



# Estimated Gross Income Tax Payment Requirements on Sales of New Jersey Real Property by Nonresidents

**TB-57(R) – Revised January 30, 2024**  
**Tax: Gross Income Tax**

In general, a nonresident individual, estate, or trust that sells or transfers real property in New Jersey must make an estimated Gross Income Tax payment prior to the recording of the deed as provided by [N.J.S.A. 54A:8-8](#) through 8-10. The seller (or transferor or grantor, as appropriate) will remit the payment to the Division of Taxation before or at the closing and file the estimated tax form, whether or not they have a gain on the sale or transfer.

The nonresident taxpayer will calculate the estimated tax due by multiplying the reportable gain for federal income tax purposes, if any, by a tax rate equal to the highest rate for the tax year provided in [N.J.S.A. 54A:2-1](#). In addition, the law requires that the estimated tax payment is not less than 2% of the seller's consideration for the sale or transfer stated in the deed affecting the conveyance.

The law prohibits a county recording officer from recording, or accepting for recording, any deed for the sale or transfer of real property, unless it is accompanied by the appropriate GIT/REP form, as prescribed by the Director of the Division of Taxation, and the payment of any estimated tax due.

However, no estimated tax payment or GIT/REP form is needed to record a sheriff's deed in a foreclosure sale (see [Memorandum, Sheriff Sale](#)) or a bankruptcy trustee's deed in a bankruptcy action (see [Memorandum, Bankruptcy Trustee Sales](#)).

## **Required Estimated Payment GIT/REP Forms**

To have a deed recorded, the seller, buyer, transferee, or grantee, must complete the appropriate **GIT/REP** forms, which are discussed below. These forms are available on the Division's [website](#) under the tab "Real Estate Sellers."

### **GIT/REP-1: Nonresident Seller's Tax Declaration**

A nonresident individual, estate, or trust selling property in New Jersey must complete the [GIT/REP-1](#), unless they meet an exemption (GIT/REP-3) or qualify for a waiver (GIT/REP-4), and present that form to the settlement agent (usually the buyer's attorney or title company) at closing, along with the required estimated income tax payment. The settlement agent must file the GIT/REP-1, [RTF-1](#) payments, and deed with the appropriate county clerk for recording.

*Payment Procedure When a Non-U.S. Citizen Does NOT Have a Social Security Number or Federal Tax Identification Number.* When completing the GIT/REP-1, the seller must complete a W-7 TIN application form and attach it to the GIT/REP-1, regardless of whether the seller submitted the W-7 to the IRS. The county clerk will forward the nonresident withholding tax, the bottom part of the GIT/REP-1, and the W-7 to the State. Note: Prepaying at a Division of Taxation Regional Office, in order to obtain an approved GIT/REP-2 prior to closing, may reduce potential delays in such a situation. (see below).

### **GIT/REP-2: Nonresident Seller's Tax Prepayment Receipt**

A nonresident individual, estate, or trust selling property in New Jersey may make their estimated income tax payment prior to closing by submitting the GIT/REP-1 and payment with the completed [GIT/REP-2](#) for certification at one of the Division's [Regional Information Centers](#) (RIC). The Division

will not certify a GIT/REP-2 without the required estimated income tax payment. Upon receipt of the payment, a Regional Information Center employee will stamp (i.e., certify) the form with the Division's raised seal. The GIT/REP-2 is only valid if the Division's raised seal is affixed.

Once certified, the GIT/REP-2 form serves as a receipt, which the seller must give to the settlement agent at closing. The settlement agent must file the GIT/REP-2, [RTF-1](#) (and associated realty transfer fees), and the deed with the appropriate county clerk for recording.

*Estimated Payment Sent In Error.* A nonresident seller must give the completed GIT/REP-1 and estimated tax payment to the settlement agent at closing. However, if a nonresident seller submits the GIT/REP-1 and estimated payment to the Division of Taxation in error, instead of prepaying at a Division of Taxation Regional Information Center to obtain a certified GIT/REP-2, the seller (or appointed representative) must complete the GIT/REP-2 and bring it to one of the Division's [Regional Information Centers](#) for certification, along with the following:

- A copy of the deed;
- A copy of the settlement statement or closing disclosure form;
- The completed and signed GIT/REP-1;
- Power of Attorney or Letter of Authority, if applicable; and
- A copy of the cancelled check showing proof of payment of estimated taxes.

A Regional Information Center employee will verify receipt of payment and then stamp the GIT/REP-2 with the Division's raised seal so the seller may have the deed recorded with the county clerk.

