

**TAX ALERT:  
NONRESIDENT NEW YORK STATE  
PROPERTY OWNERS**

New York State has revised and simplified its earlier procedures for nonresident individual, trust or estate sellers and exchangors to claim an exemption from the payment of estimated income tax on the gain from the sale of their real estate.

Previously, a nonresident exchangor had to file Form IT-2663 with the NYS Department of Taxation and Finance to get a tax exemption certificate prior to settlement. They had to pay in advance the estimated capital gains tax or the deed for the property could not be recorded.

Now the exchangor only needs to complete revised Form IT-2663, Nonresident Real Property Estimated Income Tax Payment Form. After Line 4B of Part III on the Form IT-2663, the exchangor provides a brief summary of the exchange indicating that the transaction qualifies as an IRC Section 1031 Like Kind exchange. Form IT-2663-V is still completed even if no estimated income tax is due. Form IT-2663 is filed with the County recording officer following settlement.

If there is gain to be recognized, it is taxed at 8.82% (2012 rate), and the tax payment is now made by separate check to NYS Income Tax and given to the County recording officer. If the nonresident owner qualifies on the sale of the property for principal residence exclusion in accordance with Federal IRC Section 121, then New York will exempt the paying of the estimated income tax if the nonresident owner submits a signed copy of Part II, Schedule D, Form TP-584.

To avoid having to pay an estimated capital gains income tax at settlement, nonresident New York State exchangors should coordinate in advance with their settlement attorney. The forms TP-584 and IT-2663, along with instructions, are available at: <http://www.tax.ny.gov>.

---

*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.*