

Instructions for Form NYC-RPT

Real Property Transfer Tax Return

FINANCE
NEW • YORK
THE CITY OF NEW YORK
DEPARTMENT OF FINANCE



IMPORTANT

1. Always submit pages 1-4 of the return. Attach Schedules A through H, Schedule M and Schedule R as required.
2. Where the consideration is \$400,000 or more, a copy of the Contract of Sale or closing statement must be attached to the return.
3. Please file your return at the correct office. See FILING OF RETURN on pages 16 and 17

IMPOSITION OF TAX

The tax is imposed on conveyances of real property or interests therein, on certain grants, assignments or surrenders of leasehold interests, on transfers of controlling economic interests in real property and on all transfers of shares of stock in a cooperative housing corporation or an entity formed for the purpose of cooperative ownership of real property when the consideration as entered on Schedule 2, line 3 exceeds \$25,000.

An **economic interest** in real property means:

- a) the ownership of shares of stock in a corporation which owns or leases real property;
- b) the ownership of an interest or interests in a partnership, association, or other unincorporated entity which owns or leases real property; and
- c) the ownership of a beneficial interest or interests in a trust which owns or leases real property.

A **controlling interest** in the case of a corporation means:

- 50% or more of the total combined voting power of all classes of stock of the corporation; or
- 50% or more of the total fair market value of all classes of stock of the corporation.

A **controlling interest** in the case of a **partnership, association, trust or other unincorporated entity** means:

- 50% or more of the capital, profits or beneficial interest in the partnership, association, trust or other unincorporated entity.

PROPERTY LOCATION

Enter the location of the property that is transferred or the location of the property in which an economic interest is transferred. If the transfer involves more than one property, list the properties separately. Attach additional sheets if necessary.

CONDITION OF TRANSFER

- e. Attach a copy of marital settlement agreement or divorce decree.
- g. Check here if the transfer was pursuant to a partial or complete liquidation of a corporation, partnership or other entity. See instructions for Schedule D.
- k. A gift of real property (or an interest therein) that is subject to indebtedness may be subject to tax because the indebtedness is deemed to be consideration for the transfer. However, see instructions for Schedule 2, line 2, transfers of interests in residential property on or after August 28, 1997.
- o. Nonprofit organizations should see instructions, page 17 for information on exemption from Real Estate Tax and related charges.

TYPE OF PROPERTY

Check the type of property that is transferred or in which an interest is transferred.

TYPE OF INTEREST

For any transfer where you intend to record a deed or other document you should check the relevant box at the left and file your return pursuant to the instructions on pages 16 and 17 of this booklet.

If you are not recording a deed or other document in connection with this transaction, check the box at the right and file your return with the New York City

Department of Finance, Real Property Transfer Tax Unit, 345 Adams Street, 5th Floor, Brooklyn, NY 11201, pursuant to the instructions on pages 16 and 17 of this booklet.

If this is a transfer of stock in a cooperative housing corporation, complete Schedule B. If this is a transfer of stock or of partnership interests or other controlling economic interest in real property, complete Schedule H.

SCHEDULE 1

DETAILS OF CONSIDERATION

Cooperatives. In the case of a transfer of an individual residential cooperative unit (other than the original transfer of the unit by the cooperative corporation or cooperative plan sponsor) the consideration does not include any portion of the mortgage on the underlying real property. In the case of an original transfer of any cooperative unit, or of a subsequent transfer of a cooperative unit other than an individual residential unit, a proportionate share of any preexisting mortgage(s) on the underlying real property must be included in the consideration. An individual unit that is used for residential purposes by the occupant shall be presumed to be residential unless such residential use is *de minimis*.

Liquidations. In the case of a liquidation of a corporation, partnership, or other entity, if the fair market value of the property or interest therein distributed exceeds the consideration received, such fair market value is the measure of the tax. Enter the amount from Schedule D, line 3 on Schedule 1, line 11.

Marital Transfers. The total consideration for a transfer pursuant to a marital settlement or divorce decree includes the value of any marital rights exchanged for the property or economic interest therein plus any consideration paid by the grantee for the transfer. The value of such marital rights should be listed on line 10 of this schedule. The total consideration is presumed to equal the fair market value of the portion of the

property or interest therein that is transferred. Attach a rider explaining how you determined the total consideration.