*Deed(s) E-filed with the County When Estimated Payment is Electronic and Made Directly to the State.* If a nonresident seller electronically filed a deed with the county and electronically made the estimated payment to the Division of Taxation, see the *Estimated Payments Sent in Error* procedures ([above](#)).

### **GIT/REP-3: Seller's Residency Certification/Exemption**

The [GIT/REP-3](#) can be used by both residents and nonresidents, provided that one of the seller's assurances applies to the seller's situation. The seller's U.S. citizenship status is not relevant. While box 1 can only be used by New Jersey residents (including non-U.S. citizens), boxes 2 through 16 can be used by nonresidents (including non-U.S. citizens).

If a seller is not required to prepay the estimated tax because they meet one of the recognized exemptions on the GIT/REP-3, they must complete the GIT/REP-3 and provide it to the settlement agent at closing. The settlement agent must file the GIT/REP-3, [RTF-1](#), and the deed with the appropriate county clerk for recording.

Clarifications for Common Seller Assurances:

*Box 2.* Provided the seller(s) meet the principal residence requirement and the time period set forth at 26 U.S.C. section 121, the seller(s) is eligible to check box 2. If the seller(s) proceeds exceed the excludable capital gains, the seller must pay tax on those gains when they file their NJ-1040 or NJ-1040NR.

*Box 5.* Sellers that are corporations, partnerships, limited partnerships, S corporations, Qualified Subchapter S corporations, business trusts (not owned by individuals), limited liability companies, non-profit organizations, or another business entity that is taxed as a corporation, partnership, or S corporation, should check box 5.

*Box 12.* A seller is eligible to check Box 12 for transfers incidental to a divorce decree or property settlement agreement under 26 U.S. Code section 1041. The transfer of property is incidental to the divorce if such transfer:

- Occurs within 1 year after the date on which the marriage ceases; or
- Is related to the cessation of the marriage.

*Box 14.* Acceptable uses indicating no net proceeds from the sale include:

- The seller is required to pay money at the time of closing in addition to funds being transferred (other than the 2% nonresident withholding) and the seller is not receiving any proceeds and does not have a gain;
- One of the sellers was merely a co-signer to the mortgage and the bank originally required them to be listed, but all of the proceeds of the sale are going to the other seller(s);
- Upon the sale, all of the proceeds are being paid to the bank and the seller is not receiving any funds.

*Capital Loss.* If the seller is selling for a capital loss, they must request a waiver from the Division. (See GIT/REP-4 (below) for more information).

#### **GIT/REP-4: Waiver of Seller's Filing Requirement of GIT/REP Forms and Payment**

In addition to the exemptions listed on the GIT/REP-3, there may be situations in which the waiver of the estimated tax payment requirement may be appropriate.

However, for non-governmental sellers and if the GIT/REP-3 is applicable to the situation, the Division will not approve the GIT/REP-4 and will inform the applicant of the appropriate box(es) to complete on the GIT/REP-3. If the seller is the federal, State (or other state), or local government or an instrumentality thereof, is a federally recognized tribe or an instrumentality thereof, or is a foreign government or an instrumentality thereof, the seller may either request a waiver or the designated officer/agent may complete and sign the GIT/REP-3 and check box 5.

The GIT/REP-4 is only applicable prior to the recording of the deed. Waiver requests for deeds that have already been recorded with the county clerk will be rejected. No claims for refunds for deeds that have already been recorded can be made using the GIT/REP-4. In such circumstances, the seller can mail Form A-3128 to the Division of Taxation, Taxpayer Accounting Branch. See *Refund Claims* ([below](#)) for more information.

To request a waiver, the seller or their representative must send the completed [GIT/REP-4](#), along with copies of the original deed to the seller, the proposed deed, the settlement statement or closing disclosure form that verifies the transaction date, and a letter detailing the reason(s) for the waiver request to: [Taxation.RegulatoryServices@treas.nj.gov](mailto:Taxation.RegulatoryServices@treas.nj.gov).

Alternatively, such waiver requests can be mailed to:

Regulatory Services Branch  
NJ Division of Taxation  
P.O. Box 269  
Trenton, NJ 08695-0269

The request must include either a telephone number or email address in case Division personnel have questions regarding the transaction or require further documentation in order to grant the waiver.

If the property is being transferred pursuant to a court order, a copy of that order also must be

included. If the buyer is filing the GIT/REP-4 because he or she is unable to obtain the buyer's signature for the GIT/REP-3, the waiver request must include a copy of the deed, prior deed, and other supporting documentation.

