



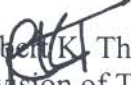
State of New Jersey
DEPARTMENT OF THE TREASURY
DIVISION OF TAXATION
PO Box 240
TRENTON NJ 08695-0240

JAMES E. MCGREEVEY
Governor

JOHN E. MCCORMAC, CPA
State Treasurer
DIRECTOR'S OFFICE
Tel (609) 292-5185
Fax-Trenton (609) 984-2061

MEMORANDUM

To: County Clerks/Recording Officers
County Sheriffs
Attorneys and Title Officers

From:  Robert K. Thompson, Director
Division of Taxation

Subject: Gross Income Tax Withholdings on Real Estate
Sheriff Sales
Chapter 55, Laws of 2004

Date: August 23, 2004

P.L. 2004, C. 55, requires that on or after August 1, 2004, nonresident individuals, estates or trusts that sell or transfer real property in New Jersey make an estimated gross income tax payment on the gain from a transfer/sale of real property as a condition of the recording of the deed.

With sheriff's sales, however, the Division takes the position that such sales were not within the contemplation or intent of the Legislature when it passed Chapter 55. The law specifically excludes sales where "the seller or transferor is a mortgagor conveying the mortgaged property to a mortgagee in foreclosure or in a transfer in lieu of foreclosure with no additional consideration." Section 3(b)(2). In a sheriff's sale, the sheriff is standing in the shoes of the mortgagor as the result of a foreclosure action.

Accordingly, no estimated income tax payment or form is required as a condition for the recording of sheriff's deeds.

Questions on Chapter 55 and the new Gross Income Tax estimated payment requirements should be directed to Division of Taxation, Taxpayer Services Branch (609) 292-6400.

RKT/MJR:pc