Transfers to Business Entities. In the case of a transfer of property or interest therein to a business entity in exchange for an interest in the entity, the value of such interest in the entity is equal to the fair market value of the property or interest therein less the amount of mortgages, liens or encumbrances thereon. (See Schedules F and M)

SCHEDULE 2 COMPUTATION OF TAX

PAYMENT -

If the real property is located in Staten Island (Richmond County), make check or money order payable to: **Richmond County Clerk.**

For real property not located in Staten Island, make check or money order payable to: **NYC Department of Finance.**

LINE 1 - TOTAL CONSIDERATION

Enter the amount from line 11, Schedule 1, page 2.

LINE 2 - EXCLUDIBLE LIENS- TRANSFERS INVOLVING CERTAIN RESIDENTIAL PROPERTY OR INTEREST THEREIN

With certain exceptions, the amount of mortgages, liens or encumbrances is excluded from consideration for the transfer on or after August 28, 1997 of a one-, two-, or three-family house, an individual residential cooperative apartment or individual residential condominium unit, or economic interest in such property if the mortgage, lien or encumbrance existed before the date of the transfer and remains on the property or interest after the date of the transfer. This provision does not apply to any mortgage, lien or encumbrance placed on the property or interest in connection with, or in anticipation of, the transfer, or by reason of deferred payments of the purchase price. This exclusion also does not apply to a transfer to a mortgagee, lienor or encumbrancer of the property or

interest, or to a qualifying real estate investment trust transfer.

Recently adopted rules govern the application of the exclusion. Under the rules, an existing mortgage will be excluded in all transfers pursuant to gifts or divorce. In any other transfer, an examination time period beginning six months prior to, and ending three months after, the transfer is established.

Mortgages placed on the property or discharged outside that time period will be excluded unless there is documentary evidence that the mortgage was placed or discharged in connection with the transfer. Mortgages placed or discharged within the examination period will be excluded unless the facts and circumstances indicate that the mortgage was placed or discharged in connection with the transfer. Mortgages that are modified will be excluded in all cases except where the modifications occur within the examination period AND result in a change in the identity of the lender PLUS a change of at least ten percent in either the interest rate or term of the mortgage loan. See Title 19 of the Rules of the City of NY §23-03(k) for more information.

Enter on line 2 of Schedule 2 the amount of any mortgage, lien or encumbrance included in the amount entered on line 3 of Schedule 1 that is eligible for the exclusion described above.

NOTE: You may not enter any amount on line 2 if you have not checked box a, b or c under "Type of Property" on page 2 of Form NYC-RPT or you HAVE checked box d, f, q or t under "Condition of Transfer".

LINE 4 - TAX RATE

Insert the appropriate tax rate based on the consideration on line 3. Note: the tax rate is determined after certain liens are excluded but before taking into account the mere change of form exemption. Tax rates depend on the kind of real property that is transferred or is held by the entity whose stock or partnership interest is the subject of this transfer.

Effective for transfers on or after August

1, 1989, the tax rates are as follows:

Certain Residential Property and

Interests 1% of the consideration where the consideration is \$500,000 or less or 1.425% of the consideration where the consideration is greater than \$500,000 in the following instances:

- conveyances where the real property transferred, or the real property in which the economic interest is transferred, is a one-, two-, or three-family house, an individual cooperative apartment, an individual residential condominium unit, or an individual dwelling unit in a dwelling which is to be occupied as the residence or home of four or more families living independently of each other; and
- grants, assignments or surrenders of leasehold interests in a one-, two-, or three-family house, or an individual dwelling unit in a dwelling which is to be occupied or is occupied as the residence or home of four or more families living independently of each other.

An individual condominium that is used for residential purposes by the occupant shall be presumed to be residential, unless such residential use is *de minimis*. (For illustrations, see RCNY Section 23-03(b)(9) and (10).)

Other Transfers

- For all transfers involving property or interests in property other than the residential property specified above, the rate is 1.425% of the consideration where the consideration is \$500,000 or less or 2.625% of the consideration where the consideration is greater than \$500,000.

LINE 5

If you qualify for the "Mere Change In Form Exemption", enter the percentage from Schedule M, line 2, Column f. If you do not qualify for the Mere Change In Form Exemption, enter 100%.

LINE 7 - TAX

Attach additional schedules 1 and 2 if varying tax rates apply.

