

FAQs on GIT Forms Requirements for Sale/Transfer of Real Property in New Jersey

(from Department of Treasury – Division of Taxation)

Q: What is the GIT/REP form?

A: The GIT/REP form is a Gross Income Tax form that is required to be recorded with a deed when selling/transferring real property in New Jersey.

Q: Why is the GIT/REP form needed?

A: In accordance with C. 55, P.L. 2004 as amended by C. 20, P.L. 2005, a GIT/REP form is needed in order to record a Deed for the transfer of real property located in New Jersey.

Q: What is the purpose of the GIT/REP form?

A: The purpose of the GIT/REP forms is to determine whether or not a non-resident seller/grantor is required to make an Estimated Gross Income Tax payment upon the sale/transfer of real property located in New Jersey.

Q: Who is required to complete and sign a GIT/REP-1, -2, or -3 form in order to record the deed?

A: The resident or Non-Resident seller/grantor/written authorized representative (who has a signed Power of Attorney or Letter of Authority) that is required to sign the deed for the sale/transfer of real property in New Jersey, other than Sheriff's Sales and Bankruptcy Trust Sales, is the person required to complete and sign the GIT/REP-1, -2, or -3 form.

Q: Who is required to complete and sign a GIT/REP-4 form in order to record the deed?

A: The GIT/REP-4 form is completed by the buyer/grantee/written authorized representative and no signature is required.

Q: Who is required to complete and sign a GIT/REP-4a form in order to record the deed?

A: The GIT/REP-4a form is completed and signed by the buyer/grantee/written authorized representative.

Q: What is a resident taxpayer?

A: A resident taxpayer is one of the following:

An Individual who is and intends to continue to maintain a permanent place of abode (home, residence) in New Jersey on/after the day of transfer.

An Estate established under the laws of New Jersey as more fully defined in N.J.S.A. 54A:1-2(o).

A Trust established under the laws of New Jersey as more fully defined in N.J.S.A. 54A:1-2(o).

Q: What is a non-resident taxpayer?

A: A non-resident taxpayer is any taxpayer that does not meet the definition of a resident taxpayer.

Q: When did the filing requirements for the GIT/REP forms take effect?

A: The effective date for filing the GIT/REP forms was August 1, 2004 (P.L. 2004, c. 55, as amended by P.L. 2005, c. 20).

Q: I have a deed that was executed and transacted prior to the effective date of the law, am I still required to complete and sign a GIT/REP form?

A: Yes. A GIT/REP-4 form must be submitted to the Division of Taxation Regulatory Services Branch for approval. The original form will be returned with the Division's Seal to be recorded with the deed. The form should name the grantee as the owner. No signature is required.

Q: Who is required to make an Estimated Gross Income Tax Payment?

A: Non-resident seller(s)/grantor(s) selling/transferring real property in New Jersey, unless they qualify for one of the seller's assurances listed on the GIT/REP-3 form.

Q: Where can instructions be found for completing the GIT/REP forms?

A: Instructions are located on page 2 of the GIT/REP forms.

Q: Where can I get the GIT/REP forms?

A: The GIT/REP forms can be obtained at one of our regional offices which can be found by clicking on About the Division on the Division's Homepage or can be downloaded from the Division's website by clicking on one of the links provided on the previous page.

Q: When is the GIT/REP form required to be submitted?

A: The GIT/REP form is required to be submitted at the time of closing.

Q: Where does the estimated gross income tax payment get sent at the time of closing?

A: The estimated gross income tax payment must be included with the GIT/REP-1 form and the deed for recording with the appropriate county clerk. The county clerk forwards the GIT/REP-1 form along with payment to the Division of Taxation. The 1040-ES (Estimated Gross Income Tax Payment voucher) on the GIT/REP-1 form and the seller's/grantor's payment must indicate the seller's/grantor's social security number in order for the payment to be credited to the proper taxpayer's account.

Q: I am a New Jersey resident individual, estate or trust. Which GIT/REP form am I required to complete & sign in order to record the deed?

