



Instructions for Form TP-584

New York State Combined Real Estate Transfer Tax Return and Credit Line Mortgage Certificate

General Instructions

Purpose of Form TP-584

Form TP-584 is required to be used to comply with the filing requirements of the Real Estate Transfer Tax (Article 31 of the Tax Law) and the Tax on Mortgages (Article 11 of the Tax Law), as it applies to the Credit Line Mortgage Certificate.

Who Must File

Form TP-584 must be filed for each conveyance of real property from a grantor to a grantee.

It may not be necessary to complete all the schedules on Form TP-584. The nature and condition of the conveyance will determine which of the schedules you must complete. Please see the specific instructions for completing each schedule.

Note: Public Utility Companies, regulated by the Public Service Commission, and governmental agencies that are granted easements and licenses for consideration of less than \$500, may use Form TP-584.2, *Real Estate Transfer Tax Return for Public Utility Companies' and Governmental Agencies' Easements and Licenses*, to record these conveyances. For purposes of Form TP-584.2, a governmental agency is the United Nations, the United States of America, the State of New York, or any of their instrumentalities, agencies or political subdivisions or any public corporation, including a public corporation created pursuant to an agreement or compact with another state or the Dominion of Canada.

A conveyance of an easement or license to a public utility company where the consideration is \$2 or less and is clearly stated as actual consideration in the instrument of conveyance does not require the filing of Form TP-584 or Form TP-584.2.

When and Where to File

Form TP-584 is to be filed with the recording officer of the county where the real property being conveyed is located no later than the fifteenth day after the delivery of the instrument effecting the conveyance. However, if the instrument effecting the conveyance is not to be recorded or is to be recorded later than the time required to file Form TP-584 and to pay any real estate transfer tax, file Form TP-584 and pay any real estate transfer tax due no later than the fifteenth day after the delivery of the instrument effecting the conveyance, directly with:

NYS TAX DEPARTMENT
TTTB-TRANSFER TAX
PO BOX 5045
ALBANY NY 12205-5045

Schedule B

Real Estate Transfer Tax Return

Imposition of Tax

A real estate transfer tax (Part I of this schedule) is imposed on each conveyance at the time the instrument effecting the conveyance is delivered by a grantor to a grantee when the consideration or value of the interest conveyed exceeds \$500. The tax is computed at a rate of two dollars for each \$500 of consideration or fractional part thereof.

An additional tax (Part II of this schedule) is imposed on the conveyance of residential real property where the consideration for the entire conveyance is one million dollars or more. For more information, please refer to the section *Imposition of Additional Tax* on page 3 of these instructions.

Definition of Terms

1. *Person* means an individual, partnership, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee or any other person acting in a fiduciary or representative capacity, whether

appointed by a court or otherwise, any combination of individuals, and any other form of unincorporated enterprise owned or conducted by two or more persons.

2. *Controlling interest* means (a) in the case of a corporation, either 50% or more of the total combined voting power of all classes of stock of such corporation, or 50% or more of the capital, profits or beneficial interest in such voting stock of such corporation, and (b) in the case of a partnership, association, trust or other entity, 50% or more of the capital, profits or beneficial interest in such partnership, association, trust or other entity.

3. *Real property* means every estate or right, legal or equitable, present or future, vested or contingent, in lands, tenements or hereditaments, including buildings, structures and other improvements thereon, which are located in whole or in part within the State of New York. It does not include rights to sepulture.

4. *Consideration* means the price actually paid or required to be paid for the real property or interest therein, including payment for an option or contract to purchase real property whether or not expressed in the deed and whether paid or required to be paid by money, property, or any other thing of value. It shall include the cancellation or discharge of an indebtedness or obligation. It also includes the amount of any mortgage, purchase money mortgage, lien or other encumbrance, whether or not the underlying indebtedness is assumed or taken subject to.

(a) In the case of a creation of a leasehold interest or the granting of an option with use and occupancy of real property, consideration includes, but is not limited to, the value of the rental and other payments attributable to the use and occupancy of the real property or interest therein, the value of any amount paid for an option to purchase or renew and the value of rental or other payments attributable to the exercise of any option to renew.

(b) In the case of a creation of subleasehold interest, consideration includes, but is not limited to, the value of the sublease rental payments attributable to the use and occupancy of the real property, the value of any amount paid for an option to renew and the value of rental or other payments attributable to the exercise of any option to renew, less the value of the remaining prime lease rental payments required to be made.

