



JAMES E. McGREEVEY
GOVERNOR

STATE OF NEW JERSEY
DEPARTMENT OF THE TREASURY
DIVISION OF TAXATION
PO BOX 288
TRENTON, N.J. 08695-0288

JOHN E. McCORMAC, CPA
STATE TREASURER

MEMORANDUM

To: County Clerks/Recording Officers
Attorneys and Title Officers

From: Robert K. Thompson, Director
Division of Taxation

Subject: Gross Income Tax Withholdings on Real Estate
Residency Status under the Seller's Residency Certification/Exemption
Chapter 55, Laws of 2004

Date: November 5, 2004

P.L. 2004, C. 55, requires that on or after August 1, 2004, nonresident individuals, estates, or trusts that sell or transfer real property in New Jersey make an estimated gross income tax payment on the gain from a transfer/sale of real property as a condition of the recording of the deed.

The Division takes the position that the Seller is considered a nonresident unless a new residence (permanent place of abode, domicile) has been established in New Jersey. Part-Year residents will be considered nonresidents.

Accordingly, nonresidents are required to make an estimated Gross Income Tax payment if they do not meet any of the Seller Assurances as listed in the GIT/REP-3 Form.

For questions on Chapter 55 and the new Gross Income Tax estimated payment requirements, please refer to the instructions included with our GIT Forms REP-1, REP-2, and REP-3 or call the Division of Taxation, Taxpayer Services Branch (609) 292 – 6400.

RKT/MJR:dlb



State of New Jersey
NONRESIDENT SELLER'S TAX DECLARATION
 (C.55, P.L. 2004)

GIT/REP-1
 (7-07)

(Please Print or Type)

SELLER(S) INFORMATION

Name(s)

Street Address:

City, Town, Post Office

State

Zip Code

PROPERTY INFORMATION (Brief Property Description)

Block(s)

Lot(s)

Qualifier

Street Address:

City, Town, Post Office

State

Zip Code

Seller's Percentage of Ownership

Consideration

Closing Date

SELLER(S) DECLARATION

The undersigned understands that this declaration and its contents may be disclosed or provided to the New Jersey Division of Taxation and that any false statement contained herein could be punished by fine, imprisonment, or both. I furthermore declare that I have examined this declaration and, to the best of my knowledge and belief, it is true, correct and complete.

Date

Signature (Seller) Please indicate if Power of Attorney or Attorney in Fact

Date

Signature (Seller) Please indicate if Power of Attorney or Attorney in Fact

(Detach on dotted line)

NJ
1040-ES

1 - OFFICIAL USE ONLY

Calendar Year - Due

New Jersey Gross Income Tax
Declaration of Estimated Tax-VOUCHER

YOUR SOCIAL SECURITY NUMBER

SPOUSE/CIVIL UNION PARTNER
 SOCIAL SECURITY NUMBER

LAST NAME, FIRST NAME AND INITIAL

Be sure to include your social security number on your check or money order to ensure proper credit for this payment

STREET ADDRESS

CITY, STATE ZIP CODE

Indicate the return for which payment is being made by checking the appropriate box:

Make Checks Payable To:

State of NJ-Div. of Taxation

N
16

NJ-1040NR

F
26

NJ-1041

AMOUNT OF
 THIS PAYMENT

\$

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01209

Tax Declaration Instructions

This form is only to be completed by nonresident individuals, estates or trusts selling property in New Jersey on or after August 1, 2004.

- Name(s):** Name of seller(s). If more than one owner separate forms must be used except for husband & wife/civil union couples that file jointly
- Address:** Seller(s) primary residence or place of business. Do not use the address of the property being sold if a new residence has been established.
- Property Information:** Information as listed on deed of property being sold.
- Percentage of Ownership:** If there is more than one owner list seller's % of ownership.
- Consideration:** Consideration" means in the case of any deed, the actual amount of money and the monetary value of any other thing of value constituting the entire compensation paid or to be paid for the transfer of title to the lands, tenements or other realty, including the remaining amount of any prior mortgage to which the transfer is subject or which is assumed and agreed to be paid by the grantee and any other lien or encumbrance not paid, satisfied or removed in connection with the transfer of title. If there is more than one owner, indicate seller's portion of total consideration received. If the total consideration for the property is \$1,000 or less complete the Seller's Residency Certification/Exemption form GIT/REP-3 and check box 6 under Seller's Assurances. .
- Signature:** Seller(s) must sign and date the declaration. If the seller's representative is signing the declaration a copy of the power of attorney form or letter signed by the seller granting this authority must be attached.