A: A New Jersey resident individual, estate or trust is required to complete & sign the GIT/REP-3 form in order to record the deed.

Q: I am not a New Jersey resident individual, estate or trust. Which GIT/REP form am I required to complete & sign in order to record the deed?

A: A non-resident individual, estate or trust is required to complete and sign the GIT/REP-1 or GIT/REP-2 form in order to record the deed, unless the non-resident individual, estate or trust meets one of the seller's assurances listed on the GIT/REP-3 form.

Q: I moved out of New Jersey on or after the day of transfer. Am I considered a resident or a non-resident?

A: When you move out of the State of New Jersey on or after the day of transfer you are considered a non-resident. Part-year residents are considered non residents.

Q: I moved out of New Jersey on or after the day of transfer. Can I qualify for an exemption under Section 121?

A: Yes. You can qualify for an exemption under Section 121 if the real property being sold or transferred was used exclusively as your principal residence within the meaning of section 121 of the federal Internal Revenue Code of 1986, 26 U.S.C. s. 121. The requirements outlined in the Internal Revenue Service Publication #523 must all be met. However, if your entire gain cannot be excluded from your gross income, you do not qualify for the exemption.

Q: How do non-resident sellers/grantors calculate the estimated Gross Income Tax payment on the sale/transfer of real property in New Jersey?

A: In accordance with N.J.S.A. 54A:8-9(a), the gain on the sale/transfer is multiplied by the highest rate of tax (8.97% effective 8-1-2004) for the taxable year provided in N.J.S.A. 54A:2-1, but the estimated tax payment shall not be less than 2% of the consideration for the sale or transfer stated in the deed affecting the conveyance.

Q: I am a non-resident individual. Which box is the appropriate box to be checked on the GIT/REP-1 1040-ES voucher?

A: All non-resident individuals are required to check the box indicating NJ-1040NR.

Q: What is "Consideration"?

A: "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.

Q: When a non-resident seller has sent the required payment to the Division of Taxation in error, how can this be corrected in order to record the deed?

A: When a nonresident seller has sent his/her GIT/REP-1 from with payment to the Division of Taxation in error, the seller or his/her written authorized representative must complete a GIT/REP-2 form and bring it to one of the Division field offices. Along with the completed

GIT/REP-2 form, the nonresident seller(s)/grantor(s) should provide the following: a copy of the deed, settlement statement, completed and signed GIT/REP-1 form, power of attorney or letter of authority and a copy of the cancelled check showing proof of payment of estimated taxes. After receipt of payment has been verified, the Division will stamp the GIT/REP-2 form with the Division's raised seal so the seller may have the deed recorded with the appropriate county clerk.

Q: If a non-resident seller/grantor recognizes no gain from the sale or transfer of real property in New Jersey, is he/she required to make an estimated Gross Income Tax payment?

A: Yes. Even if no gain is recognized by the seller(s)/grantor(s), the minimum 2% of the total consideration stated on the deed must still be paid on or before the time of closing.

Q: A non-resident seller/grantor has submitted the required estimated gross income tax payment on the sale of real property in New Jersey, but believes he/she is entitled to a refund and does not want to wait to file a New Jersey Non-Resident Gross Income Tax Return. Can a refund be obtained earlier?

A: Yes. The non-resident seller/grantor can complete an A-3128 refund form and forward it to the Division's Taxpayer Accounting Branch as specified on the form.

Q: When there are two or more owners selling real property in New Jersey, are separate GIT/REP forms required to be completed and signed?

A: Yes, except for married couples who intend to file a joint New Jersey Income Tax Return. Married couples who intend to file separately are required to complete and sign separate forms.

Q: When there are two or more owners selling real property in New Jersey, that they own as tenants in common, and one is a non-resident, how is the Estimated Gross Income Tax calculated?

