



TAX ALERT: NONRESIDENT'S TRANSFER OF PROPERTY IN NEW JERSEY

Effective August 1, 2004, New Jersey (P.L. 2004, Chapter 55) has required nonresident individuals, estates, or trusts that sell or transfer real property in New Jersey to make an estimated gross income tax payment on their gain as a condition to record the deed. The amount to be withheld was 8.97% (the top NJ income tax rate) of the gain, but in no case less than 2% of the total consideration received (gross sales price).

As of October 8, 2004, an exemption of this withholding requirement is available for sellers completing a 1031 exchange. To request the exemption, an exchanger must complete and sign NJ Form GIT/REP-3, *Seller's Residency Certification/Exemption*.

For a Section 1031 like-kind exchange, the seller **checks Box 7 on the form and circles IRC Section 1031**. Sellers claiming a federal principal residence exclusion under IRC Section 121 will check Box 2.

The form is given to the buyer or the buyer's attorney at closing. The original form then must be submitted to the county clerk at the time of the recording of the deed. The form will be filed with the deed.

For more information and copies of Form GIT/REP-3 and instructions, exchangers should contact the NJ Division of Taxation (Taxpayers Services Branch, telephone number 609-292-6400), their settlement/closing attorney, or their title officer.

This publication is designed to provide accurate information on tax-deferred exchanges. The publisher is not engaged in rendering legal or accounting services. If legal or tax advice is required, the services of a competent professional should be sought.

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