LINE 8 - CREDIT

- a. **Liquidations** - If a purchaser acquires a controlling economic interest in a corporation, partnership, association, trust or other entity owning real property in a transaction subject to the Real Property Transfer Tax and within 24 months of such acquisition the entity owning the real property or interest therein is liquidated and the real property or interest therein is conveyed to the purchaser of the controlling economic interest, a credit is available against the transfer tax due on the liquidation in the amount of the transfer tax paid with respect to the original acquisition of the controlling economic interest. In no event shall this credit be greater than the tax payable upon the conveyance in liquidation.
- b. **Original Co-op Transfer** - In the case of the original transfer of cooperative housing corporation stock by a cooperative corporation or cooperative plan sponsor in connection with the grant or transfer of a proprietary leasehold, a credit is allowed for a proportionate part of the amount of any tax paid upon the conveyance to the cooperative housing corporation of the land and building or buildings comprising the cooperative dwelling or dwellings. This credit applies only for original transfers of stock by the cooperative housing corporation or cooperative plan sponsor. It does not apply to taxable resales of cooperative housing corporation stock.
- No credit is allowed for any tax paid more than 24 months prior to the date on which occurs the first in a series of transfers of shares of stock in the initial offering of cooperative housing corporation shares.

Attach a detailed schedule to support the credit claimed on this line.

LINE 10 - INTEREST

If the tax is not paid on or before the due date (determined without regard to any extension of time), interest must be paid

on the amount of the underpayment from the due date to the date paid. For information as to the applicable rate of interest call (718) 935-6000.

LINE 11 - PENALTIES

- a) If you fail to file a return when due, add to the tax 5% for each month or partial month the form is late up to 25%, unless the failure is due to reasonable cause.
- b) If you fail to pay the tax shown on the return by the prescribed filing date, add to the tax (less any payments made) 1/2% for each month or partial month the payment is late up to 25%, unless the failure is due to reasonable cause.
- c) The total of the additional charges in a) and b) may not exceed 5% for any one month.

LINE 13 - FILING FEE

Pursuant to Subdivision 3 of Section 333 of the NYS Real Property Law, all RPT forms filed on or after July 1, 1991 must be accompanied by a \$25.00 fee. No form will be accepted without the fee.

SCHEDULE 3

If this transaction includes more than one grantor or grantee, complete this schedule and provide the requested information for all such grantors or grantees that are not listed on page 1 of this form. For any grantee and grantor that is a partnership, provide the requested information for each general partner. If this transaction includes more than one grantee or grantor and any of them is a partnership, attach a separate schedule 3 for each grantee or grantor providing the information for each general partner.

SCHEDULE A**Line 2d**

If bid price is paid in cash, enter here and on Schedule 1, line 1. If other than cash, enter here and on the appropriate line on Schedule 1.

Line 2f

Enter remaining mortgages, liens or encumbrances here and on Schedule 1, line 3, 4, 5, 6 or 10 as appropriate.

SCHEDULE C**Line 4**

Enter remaining mortgages, liens or encumbrances here and on Schedule 1, line 3, 4, 5, 6 or 10 as appropriate.

SCHEDULE D

In a liquidation, the measure of the tax is the greater of fair market value or consideration. The greater of fair market value or consideration, and the applicable rate of tax are determined separately for each parcel of real property or economic interest in a parcel of real property that is distributed in a liquidation. If this transaction involves the distribution in liquidation of more than one such parcel or economic interest, complete a separate Schedule D for each such property or interest. Attach additional schedules 1 and 2 as necessary. (See §23-03 (g) of the rules of the City of New York for examples of calculation of the tax base in liquidations.)

SCHEDULE F**Line 8**

If you received other property in exchange for the real property or interest therein that was transferred to the business entity, enter the value of the other property here. If assets other than real property or interests therein were transferred to the business entity in connection with this transaction, the consideration received must be apportioned among the assets transferred. Attach schedule.

SCHEDULE H

If the entity named in A owns assets in addition to real property or interests therein you should make a good faith apportionment of the consideration, based on the relative fair market value of the real estate or interests therein and the other assets. See Administrative Code §11-2102 (d) and §23-02 of the rules of the City of New York, Definition of Consideration, Paragraph 3. Apportioned consideration should be entered on Schedule 1 on appropriate lines.

If the entity named in A owns more than one parcel of real property or economic interest therein, the consideration and the

applicable rate of tax is determined separately for each parcel of property or economic interest. Attach separate Schedules H, 1 and 2, as necessary.