A: The non-resident seller/grantor shall estimate the gross income tax due by multiplying the percentage of ownership times the gain used for federal income tax purposes times the highest rate of tax (8.97%) for the taxable year provided in N.J.S.A. 54A:2-1, but the estimated payment shall not be less than 2% of the non-resident's percentage of the consideration for the sale or transfer stated in the deed affecting the conveyance.

Q: When an estate is selling/transferring real property in New Jersey, who is required to complete and sign a GIT/REP form in order to record the deed?

A: The estate is responsible for completing the GIT/REP form based on its residency status. The appropriate form is to be completed with the seller's/grantor's information being that of the estate. If there is a Will, then the executors/beneficiaries or their written authorized representative(s) who is/are required to sign the deed are responsible for signing the

completed GIT/REP form. If there is no Will, then the administrator of the estate must sign the form.

Q: If an interest in real property is received by a beneficiary of a Will pursuant to the Will's directives and then sold to a third party outside the provisions of the Will, who is responsible for completing the GIT/REP form and which form is required?

A: The beneficiary(ies) who received the interest and is/are now selling/transferring it is/are responsible for completing the appropriate GIT/REP form based on his/her/their residency status.

Q: When there is more than one executor for an Estate, can just one GIT/REP form be signed and submitted?

A: Yes. All of the executors can sign and submit one GIT/REP form and an attachment for additional signatures is acceptable.

Q: When a Trust is selling/transferring real property in New Jersey, who is required to complete and sign a GIT/REP form?

A: The Trust is responsible for completing the GIT/REP form based on the Trust's residency status. The appropriate form is to be completed with the seller's/grantor's information being that of the Trust. The Trustee(s) or his/her/their written authorized representative(s) that is/are required to sign the deed is/are responsible for signing the completed GIT/REP form.

Q: When there is more than one trustee for a Trust, can just one GIT/REP form be signed and submitted?

A: Yes. All of the trustees can sign and submit one GIT/REP form and an attachment for additional signatures is acceptable.

Q: I am an executor/trustee of a non-resident estate or trust. Which box is the appropriate box to be checked on the GIT/REP-1 1040-ES voucher?

A: All non-resident estates and trusts are required to check the box indicating NJ-1041.

Q: Do Corporations, Partnerships, and LLC's have to complete and sign a GIT/REP form in order to record the deed?

A: Yes.

Q: What form does a Resident/Non-Resident Corporation, Partnership, or Multi-Member LLC have to complete and sign in order to record the deed?

A: A Resident/Non-Resident Corporation, Partnership, or Multi-Member LLC is required to complete and sign the GIT/REP-3 form (Seller's Residency Certification/Exemption). Check box #5 under seller assurances (Seller is not an individual, estate, or trust).

Q: What form do Resident/Non-Resident Single-Member LLCs have to complete and sign in order to record the deed?

A: If a Resident Single-Member LLC files as a corporation for tax purposes – the Resident Single-Member LLC is required to complete and sign the GIT/REP-3 form. Check box #5 under seller assurances (Seller is not an individual, estate, or trust).

A: If the Resident Single-Member LLC elects to file as an individual for tax purposes – the Resident Single-Member LLC is required to complete and sign the GIT/REP-3 form. Check box #1 under seller assurances (I am a resident taxpayer . . .).

A: If a Non-Resident Single-Member LLC elects to file as an individual for tax purposes – the Non-Resident Single-Member LLC is required to complete and sign the GIT/REP-1 form and submit an estimated payment, except if consideration is less than \$1,000.00 - then file the GIT/REP-3 and check box #6 under seller assurances (The total consideration for the property is \$1,000 or less . . .).

Q: If a non-resident grantor is conveying property by quitclaim deed to his/her brother/sister/ex-wife/etc. for \$1,000 or less, does he/she need to get a GIT/REP-4 form with the raised seal from the Division of Taxation?

A: No. The non-resident grantor would complete a GIT/REP-3 form and check off #6 under seller assurances (The total consideration for the property is \$1,000 or less . . .).

Q: Is transfer of real property from parent(s) to child(ren) exempt under one of the seller assurances on the GIT/REP-3 form?