(c) In the case of a transfer or an acquisition of a controlling interest in any entity that owns real property, consideration means the fair market value of the real property or interest therein, apportioned based on the percentage of the ownership interest transferred or acquired in the entity.

(d) In the case of an assignment or surrender of a leasehold interest or the assignment or surrender of an option or contract to purchase real property, consideration does not include the value of the remaining rental payments required to be made pursuant to the terms of such lease or the amount to be paid for the real property pursuant to the terms of the option or contract being assigned or surrendered.

(e) In the case of (i) the original conveyance of shares of stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold by the cooperative corporation or cooperative plan sponsor and (ii) the subsequent conveyance by the owner thereof of such stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold for a cooperative unit **other than an individual residential unit**, consideration includes a proportionate share of the unpaid principal of any mortgage(s) on the real property of the cooperative housing corporation comprising the cooperative dwelling or dwellings. This amount is determined by multiplying the total unpaid principal of the mortgage by a fraction, the numerator of which is the number of

shares of stock in the cooperative housing corporation being conveyed in connection with the grant or transfer of the proprietary leasehold and the denominator of which is the total number of shares of stock in the cooperative housing corporation.

5. *Conveyance* means the transfer or transfers of any interest in real property by any method, including but not limited to sale, exchange, assignment, surrender, mortgage foreclosure, transfer in lieu of foreclosure, option, trust indenture, taking by eminent domain, conveyance upon liquidation or by a receiver, or transfer or acquisition of a controlling interest in any entity with an interest in real property. Transfer of an interest in real property includes the creation of a leasehold or sublease only where (a) the sum of the term of the lease or sublease and any options for renewal exceed 49 years, (b) substantial capital improvements are or may be made by or for the benefit of the lessee or sublessee, and (c) the lease or sublease is for substantially all of the premises constituting the real property. The conveyance of real property shall not include a conveyance pursuant to devise, bequest or inheritance; the creation, modification, extension, spreading, severance, consolidation, assignment, transfer, release or satisfaction of a mortgage; a mortgage subordination agreement, a mortgage severance agreement, an instrument given to perfect or correct a recorded mortgage; or a release of lien of tax pursuant to the Tax Law or the Internal Revenue Code.
6. *Interest in the real property* includes title in fee, a leasehold interest, a beneficial interest, an encumbrance, development rights, air space and air rights, or any other interest with the right to use or occupancy of real property or the right to receive rents, profits or other income derived from real property. It also includes an option or contract to purchase real property. It does not include a right of first refusal to purchase real property.
7. *Grantor* means the person making the conveyance of real property or interest therein, or where the conveyance consists of a transfer or an acquisition of a controlling interest in an entity with an interest in real property, the entity with an interest in real property or a shareholder or partner transferring stock or partnership interest, respectively.
8. *Grantee* means the person who obtains real property or any interest therein as a result of a conveyance.
9. *Fair market value* means the amount a willing buyer would pay a willing seller for the real property without deducting mortgages or other liens which the property may be taken subject to as part of the sale or transfer.

Real Property Situated Partly Within and Partly Outside the State

When real property conveyed is situated partly within and partly outside the State of New York, the consideration subject to tax is the allocated portion of the total consideration attributable to the property situated within the State of New York.

A statement signed by both the grantor and grantee must be attached to Form TP-584 setting forth the total consideration for the conveyance and describing the method used to apportion the consideration to the real property situated within the State of New York.

Continuing Lien Deduction

Section 1402 of the Tax Law provides that in the case of (1) a conveyance of a one, two or three-family house and an individual residential condominium unit, or an interest therein or (2) conveyances where the consideration is less than \$500,000, the taxable consideration shall exclude the value of any lien or encumbrance remaining thereon at the time of the conveyance.

In addition, Section 1405-B provides that in the case of a resale of an individual residential cooperative unit, the consideration for the interest conveyed shall exclude the value of any liens on certificates of stock or other evidences of an ownership interest in and a proprietary lease from a corporation or partnership formed for the purpose of cooperative ownership of residential interest in real estate remaining thereon at the time of conveyance.

Examples:

- (1) A purchases a one-family residence from B for a total consideration of \$150,000 (\$100,000 in cash and the assumption of B's existing mortgage of \$50,000). Since the existing mortgage which is being

assumed would constitute a continuing lien, in determining the taxable consideration for real estate transfer tax (line 3 of Form TP-584, Schedule B) A can deduct the amount of the mortgage assumed (\$150,000 – 50,000 = \$100,000). Consequently, the tax is not computed on the gross consideration, but rather on gross consideration less the continuing lien (i.e., mortgage assumed).

