

PRESS RELEASE

NEW REALTY TRANSFER FEE RATES AND PROCEDURES AND GROSS INCOME TAX WITHHOLDING ON REAL ESTATE SALES BY NONRESIDENTS

TRENTON - Treasurer John E. McCormac announced today that Assembly Bill No. 3115 (Chapter 66, P.L. 2004) and Assembly Bill No. 3128 (Chapter 55, P.L. 2004), amending the Realty Transfer Fee statute, were signed into law recently. Chapter 66 has increased the Realty Transfer Fee rates and applies to recordation of deeds reflecting New Jersey real property transfers. Chapter 55 requires the filing of estimated Gross Income Tax on the transfer of real property by nonresidents of the State as a condition to recording. Chapter 55 is effective on August 1, 2004. Chapter 66 is effective immediately, but applies to deeds evidencing transfers of real property that occur on or after August 1, 2004 (that is, deeds dated on or after August 1, 2004). The one-month time period is intended to avoid any possible impact on real estate transactions that were already in the closing stage when the new fees and procedures were created.

The Realty Transfer Fee on standard transactions and on "new construction" must be calculated as follows:

TOTAL CONSIDERATION NOT IN EXCESS OF \$350,000

1. \$2.00/\$500 of consideration not in excess of \$150,000;
2. \$3.35/\$500 of consideration in excess of \$150,000 but not in excess of \$200,000;
3. \$3.90/\$500 of consideration in excess of \$200,000 but not in excess of \$350,000.

TOTAL CONSIDERATION IN EXCESS OF \$350,000

1. \$2.90/\$500 of consideration not in excess of \$150,000;
2. \$4.25/\$500 of consideration in excess of \$150,000 but not in excess of \$200,000;
3. \$4.80/\$500 of consideration in excess of \$200,000 but not in excess of \$550,000;
4. \$5.30/\$500 of consideration in excess of \$550,000 but not in excess of \$850,000;
5. \$5.80/\$500 of consideration in excess of \$850,000 but not in excess of \$1,000,000;
6. \$6.05/\$500 of consideration in excess of \$1,000,000.

The Realty Transfer Fee by senior citizens, blind persons, disabled persons, and on property that is low and moderate income must be calculated as follows:

TOTAL CONSIDERATION NOT IN EXCESS OF \$350,000

- 1 \$.50/\$500 of consideration not in excess of \$150,000;
- 2 \$1.25/\$500 of consideration in excess of \$150,000 but not in excess of \$350,000.

TOTAL CONSIDERATION IN EXCESS OF \$350,000

1. \$1.40/\$500 of consideration not in excess of \$150,000;
2. \$2.15/\$500 of consideration in excess of \$150,000 but not in excess of \$550,000;
3. \$2.65/\$500 of consideration in excess of \$550,000 but not in excess of \$850,000;
4. \$3.15/\$500 of consideration in excess of \$850,000 but not in excess of \$1,000,000;
5. \$3.40/\$500 of consideration in excess of \$1,000,000.

An Affidavit of Consideration (RTF-1) is now required to be affixed to and recorded with all deeds transferring "new construction" in addition to the existing claims for a partial exemption. To ensure the proper disposition of Realty Transfer Fees into the appropriate funds, "**NEW CONSTRUCTION**" must now be printed clearly in upper case lettering on the top of the first page of deeds transferring new construction as well as on the Affidavit of Consideration. Grantors conveying title to new construction who fail to subscribe and append an Affidavit to the deed are guilty of a disorderly persons offense.

A new fee on the transfer of real property **zoned for residential use, whether improved or not**, for consideration in excess of \$1,000,000, of 1% of the entire amount of consideration, is now imposed on the grantee, or buyer. Attorneys, title agencies, and individuals transferring property will attest to the consideration figure and property zoning/class on the filed Affidavit of Consideration. Questions regarding Chapter 66 should be directed to (609) 292-7974.

Proceeds from the Realty Transfer Fee provide support for the Public Health Priority Fund, shore protection initiatives, housing programs, extraordinary special education and municipal aid, and direct aid to New Jersey counties.

In addition, for transactions occurring on or after August 1, 2004, Chapter 55 now requires nonresident individuals, estates or trusts that sell or transfer real property in New Jersey to make an estimated Gross Income Tax payment prior to the recording of the deed. The payment must be remitted to the Division of Taxation prior to closing or can be made at closing.

The estimated payment is determined by multiplying the seller's gain times the highest Gross Income Tax rate of 8.97%. In no case may the estimated payment be less than 2% of the consideration paid. Seller's who opt to pay the tax prior to closing must complete the Nonresident Seller's Tax Prepayment Receipt form along with NJ-1040ES and file them at one of the Division's regional branch offices. (Locations of these branch offices are available on the Division's Website shown below). Sellers not

prepaying must complete the Nonresident Seller's Tax Declaration form and make payment at closing.

Sellers that meet one of the following conditions are not required to make estimated payments and will complete form Seller's Residency Certification/Exemption which must be submitted at closing.

1. Seller is a resident of New Jersey and will be filing a resident Gross Income Tax return for the year of sale.
2. Seller will be claiming an income exclusion under Section 121 of the Internal Revenue Code of 1986 for the property being sold.
3. Seller is a mortgagor conveying the mortgaged property to a mortgagee in foreclosure or in a transfer in lieu of foreclosure with no additional consideration.
4. Seller, transferor or transferee is an agency or authority of the United States of America, or the State of New Jersey, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.
5. Seller is not an individual, estate or trust and as such is not required to make an estimated payment pursuant to N.J.S.A. 54A:1-1 et seq.

The buyer will submit the Seller's Residency Certification/Exemption, the Nonresident Seller's Tax Prepayment Receipt, or the Nonresident Seller's Tax Declaration and tax payment to the county clerk's office when the deed is recorded. No deed for the sale or transfer of real property shall be accepted or recorded by the county recording officer without the simultaneous filing of the appropriate forms with any required payment of the tax due or proof of payment. Questions on Chapter 55 should be directed to (609) 292-6400.

For the purposes of this law, county recording officers shall act as the agents of the Director of the Division of Taxation. County treasurers are permitted to retain \$10.00 per filing of the Nonresident Seller's Tax Declaration form to offset additional direct expenditures incurred by the county recording officer and the county treasurer for the implementation of these responsibilities.

Attorneys, title insurance officers, and participants in real property transfers are urged to forward the necessary closing documents to the county recording officer as soon as possible to facilitate the implementation of the new laws.

For additional information on the new rate increases, gross income tax requirements, or to download the newly devised Realty Transfer Fee forms, please visit the Division of Taxation's Website at:

<http://www.state.nj.us/treasury/taxation> (Division of Taxation)

<http://www.state.nj.us/treasury/taxation/lpt/localtax.htm> (Local Property)