If any of the percentages in B, C, D, E or F is 50 percent or more, a return must be filed and tax paid with respect to any transaction reflected in items C, D, E or F. The tax rate applicable to each item of real property or economic interest therein is based on its proportionate share of the aggregate consideration for all transactions reflected in items B, C, D, E or F.

SCHEDULE M - MERE CHANGE OF FORM TRANSFERS

For transfers occurring on or after June 9, 1994, a transfer that represents a mere change in identity or form of ownership or organization is not taxable to the extent the beneficial ownership of the real property or economic interest therein remains the same. (NYC Administrative Code Section 11-2106 (b) (8)). However, a transfer to a cooperative housing corporation, other than a corporation formed under Articles 2, 4, 5, or 11 of the Private Housing Finance Law, of the property that will comprise the cooperative dwelling will not qualify for this exemption.

The following are types of transfers that may qualify for the mere-change exemption in whole or in part. If you checked condition "g", "i", or "l" on Form NYC-RPT, page 1, the transfer may qualify for this exemption in whole or in part. Transfers other than those listed may also qualify for the exemption in whole or in part.

- a. A transfer of property or interest therein to a new or pre-existing corporation in which the owners of the property or interest therein prior to the transfer are shareholders;
- b. A transfer of property or interest therein by one wholly-owned subsidiary of a corporation to another wholly-owned subsidiary of the same corporation;
- c. A transfer of property or interest therein to a new or pre-existing

partnership in which the owners of the property or interest therein prior to the transfer are partners; or

- d. A distribution of property or interest therein by a corporation or partnership to its shareholders or partners.

Examples:

1. A transfer of property owned by three individuals as equal tenants-in-common to a corporation or partnership in which the same three individuals are equal shareholders or partners will be fully exempt as a mere change of form of ownership.
2. A transfer of a cooperative apartment owned by an individual to a corporation in which the individual is a 25 percent shareholder will be exempt to the extent that the individual retains a 25% beneficial interest in the coop after the transfer.
3. Corporation X is owned 25% by individual A and 75% by individual B. If Corporation X distributes New York City real property to A and B as equal tenants-in-common, the transfer will be exempt to the extent A retains the same 25 percent interest in the property and B retains a 50 percent interest in the property. The transfer will be taxable to the extent of the additional 25 percent interest in the property transferred to A

For additional information, see Title 19 of the Rules of the City of NY §23-05(b)(8).

EXEMPTIONS FROM THE TRANSFER TAX

- A. The following parties are exempt from the payment of the tax and from filing a return:
 1. The State of New York, its agencies, instrumentalities, public corporations (including a public corporation created pursuant to agreement of compact with another state or Canada) or political subdivisions.
 2. The United States of America and its agencies and instrumentalities, insofar as they are immune from taxation.

The exemption of such

governmental bodies does not relieve a grantee from them of liability for the tax or from filing a return.

- B. The tax imposed does not apply to any of the following deeds:

1. A deed, instrument or transaction by or to the United Nations or any other world-wide international organization of which the United States is a member.
2. A deed, instrument or transaction by or to any corporation, association, trust, community chest, fund or foundation, organized and operated exclusively for religious, charitable, or educational purposes, or for the prevention of cruelty to children or animals, and no part of the net earnings of which inures to the benefit of any private shareholder or individual and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, provided, however, that nothing in this paragraph shall include an organization operated for the primary purpose of carrying on a trade or business for profit, whether or not all of its profits are payable to one or more organizations described in this paragraph.
3. A deed, instrument or transaction to any governmental body listed in "A" above.
4. A deed or instrument given solely as security for a debt, or a deed or instrument given solely for the purpose of returning such security.
5. A deed or instrument or transaction from a mere agent, dummy, strawman or conduit to a principal, or a deed from the principal to an agent, dummy, strawman or conduit.

Where a tax does not apply to any deed, neither the grantor nor the grantee is required to pay the tax. However, a return relating to the deed must be filed.

FILING OF RETURN/ PAYMENT OF TAX

A notarized joint return shall be filed by both the grantor and the grantee for each deed, instrument, or transaction, whether or not a tax is due. Thus, a return must be filed although the consideration for the transaction is \$25,000 or less. Where the total consideration is \$400,000 or more, a copy of the contract of sale or closing statement must be attached to the return. A return need not be filed for the grant of a leasehold interest in a 1-, 2-, or 3-family house or an individual dwelling unit except where tax is owed or the lease is to be recorded.