If the property is being sold for a capital loss due to capital improvements, the seller must provide an itemized list of the improvements with corresponding dollar amounts.

It is recommended that the waiver requests are submitted at least 14 days prior to closing.

If the waiver request is approved, the Division will affix the raised seal to the form and send it to the buyer for forwarding to the appropriate county clerk to record with the deed and RTF-1. If the waiver request is rejected, the Division will send an explanation for the denial along with the proper form for the buyer to use to record the deed.

If the [GIT/REP-4A](#) (see below) is the proper form to complete, the Division will not approve the GIT/REP-4.

### **GIT/REP-4A: Waiver of Seller's Filing Requirement of GIT/REP Forms and Payment for Corrected Deed with No Consideration**

Form GIT/REP-4A is used to correct errors on the original deed such as typographical/spelling errors or incorrect metes and bounds descriptions. The current owner of the property, at the time the corrected deed is filed with the county clerk, completes the [GIT/REP-4A](#). The owner must sign and date the GIT/REP-4A and file it with the deed. The GIT/REP-4A is submitted along with the RTF-1 and the county deed to the county clerk. The GIT/REP-4A does not need to be approved by the Division of Taxation prior to recording.

### **Administrators, Executors, and Trustees Completing GIT/REP Forms on Behalf of an Estate or Trust.**

Each administrator, executor, or trustee listed in that capacity on the deed on behalf of the estate or trust transferring the property must complete and sign the GIT/REP-1, 2, 3, or 4A. If the administrator, executor, or trustee is also listed as a beneficiary who joined as a seller, then the individual must complete the GIT/REP-1, 2, 3, or 4A in their individual capacity. Similarly, when completing the GIT/REP-4, each administrator, executor, or trustee must be included.

If a resident estate or trust is the seller, the administrators, executors, or trustees may complete the GIT/REP-3 and sign on behalf of the resident estate or trust. The administrators, executors, or trustees will provide documentation to the county clerk that the estate or trust is a resident estate or trust. Provided that the nonresident administrators, executors, or trustees provide proof to the county clerk that the estate or trust is a resident estate or trust, the county clerk will accept the GIT/REP-3. However, if the county clerk's office refuses to accept the validly completed GIT/REP-3, the administrator, executor, or trustee may request a waiver from the Division.

### **GIT/REP Form Errors**

If there is an error on the GIT/REP-1, GIT/REP-2, GIT/REP-3, GIT/REP-4, or GIT/REP-4A that accompanied a validly recorded, accurately completed deed, pursuant to [N.J.S.A. 54A:8-10.g](#), the recording of such deed is not invalid and the title is not impaired by errors made on the GIT/REP forms. Thus, the deed would not have to be re-recorded to correct errors on any GIT/REP forms.

## Missing or Unprocessed Payments

If a payment of the nonresident withholding is lost or otherwise remains unprocessed, the seller should cancel the check and the GIT/REP-1, and resubmit a reissued check for the withholding payment to:

State of New Jersey  
Revenue Processing Center  
PO Box 222  
Trenton, NJ 08646-0222

## Refund Claims

If the seller paid the nonresident withholding tax and the deed was subsequently recorded with the county clerk, the seller can either claim a refund of the excess withholding when the seller files their nonresident income tax return (Form [NJ-1040NR](#)) for the year of the sale, or the seller can complete and mail Form [A-3128](#) (Claim For Refund of the Estimated Gross Income Tax Payment for the Sale of New Jersey Real Estate) along with supporting documents to:

Division of Taxation  
Taxpayer Accounting Branch  
PO Box 046  
Trenton, NJ 08646-0046

A claim for refund using the A-3128 may also be filed if a circumstance listed on the GIT/REP-3 was applicable but the GIT/REP-3 had not been completed at the time of recording the deed with the county clerk. A copy of the GIT/REP-3 form should be filed along with Form A-3128 that is submitted to the Division of Taxation.

## Additional Information

[Online list of Regional Information Centers and contact information.](#)

More information on the Gross Income Tax (GIT) forms required for sale or transfer of real property in New Jersey can be found in the Division's online [FAQ](#).

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**Note:** A Technical Bulletin is an informational document designed to provide guidance on a topic of interest to taxpayers and describe changes to the law, regulations, or Division policies. It is accurate as of the date issued. However, taxpayers should be aware that subsequent changes in the tax law or its interpretation may affect the accuracy of a Technical Bulletin. The information provided in this document does not cover every situation and is not intended to replace the law or change its meaning.