- (2) A commercial building is sold to A for \$725,000, comprised of \$400,000 in cash and the assumption by A of an existing \$325,000 mortgage. Since the consideration for the conveyance exceeds \$500,000, the transfer tax must be computed on \$725,000, and the continuing lien deduction is not applicable.

If a conveyance is pursuant to or in lieu of an action to foreclose a mortgage, lien or other security interest, the amount of the continuing lien deduction **does not include** the amount of the debt secured by that mortgage, lien or other security interest, which is the subject of the conveyance.

Conveyance of a Leasehold Grant

The consideration paid to the grantor for the grant of a taxable lease is the present value of the right to receive the net rental payments for the term of the lease.

A discount rate equal to 110% of the federal long-term rate compounded semiannually, which was in effect 30 days prior to the date of transfer is required to be used in determining the present value of the right to receive net rental payments for transfer tax purposes. If the taxpayer establishes (a) that a discount rate which is greater than 110% of the federal long-term rate is appropriate in his or her particular circumstances, and (b) that using a discount rate equal to 110% of the federal long-term rate results in a computation of consideration which exceeds the fair market value of the real property subject to the lease or sublease, the Department will allow the use of a discount rate that results in a computation of consideration that is equal to the fair market value of such real property.

For a lease created for a term of less than forty-nine years which contains an option to purchase the real property, net rental payments for periods that occur after an option is no longer exercisable are not included in the calculation of consideration.

Transfer or Acquisition of a Controlling Interest

A transfer of a controlling interest is deemed to have occurred when a grantor transfers a *controlling interest* to one or more grantees within a **three** year period.

An acquisition of a controlling interest is deemed to have occurred when a grantee acquires a *controlling interest* from one or more grantors within a **three** year period.

Example:

A acquires a 10% interest in Partnership XYZ, which owns New York real property, from X in December 1989. In March 1991, A acquires an additional 25% interest in Partnership XYZ from X. In January, 1992, A acquires from Y a 25% interest in Partnership XYZ. Since A acquired a total of 50% or more of the partnership interest in Partnership XYZ within a **three** year period, A is deemed to have acquired a controlling interest. Therefore, a conveyance of real property by X and Y has occurred and X and Y will be liable for the payment of real estate transfer tax on their respective transfers of 35% and 25% interests.

Conveyance Pursuant to a Mortgage Foreclosure or any Other Action Governed by the Real Property Actions and Proceedings Law

A conveyance pursuant to a mortgage foreclosure or any other action governed by the provisions of the Real Property Actions and Proceedings Law, such as the enforcement of a mechanic's lien pursuant to Article 3 of the Lien Law, is subject to tax.

Form TP-584.1, Schedule E, Part I must be completed and attached to Form TP-584 in the case of such conveyances.

Conveyance to a Mortgagee or Lienor in Lieu of Foreclosure

A conveyance by a defaulting mortgagor or debtor to the mortgagee or lienor, or its agent, nominee or any entity owned in whole by that

mortgagee or lienor, in lieu of an action to foreclosure a mortgage or lien, in exchange for cancellation of the debt secured by the mortgage or lien is subject to tax.

Form TP-584.1, Schedule E, Part II must be completed and attached to Form TP-584 in the case of such conveyances.

Conveyance in Lieu of or Pursuant to a Secured Party's Enforcement of a Lien, Security Interest or Other Rights On or In Shares of Stock in a Cooperative Housing Corporation and/or Associated Proprietary Lease(s)

A conveyance in lieu of or pursuant to a secured party's enforcement of a lien, security interest or other rights on or in shares of stock in a cooperative housing corporation and/or associated proprietary lease(s), upon default by a debtor is subject to tax.

Form TP-584.1, Schedule E, Part III must be completed and attached to Form TP-584 in the case of such conveyances.

Conveyance in Lieu of or Pursuant to a Secured Party's Enforcement of a Lien, Security Interest or Other Rights On or In Shares of Stock, Partnership Interests or Other Instruments (i.e., Transfer or Acquisition of a Controlling Interest)

A conveyance in lieu of or pursuant to a secured party's enforcement of a lien, security interest or other rights on or in shares of stock, partnership interests or other instruments, upon default by a debtor (i.e., the transfer or acquisition of a controlling interest in an entity with an interest in real property), is subject to tax.

Form TP-584.1, Schedule E, Part IV must be completed and attached to Form TP-584 in the case of such conveyances.

Conveyance Which Consists of a Mere Change of Identity or Form of Ownership or Organization

Section 1405(b)6 of the Tax Law provides an exemption from the real estate transfer tax to the **extent** a conveyance consists of a mere change of identity or form of ownership or organization where there is no change in beneficial interest.