A: No. There are no special exemptions for parent(s) to child(ren) transactions. Such transactions are treated in the same way as any other transaction between individual parties.

Q: If real property is sold to a county or municipality, is/are the seller(s) exempt from payment under the seller's assurance box #4 on the GIT/REP-3 form?

A: No. The seller(s)/grantor(s) must fill out the appropriate GIT/REP form based on his/her/their residency status. A county or municipality is not considered 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.

Q: Is a GIT/REP form required for Master Deeds, Leases, or Deeds of Easement?

A: No.

Q: I am a non-resident seller/grantor from a foreign country and do not have a social security number. I have applied for one but have not yet received it and the county clerk will not accept my GIT/REP-1 form without it. How will the deed be accepted for recording?

A: The seller/grantor must attach a copy of a completed W-7 TIN application form (obtained from the IRS) to their GIT/REP-1 form to be submitted with the deed for recording with the appropriate county clerk.

Q: The seller(s)/grantor(s) refuses to sign the appropriate GIT/REP form and does not execute a Power of Attorney or otherwise give written authorization to anyone else to sign on their behalf. May the grantor's attorney still sign the form and have it recorded with the deed or may a GIT/REP-4 waiver form be acceptable?

A: All GIT/REP forms are required to be personally certified first hand, by way of their own signature or that of another individual with written authorization using a Power of Attorney or Letter of Authority from the seller(s)/grantor(s). It is the responsibility of the buyer(s)/grantee(s) or that of their written authorized representative to be sure a GIT/REP form is completed at the time of closing. The appropriate county clerk will not accept a deed for recording unless accompanied by a properly completed and signed GIT/REP-1, -2 or -3 form. Failure by either party to comply with this procedure is NOT a basis for seeking a GIT/REP-4 waiver, although in those instances where it is impossible to obtain the seller's/grantor's signature, the Division will consider a request for a waiver.

Q: When can the GIT/REP-4a form be used?

A: For corrective deed situations such as where the originally filed deed had a typographical or spelling error, the metes and bounds description was incorrect, and the like, provided there is no change in the amount of consideration.

Q: New Jersey real estate is sold for a total consideration of \$350,000.00. A non-resident seller receives only \$50,000.00 in cash at the closing. The balance of \$300,000.00 is to be paid by the buyer to the seller in installments of \$60,000.00 plus interest each over the course of five years pursuant to the terms of a mortgage/installment contract. The conveyance of the deed takes place at the closing. How much is the required estimated tax payment due on the sale of property in New Jersey and when is the estimated tax payment due?

A: The non-resident seller must pay the minimum 2% of the total consideration as recited in the deed at the time of closing, but may then seek a refund based on the actual consideration received for the tax year or choose to credit/forward the overpaid balance to subsequent tax years. Thereafter, the seller will pay income tax on the installment payments (plus interest) received during the taxable year from the buyer when the seller files his/her non-resident income tax returns.

Q: A non-resident seller and a buyer enter into an installment sales contract whereby the buyer agrees, upon signing the contract, to make an initial payment of \$50,000.00 to the seller. The balance of \$300,000.00 is to be paid in installments of \$60,000.00 each over the course of five years. The conveyance of the deed is not to take place until all payments have

been made. How much is the required estimated tax payment due on the sale of property in New Jersey and when is the estimated tax payment due?

A: Subsequent to the commencement of the installment sales contract the non-resident seller must pay income tax on all payments received during the taxable year from the buyer when the seller files his/her non-resident income tax returns. When the final installment payment is made by the buyer and the deed is conveyed, the seller must go to a Division field office to make the minimum 2% estimated tax payment on the buyer's final payment received. Secondly, the Division of Taxation will verify all tax payments made by the seller on the total amounts received from the buyer and all related non-resident tax returns. The seller will complete a GIT/REP-2 form which will then be stamped with the Division's raised seal and act as a receipt for the seller to be forwarded to the appropriate county clerk with the deed for recording (see Technical Bulletin No. 57, subparagraph 2).

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