

**New York State Department of Taxation and Finance  
Taxpayer Services Division  
Technical Services Bureau**

TSB-M-89 (4)R  
Real Estate  
Transfer Tax  
Real Property  
Transfer Gains Tax  
June 19, 1989

**New Filing Procedures For Real  
Estate Transfer Tax and Real Property  
Transfer Gains Tax**

This memorandum is to serve notice that, effective July 1, 1989, a new filing procedure will be implemented for all conveyances of an "interest in real property."

The new filing procedure is the result of certain amendments made by Chapter 61 of the Laws of 1989 to the Real Estate Transfer Tax (the "transfer tax") imposed by Article 31 of the Tax Law, which require, in pertinent part, the filing of a Real Estate Transfer Tax Return whenever a conveyance of real property occurs. (See TSB-M-89-(3)-R for further information on the amendments.)

Real Estate Transfer Tax Filing Procedures

Pursuant to section 1409 of the Tax Law, the Real Estate Transfer Tax Return is a joint return which must be signed by both the grantor(s) and the grantee(s). The return must be filed with a recording officer and the transfer tax paid before the instrument effecting the conveyance may be recorded. However, if the Real Estate Transfer Tax is paid directly to the Commissioner of Taxation and Finance, the return must be filed with the Commissioner at the time the tax is paid. Where the return is filed and the tax is paid to the Commissioner, a receipt evidencing the filing and payment must be filed with the recording officer before the instrument effecting the conveyance may be recorded.

Recording officers of counties are authorized by the Commissioner of Taxation and Finance to collect the tax and accept returns only in those cases where an instrument is submitted for recording.

The Real Estate Transfer Tax Return is Schedule C of revised Form TP-584, entitled: Combined Real Property Transfer Gains Tax Affidavit, Real Estate Transfer Tax Return, Credit Line Mortgage Certificate.

Schedule C of Form TP-584 is also used to compute the new additional transfer tax, imposed by section 1402-a of the Tax Law on each conveyance of residential real property or interest therein, where the consideration for the entire conveyance is \$1 million or more. This additional transfer tax is imposed at a rate of 1% of the consideration for the transfer. The tax is to be paid by the grantee; if the grantee is exempt, it shall be paid by the grantor.

Form TP-584 must be filed no later than the 30th day after the delivery of the instrument effecting the conveyance by the grantor to the grantee, provided that the conveyance is one for which a Gains Tax affidavit must be completed (see lines 1 thru 7 of Schedule B, Real Property Transfer Gains Tax Affidavit), and the instrument is submitted to the recording officer for recording in the county where the real property is located. In all other instances, Form TP-584

must be filed no later than the first business day after the day of delivery of the instrument effecting the conveyance by the grantor to the grantee.

In addition to revised Form TP-584, the following additional forms and instructions were developed to comply with the new filing procedure:

Form TP-584.1 - Real Estate Transfer Tax Return Supplemental Schedules  
Form TP-584-I - Instructions for Completing Form TP-584  
Form TP-592.2 - Real Estate Transfer Tax Claim for Refund

Form TP-584.1 must be completed and attached to Form TP-584 in the case of conveyances pursuant to or in lieu of foreclosure, conveyances that consist of a mere change of identity or form of ownership or organization, and conveyances for which credit for tax previously paid will be claimed.

#### Real Property Transfer Gains Tax Filing Procedures

Effective July 1, 1989, the following forms with print dates of July, 1986 and earlier can not be used to comply with the Real Property Transfer Gains Tax filing requirements:

Form TP-584	-	Affidavit of Individuals
Form TP-584-C	-	Affidavit of Corporation, Partnership, Estate or Trust
Form TP-584-G	-	Affidavit of Governmental Entity
Form TP-584-U	-	Affidavit of Public Utility

Instead, revised Form TP-584, Schedule B (Real Property Transfer Gains Tax Affidavit), must be used in place of the above forms to record transfers of real property or interests therein where the recording officer is authorized to accept a conveyance for recording pursuant to section 1447(1)(f)(1)(ii) of the Tax Law and also in those cases where the forms are submitted directly to the Tax Department.

#### Filing Procedures For Conveyance Of Real Property Situated In More Than One County

Where the conveyance is of real property situated in more than one county, and the instrument effecting the conveyance is to be recorded in more than one county, Form TP-584 and if required, Form TP-582 (Tentative Assessment and Return), and the transfer tax and gains tax due, must be filed and paid to the recording officer of the county where the instrument effecting the conveyance is first recorded. At the request of the person presenting the instrument effecting the conveyance for recording, the recording officer shall sign the copy of each such instrument and indicate on such copy that the required transfer tax and gains tax forms have been filed and the amount of transfer tax and gains tax that has been paid. The signed copy of the instrument effecting the conveyance can be presented to the recording officer in the other county as evidence that the necessary returns have been filed and the tax due has been paid.

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Ordering Forms

The new forms may be obtained by writing:

NYS Tax Department  
Taxpayer Assistance  
W.A. Harriman Campus  
Albany, NY 12227

You may also order them by calling toll free (from New York State only)  
1 800 462-8100. From areas outside New York State, call (518) 438-1073.