Form TP-584.1, Schedule F must be completed and attached to Form TP-584 in the case of such conveyances.

Conveyance for Which Credit for Tax Previously Paid Will Be Claimed

1. A grantor will be allowed a credit against the tax due on the conveyance of real property to the extent that the tax was paid by the grantor on a prior leasehold grant of all or a portion of the same real property or on the granting of an option or contract to purchase all or a portion of the same real property, by the grantor.

Form TP-584.1, Schedule G, Part I must be completed and attached to Form TP-584 to support any credit claimed.

2. A credit will be allowed upon the original conveyance of shares of stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold by the cooperative corporation or cooperative plan sponsor, provided the first conveyance of shares of stock takes place within 24 months from the conveyance of the real property to the cooperative housing corporation. The credit is limited to the proportionate part of the tax paid when the real property was conveyed to the cooperative housing corporation, to the extent that the conveyance would have otherwise effectuated a mere change of identity or form of ownership of the property and not a change in the beneficial ownership.

Form TP-584.1, Schedule G, Part II, must be completed and attached to Form TP-584 to support any credit claimed.

Penalties and Interest

Penalties

Any grantor or grantee failing to file a return or to pay any tax within the time required shall be subject to a penalty of 10% of the amount of tax due plus an interest penalty of 2% of such amount for each month of delay or fraction thereof after the expiration of the first month after such return was required to be filed or the tax became due. However, the interest penalty shall not exceed 25% in the aggregate.

If the Commissioner of Taxation and Finance determines that such failure or delay was due to reasonable cause and not due to willful neglect, the commissioner shall remit, abate or waive all of the penalty and the interest penalty.

Interest

Daily compounded interest will be charged on the amount of the tax due not paid within the time required.

If it is determined that the tax has been overpaid, and Form TP-592.2, *Claim for Refund*, is submitted within two years from the date of payment, interest shall be allowed and paid on the refund at the rate set pursuant to Section 1416 of the Tax Law.

Who Must Pay the Real Estate Transfer Tax

The real estate transfer tax is to be paid by the grantor. However, if the grantor fails to pay the transfer tax at the time required or if the grantor is exempt from the tax, the grantee shall have the duty to pay the tax.

In the case where the grantee has the duty to pay the transfer tax because the grantor has failed to pay, the tax becomes the joint and several liability of the grantor and the grantee.

Imposition of Additional Tax

An additional tax is imposed on each conveyance of residential real property or interest therein where the consideration for the entire conveyance is one million dollars or more. Residential real property means the following premises that are or may be used in whole or in part as a personal residence at the time of conveyance: a one, two or three-family house; an individual residential condominium unit; a residential cooperative apartment. The rate of tax is one percent of the consideration or part thereof attributable to the residential real property.

The additional tax is to be paid by the grantee at the same time and in the same manner as the real estate transfer tax. If the grantee is exempt from tax, the grantor will have the duty to pay the additional tax.

Examples:

- (1) A conveys to B a **three-family house** for a consideration of \$1,000,000. Since the three-family house constitutes residential real property, the additional tax at a rate of one percent is imposed on the conveyance.
- (2) A conveys to B a two-story building which has a commercial business on the first level and a residence on the second level for a consideration of \$1,500,000. Since the real property includes a **one family** residence, the additional tax at a rate of one percent is imposed on the proportionate amount of consideration attributable to the residential real property.
- (3) A sponsor of a condominium plan conveys to X Corporation three **residential** condominium units. The consideration paid for Unit 1 is \$750,000. The consideration paid for Unit 2 is \$900,000, and the consideration paid for Unit 3 is \$1,250,000. Since the consideration paid for Unit 3 is one million dollars or more, the additional tax is imposed on the conveyance of that unit. However, the additional tax does not apply to Units 1 or 2.

Schedule C

Credit Line Mortgage Certificate

Who Must Complete Schedule C

The Credit Line Mortgage Certificate must be completed and filed for all transfers of a **fee simple interest** in real property.

Privacy Notification

The right of the Commissioner of Taxation and Finance and the Department of Taxation and Finance to collect and maintain personal information, including mandatory disclosure of social security numbers in the manner required by tax regulations, instructions and forms, is found in Articles 8, 11 and 31 of the Tax Law and 42 USC 405(c)(2)(C)(i).

The Tax Department will use this information primarily to determine and administer the mortgage recording and real estate transfer taxes, and for any other purpose authorized by law.

