NJ-1040NR tax return rather than filing both the A-3128 and the NJ-1040NR. For refund claims for a prior year amount, assuming the year is still within the statute of limitations, the taxpayer should file an amended NJ-1040NR (or if they never filed a tax return with New Jersey in the first place, an original NJ-1040NR).

*Residents with Erroneous Withholding***.** Although the GIT/REP-3 provides box 1 for a New Jersey resident, on occasion the withholding payment is made in error. For a New Jersey resident with an erroneous withholding, the taxpayer can file Form A-3128, Form NJ-1040, or Form NJ-1040X, as applicable, to claim a refund. The refund claim must be filed within the statute of limitations to claim a refund.

## Additional Information & Contact

With all contact requests, please include a telephone number or email address in case Division personnel have questions regarding the transaction or require further documentation to grant the waiver.

**GIT/REP Unit.** For questions about the GIT/REP withholding or to submit a waiver request, contact the GIT/REP Unit by phone at: (609)-322-9275;

Email: Taxation.GITREP@treas.nj.gov;

Or write to:

New Jersey Division of Taxation
Office of Taxpayer Communications
PO Box 281
Trenton, NJ 08695

If using an overnight service with a carrier other than USPS Express, mail to NJ Division of Taxation, Office of Taxpayer Communications, 3 John Fitch Way, 8th Floor, Trenton, NJ 08611.

**Regional Information Centers (RICs).** RIC locations and contact information can be found online.

**More information** on the Gross Income Tax (GIT) forms required for sale or transfer of real property in New Jersey can be found in the Division's online FAQ.

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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.