

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

TSB-M-95 (6)R  
Real Estate Transfer Tax  
Real Property Transfer  
Gains Tax  
September 29, 1995

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

Real Estate Transfer Tax Filing Procedures

Section 1409 of the Tax Law requires that a joint return, signed by both the grantor(s) and the grantee(s), must be filed for each conveyance of real property or interest therein. The only exception to this filing requirement is that a joint return is not required for a conveyance of an easement or license to a public utility (see TSB-M-92(3)-R and TSB-M-95(5)-R). The return must be filed with a recording officer before the instrument effecting the conveyance may be recorded. Any tax due must be paid to the recording officer when the return is filed. However, if the transfer tax is paid directly to the Tax Department because the instrument effecting the conveyance is not to be recorded (e.g., a transfer or acquisition of a controlling interest in an entity with an interest in real property) or is to be recorded later than the time required to file the return, payment of any tax due must accompany the return. If the instrument effecting the conveyance is to be subsequently recorded, a receipted copy of the return should be requested at the time the return is filed with the Commissioner. The receipted copy of the return must be filed with the recording officer before the instrument effecting the conveyance may be recorded.

Recording officers of counties are authorized 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 Form TP-584, Combined Real Property Transfer Gains Tax Affidavit, Real Estate Transfer Tax Return, Credit Line Mortgage Certificate.

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

Form TP-584 must be filed no later than the 15th day after the delivery of the instrument effecting the conveyance by the grantor to the grantee. See TSB-M-90(3)-R for additional information on the payment of the transfer tax and the gains tax.

In addition to Form TP-584, the following additional forms and instructions are available:

Form TP-584.1 -	Real Estate Transfer Tax Return Supplemental Schedules
Form TP-584.2 -	Combined Real Property Transfer Gains Tax Affidavit, Real Estate Transfer Tax Return For Public Utilities and Governmental Agencies
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 for:

- (1) conveyances pursuant to or in lieu of foreclosure or pursuant to or in lieu of a secured party's enforcement of a lien or other security interest;
- (2) conveyances that consist of a mere change of identity or form of ownership or organization; and
- (3) conveyances for which credit for tax previously paid will be claimed.

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### Real Property Transfer Gains Tax Filing Procedures

Section 1447(1) (f) (1) (ii) of the Tax Law authorizes the recording officer to record or accept for record certain conveyances if accompanied with an affidavit. The affidavit prescribed by the Tax Department is Form TP-584, Schedule B, *Real Property Transfer Gains Tax Affidavit*. This affidavit, if applicable, may also be used if the forms are submitted directly to the Tax Department because the instrument effecting the conveyance is not to be recorded.

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

If the instrument effecting the conveyance is to be recorded in more than one county, Form TP-584 and Form TP-582, *Tentative Assessment and Return*, if required, must be filed with the recording officer of the county of first recording. Any transfer tax and gains tax due must be remitted to the recording officer at that time. At the request of the person presenting the instrument for recording, the recording officer will endorse each copy of the instrument and indicate on each copy that the required transfer tax and gains tax forms have been filed and that the transfer tax and gains tax have been paid. The signed and receipted copy of the instrument effecting the conveyance can then be presented to the recording officer in the other county(counties) as evidence that the necessary returns have been filed and any tax(es) due has(have) been paid.

### Ordering Forms

Forms may be obtained by writing:

NYS Tax Department  
Taxpayer Assistance Bureau  
Forms Control Section  
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.