The NJ-1040-ES must be completed in its entirety. The seller must include their social security number or federal tax identification number.

Payment in the form of check or money order should be made payable to the State of New Jersey - Division of Taxation. Cash is not acceptable. Tax payment is determined by multiplying the gain on the sale of the property by the highest Gross Income Tax rate of 8.97%. Gain is to be determined without taking into consideration any distributions during the taxable year to beneficiaries by estates or trusts. In no case can the payment be less than 2% of the consideration received.

All information requested on this form must be completed. Failure to complete the form in its entirety will result in the deed not being recorded.

This form and associated payment must be completed at the time of closing and given to the buyer or the buyer's attorney.

The buyer or buyer's attorney must submit the original Sellers Declaration of Tax to the county clerk at the time of recording the deed. Failure to submit the Sellers Declaration of Tax or the Seller's Residency Certification or a Tax Prepayment Receipt will result in the deed not being recorded.

The county clerk will attach the top portion of the form to the deed when recorded. The bottom portion, NJ-1040-ES, along with remittance will be forwarded by the County Clerk to the State of New Jersey, Revenue Processing Center, PO Box 222, Trenton, New Jersey 08646-0222.

Additional information regarding the Gross Income Tax estimated payment requirements on the sale of real estate can be found on the Division of Taxation's web page at www.state.nj.us/treasury/taxation.



State of New Jersey
SELLER'S RESIDENCY CERTIFICATION/EXEMPTION
(C.55, P.L. 2004)

(Please Print or Type)

SELLER(S) INFORMATION (See Instructions, Page 2)

Name(s) _____

Current Resident Address: _____

Street: _____

City, Town, Post Office _____ State _____ Zip Code _____

PROPERTY INFORMATION (Brief Property Description)

Block(s)	Lot(s)	Qualifier
Street Address: _____		
City, Town, Post Office _____	State _____	Zip Code _____
Seller's Percentage of Ownership _____	Consideration _____	Closing Date _____

SELLER ASSURANCES (Check the Appropriate Box) (Boxes 2 through 8 apply to NON-residents)

1. I am a resident taxpayer (individual, estate, or trust) of the State of New Jersey pursuant to N.J.S.A. 54A:1-1 et seq. and will file a resident gross income tax return and pay any applicable taxes on any gain or income from the disposition of this property.
2. The real property being sold or transferred is used exclusively as my principal residence within the meaning of section 121 of the federal Internal Revenue Code of 1986, 26 U.S.C. s. 121.
3. I am a mortgagor conveying the mortgaged property to a mortgagee in foreclosure or in a transfer in lieu of foreclosure with no additional consideration.
4. Seller, transferor or transferee is an agency or authority of the United States of America, an agency or authority of the State of New Jersey, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.
5. Seller is not an individual, estate or trust and as such not required to make an estimated payment pursuant to N.J.S.A.54A:1-1 et seq.
6. The total consideration for the property is \$1,000 or less and as such, the seller is not required to make an estimated payment pursuant to N.J.S.A. 54A:5-1-1 et seq.
7. The gain from the sale will not be recognized for Federal income tax purposes under I.R.C. Section 721, 1031, 1033 or is a cemetery plot. (CIRCLE THE APPLICABLE SECTION). If such section does not ultimately apply to this transaction, the seller acknowledges the obligation to file a New Jersey income tax return for the year of the sale (see instructions).
- No non-like kind property received.
8. Transfer by an executor or administrator of a decedent to a devisee or heir to effect distribution of the decedent's estate in accordance with the provisions of the decedent's will or the intestate laws of this state.

SELLER(S) DECLARATION

The undersigned understands that this declaration and its contents may be disclosed or provided to the New Jersey Division of Taxation and that any false statement contained herein could be punished by fine, imprisonment, or both. I furthermore declare that I have examined this declaration and, to the best of my knowledge and belief, it is true, correct and complete.

_____	_____
Date	Signature (Seller) Please indicate if Power of Attorney or Attorney in Fact
_____	_____
Date	Signature (Seller) Please indicate if Power of Attorney or Attorney in Fact