Failure to provide the required information may result in civil or criminal penalties, or both, under the Tax Law and, the failure to secure a refund of all or a portion of the real estate transfer tax or the mortgage recording tax.

This information will be maintained by the Director of the Data Management Services Bureau, NYS Tax Department, Building 8 Room 905, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829; from areas outside the U.S. and Canada, call (518) 485-6800.

Signature

Form TP-584 is to be signed by both the grantor(s) and the grantee(s). If there is not adequate space for all persons to sign, a separate signature sheet may be used and attached to Form TP-584.

Line Instructions for Completing Form TP-584

Schedule A

Name and Address Box

Print or type the names and addresses of the grantor and grantee as they appear in your deed, lease or other instrument which conveys the interest in real property. However, if the conveyance is pursuant to a mortgage foreclosure or any other action governed by the Real Property Actions and Proceedings Law, the defaulting mortgagor or debtor is the grantor. If additional space is needed, please attach a schedule to Form TP-584 setting forth such information.

Location and Description of Property Conveyed

Give the location and description of the interest in real property being conveyed by giving the tax map designation and address as they appear in your deed, lease or other instrument which conveys the interest in real property. You need not include a tax map designation, if the property being conveyed is an individual cooperative apartment. Also, include the name of the city or village, town and county where the property conveyed is located.

Type of Property Conveyed

Indicate by checking the appropriate box whether the property conveyed is a 1 - 3 family house, a residential condominium unit, a residential cooperative apartment, vacant land, or other type of property. If you are conveying a 1 - 3 family house, a residential cooperative apartment or a residential condominium unit, you may be entitled to the continuing lien deduction. See page 2 of these instructions for more information.

Condition of Conveyance

Indicate the condition of conveyance by checking all the condition(s) that apply. If items e, f or g are checked, Form TP-584.1, *Real Estate Transfer Tax Return Supplemental Schedules*, must be attached to Form TP-584, with the appropriate schedule completed.

Date of Conveyance

Indicate the date the instrument effecting the conveyance was delivered from the grantor to the grantee. The date of the instrument is presumed to be the date of delivery of the instrument.

Percentage of Real Property Conveyed Which is Residential Real Property

Indicate the percentage of the entire real property conveyed which is **residential real property**. (See *Imposition of Additional Tax*, page 3, for a definition of the term residential real property).

Schedule B

Part I

Line 1 — Enter the amount of consideration. If in Schedule A, items e, f or g where checked, you must complete the applicable Schedule E, F or G of Form TP-584.1, which must be attached to Form TP-584. If you are claiming a total exemption from tax, check the **exemption claimed** box. Do not complete lines 2 through 6. Instead, go to Part III on page 2.

Line 2 — Enter continuing lien deduction if applicable. (See page 2 of these instructions).

Line 3 — Enter taxable consideration by subtracting line 2 from line 1.

Line 4 — Compute and enter the amount of tax due based on the consideration entered on line 3. The rate is \$2 for each \$500, or fractional part thereof, of the amount on line 3.

Line 5 — Enter the amount of tax credit claimed. Complete and attach a copy of Form TP-584.1, Schedule G, along with a copy of the original TP-584 (previously filed) and proof of payment to support the credit claimed.

Line 6 — Enter the total tax due, by subtracting line 5 from line 4. Make check payable to the county clerk where the recording is to take place or if the recording is to take place in New York City, make check payable to the **NYC Department of Finance**. If payment is being made directly to the Tax Department, make check payable to the **Department of Taxation and Finance**.

Part II

Line 1 — Enter amount of consideration. This amount is the same amount as shown in Part I, line 1.

Line 2 — Enter the taxable consideration by multiplying line 1 by percentage of the premises which is residential real property as shown in Schedule A.

Line 3 — Enter the total additional tax due by multiplying line 2 by one percent. Make check payable to the county clerk where the recording is to take place or if the recording is to take place in New York City, make check payable to **NYC Department of Finance**. If payment is being made directly to the Tax Department, make check payable to the **Department of Taxation and Finance**.

Part III

Check the appropriate box(es) if you are claiming a total exemption from the transfer tax.

Schedule C

Check the appropriate box on Schedule C, if this schedule is required. (See *Credit Line Mortgage Certificate* on page 3.)

Information and Assistance

If you need help, call toll free 1 800 225-5829. From areas outside the U.S. and Canada, call (518) 485-6800. To make sure that Tax Department employees give courteous responses and correct information to taxpayers, a Tax Department supervisor sometimes monitors telephone calls. No record is kept of any taxpayer's name, address or social security number.