

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

TSB-M-90 (3) R
Real Estate Transfer Tax
Real Property Transfer Gains Tax
April 25, 1990

1990 Amendments to the Real Estate Transfer Tax
and the Real Property Transfer Gains Tax

Effective March 31, 1990, Chapter 46 of the Laws of 1990 amends section 1410 (a) of the Tax Law, Real Estate Transfer Tax (the transfer tax), relating to the payment of the transfer tax, and sections 1442 (a), (c), (d) and (f) of the Tax Law, Tax on Gains Derived from Certain Real Property Transfers (the gains tax), relating to the payment of the gains tax and the election to make installment payments under the gains tax.

Transfer Tax

The transfer tax is amended to provide that the transfer tax is to be paid, in all circumstances, no later than the 15th day after delivery of the conveying instrument to the grantee. Before the enactment of Chapter 46, only certain taxpayers were required to pay the transfer tax no later than the 15th day after delivery of the conveying instrument. In those cases where the conveying instrument was to be recorded and Form TP-582, Tentative Assessment and Return, was not required to be filed for gains tax purposes, the transfer tax was required to be paid no later than the 30th day after delivery of the conveying instrument. In all other instances, the transfer tax was due no later than the 15th day after delivery of the conveying instrument. The Department has decided not to apply this amendment retroactively. Accordingly, if the date of the conveying instrument is before March 31, 1990 (the date of the instrument is presumed to be the date of the conveyance), and the conveying instrument was to be recorded and Form TP-582 was not required to be filed for the gains tax purposes, the transfer tax may be paid no later than the 30th day after delivery of the conveying instrument.

Gains Tax

The gains tax is amended to provide that the gains tax must be paid no later than the 15th day after the date of transfer. In addition, any election to pay on the installment basis method must be made (accompanied by the required portion of tax) no later than the 15th day after the date of transfer. Any payment of gains tax made between March 29, 1983 and March 30, 1990, which was made no later than the 15th day after the date of transfer, will be deemed to be timely paid. The statute provides that any penalty or interest actually paid or assessed for late filing or late payment before March 31, 1990 will not be refunded. Such penalty or interest will not be cancelled.