RECORDED TRANSFERS

Returns, relating to a transfer where a deed or other document is recorded, are required to be filed and any tax due paid at the office of the City Register in the county where the deed is recorded within 30 days of the delivery of the deed.

The locations of the offices of the City Register are as follows:

MANHATTAN (New York County)
31 Chambers Street, Room 202
New York, New York 10007
(212) 788-8527

BRONX
1932 Arthur Ave., 3rd Floor
Bronx, New York 10457
(212) 579-6820

BROOKLYN (Kings County)
210 Joralemon Street, Room 2
Brooklyn, New York 11201
(718) 802-3590

QUEENS
144-06 94th Avenue
Jamaica, NY 11435
(718) 298-7200

STATEN ISLAND (Richmond County)
Richmond County Clerk
County Court House, Room 103
Staten Island, New York 10301
(718) 390-5386

NON-RECORDED TRANSFERS

In the case of transfers where no document is recorded, including but not

limited to transfers of controlling economic interests in real property or transfers of interests in entities formed for cooperative ownership of real property, returns must be filed within 30 days of the transfer with:

**NYC Department of Finance
Real Property Transfer Tax Unit
345 Adams Street, 5th Floor
Brooklyn, NY 11201**

The tax may be paid by certified check, or an Attorney's Trust Account check, drawn on a U.S. bank, or money order made payable to the order of **NYC Department of Finance**.

All returns filed on or after July 1, 1991 must be accompanied by a \$25 filing fee whether or not a tax is due. See instructions for Schedule 2, line 13.

Returns filed on or after February 6, 1990, in connection with a conveyance of a one- or two-family dwelling or a cooperative apartment or condominium unit in a one- or two-family dwelling must be accompanied by an Affidavit of Compliance with Smoke Detector Requirement.

NYC-RPT returns are available at City Register offices, the office of the Richmond County Clerk and from the Department of Finance's tax fax service (call 718-935-6114 from the phone connected to your fax and select document #305) or Internet website at the following address:

<http://www.ci.nyc.ny.us/finance>

IMPORTANT REAL ESTATE TAX INFORMATION FOR NONPROFIT ORGANIZATIONS

If you are a nonprofit organization you should know:

1. You must apply for an exemption from Real Estate Tax with the Property Division. Exemption forms can be obtained from:

**Exemption Unit -Property Division
1 Centre Street, Room 909
New York, NY 10007**

or any of the Borough Offices of the Property Division.

MANHATTAN

**1 Centre Street, Room 910
New York, NY 10007
(212) 669-4896**

BRONX

**1932 Arthur Ave., Room 701
Bronx, NY 10457
(718) 579-6879**

BROOKLYN

**210 Joralemon St., Room 200
Brooklyn, NY 11201
(718) 802-3550**

QUEENS

**144-06 94th Avenue
Jamaica, NY 11435
(718) 298-7000**

STATEN ISLAND

**350 St. Marks Place
Staten Island, NY 10301
(718) 390-5295**

2. Once you have received an exemption, you must renew it every year with the Property Division.
3. Many groups are exempt from property taxes but still may be required to pay water and sewer charges. You must file separately for an exemption from water and sewer charges with the Bureau of Customer and Conservation Services. Applications can be obtained from any of the Bureau's borough offices (*call (718) 595-7000 for addresses*). Once granted, this exemption need not be renewed annually.

EVEN IF THIS TRANSFER OF REAL PROPERTY IS FROM ANOTHER NONPROFIT ORGANIZATION, YOU MUST STILL COMPLY WITH THE ABOVE REQUIREMENTS.

For more information, call our Taxpayer Assistance Unit at (718) 935-9500, Monday through Friday between the hours of 9:00 am and 4:30 pm, or visit our Internet website at:

<http://www.ci.nyc.ny.us/finance>

PRIVACY ACT NOTIFICATION

The Federal Privacy Act of 1974, as amended, requires all agencies requesting Social Security Numbers to inform individuals from whom they seek information why the request is being made and how the information is used. The disclosure of Social Security Numbers is required by Sections 11-102.1 and 11-537 of the Administrative Code of the City of New York. Such numbers which are disclosed on any report or return are used for tax administration purposes, and as may be required by law, or when the taxpayer gives written authorization to this department for another department, person, agency or entity to have access (limited or otherwise) to the information contained in his/her return.