

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

TSB-M-95 (8)R  
Real Estate Transfer Tax  
Real Property Transfer  
Gains Tax  
January 8, 1996

TP-584 Filing Requirements

The purpose of this memorandum is to provide information about when Form TP-584, *New York State Combined Gains Tax Affidavit, Real Estate Transfer Tax Return, Credit Line Mortgage Certificate*, is required to be filed when presenting an instrument to a county clerk or city register for recording.

Filing Form TP-584

Schedule B of Form TP-584 is the gains tax affidavit. Schedule C is the real estate transfer tax return and Schedule D is the credit line mortgage certificate.

Form TP-584 must be filed whenever any one of the following conditions is met:

- 1) an instrument effecting a "conveyance" of real property, as the term is defined under section 1401(e) of the real estate transfer tax, is presented for recording (Schedule C-Real Estate Transfer Tax Return must be completed);
- 2) an instrument effecting a "conveyance of real property," as the term is defined under section 1447.1(f) (3) of the gains tax, is presented for recording ( Schedule B-Real Property Transfer Gains Tax Affidavit must be completed); or
- 3) an instrument effecting the sale or transfer of a fee simple interest in real property is presented for recording (Schedule D-Credit Line Mortgage Certificate must be completed.)

However, if the gains tax pre-transfer audit procedure (see Publication 589, *Pre-Transfer Audit Procedures Real Property Transfer Gains Tax*) is required for a transfer of real property, Schedule B of Form TP-584 may not be used to satisfy the gains tax filing requirements. For example, the gains tax affidavit, Schedule B of Form TP-584, may not be used if the consideration for the conveyance is \$500,000 or more and the real property conveyed is not used exclusively as the transferor's personal residence. Another example of when the gains tax affidavit may not be used is

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when the transfer is one in a series of partial or successive transfers of interests in subdivided parcels.

The following are examples of instruments that typically require a Form TP-584 when presented for recording:

- Deeds, including
  - Correction deeds
  - Referee's deeds
  - Tax deeds
  - Deeds to standing timber
- Bills of sale
- Land contracts
- Notices of appropriation (taking by eminent domain)
- Rights of way and easements, including
  - Party wall agreements\*
  - Encroachment agreements\*
  - Fence line agreements\*
  - Irrevocable licenses
- Boundary line agreements\*\*
- Leases (including oil and gas)
  - Memorandums of lease
  - Surrenders of lease
  - Assignments and releases of lease\*\*\*
- Options

\* requires a Form TP-584 only if a conveyance results from the terms of the agreement.

\*\* requires two TP-584 forms if the agreement results in both parties to the transaction transferring an interest in real property. In such a case, each party is the transferor/grantor of the interest in real property being transferred to the other party (transferee/grantee).

\*\*\* The Tax Department does not require a Form TP-584 to be filed if a collateral assignment of leases and/or rents is recorded either with the payment of mortgage recording taxes or with a sworn statement as required by section 255 of Article 11 of the Tax Law (255 affidavit). However, if a collateral assignment of leases and/or rents is not accompanied by the payment of mortgage recording taxes or a 255 affidavit, Form TP-584 would be required. Form TP-584 would be required upon the release of a collateral assignment of leases and/or rents if a Form TP-584 was required upon the original recording of the collateral assignment of leases and/or rents.

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The following are examples of instruments that typically do not require a Form TP-584 when presented for recording:

- Wills
- Assignments of proceeds
- Declarations of condominium
- Declarations of trust
- Certified copies of orders or judgements that are requested to be recorded in a Book of Deeds
- Cemetery deeds
- Revocable licenses

**Please Note:** Form TP-584 must be filed directly with the Tax Department for conveyances that are not recorded, e.g., the transfer of shares in a cooperative housing corporation or the transfer or acquisition of a controlling interest in an entity with an interest in real property.