



Instructions for Form DTF-1001

Real Property Transfer Gains Tax

Final Computation

General Instructions

A. Overview

The Real Property Transfer Gains Tax was repealed for all transfers occurring on or after June 15, 1996. However, special rules apply to partial or successive transfers that were treated as a single transfer of real property in accordance with former section 1440.7 of the Tax Law, such as transfers of subdivided parcels and transfers pursuant to a condominium or cooperative plan.

These special rules require a transferor of partial or successive transfers to file a final computation of tax (*final computation*) when units, shares, parcels of real property or interests in real property remain unsold on June 15, 1996. The final computation must be filed with the Tax Department by May 31, 1997.

A separate final computation of tax is required to be made for each plan or project subject to the gains tax.

The final computation of gain or loss for each plan or project will be based on the actual units, shares, parcels or interests transferred after March 28, 1983 (except grandfathered transfers), but before June 15, 1996.

The actual consideration received from the transfer of all units, shares, parcels or interests that occurred before June 15, 1996, must be computed taking into account the actual brokerage fees paid or required to be paid with respect to these transfers. From this amount, the actual original purchase price directly attributable to those units, shares, parcels or interests plus a reasonable apportionment of the amount of actual original purchase price indirectly attributable to those units, shares, parcels or interests must be subtracted to determine the actual gain or loss from the partial or successive transfers that occurred before June 15, 1996.

If the final computation results in an overpayment of tax, the final computation filing will be treated as an application for a refund.

If the final computation results in an underpayment of tax, the tax due must be paid on or before May 31, 1997. However, if the underpayment is more than \$10,000, the tax due, plus interest, may be paid in three annual installments. See section F, *Installment Payments* for more information.

B. Forms to be Filed

Form DTF-1001 — To establish the final gain or loss from the transfer of all units, shares, parcels or interests in real property that occurred after March 28, 1983 (except grandfathered transfers), but before June 15, 1996, each transferor must complete and file Form DTF-1001, *Final Computation*. This form must be accompanied by other required information and documentation. See section E,

Documentation Required.

Form DTF-1000 — To establish and report the various activities and related costs that comprise the original purchase price for transfers that occurred after March 28, 1983 (except grandfathered transfers), but before June 15, 1996, each transferor must complete Form DTF-1000, *Schedule of Original Purchase Price for the Final Computation*. This form must be attached to and filed with Form DTF-1001.

Form DTF-1004 — To reconcile the units, shares or parcels transferred after March 28, 1983 (except grandfathered transfers), but before June 15, 1996, complete and file Form DTF-1004, *Schedule of Units, Shares or Parcels Transferred Before June 15, 1996, Final Computation*. This form also must be attached to and filed with Form DTF-1001.

C. When and Where to File

Forms DTF-1000, DTF-1001, DTF-1004 and any required information and documentation must be filed on or before May 31, 1997, for each plan or project. Final computations of tax filed with the department before May 31, 1997, shall be considered to be filed on May 31, 1997.

Mail final computations, Forms DTF-1000, DTF-1001 and DTF-1004 to:

**NYS TAX DEPARTMENT
TTTB - GAINS TAX
PO BOX 5045
ALBANY NY 12205-5045**

D. Builders' Exemption

A full or partial exemption from the gains tax is allowed if a capital improvement has been constructed on the real property transferred during a specific period of time and other criteria are met. See Form DTF-701-I (6/95), section D, *Builders' Exemption*, for more information regarding this exemption.

E. Documentation Required

To confirm the calculations reported on Form DTF-1001, the following information and documentation must be attached:

- (1) **Offering Plan** – where applicable, a copy of the offering plan and any amendments to the offering plan **not previously** furnished to the Tax Department.
- (2) **Brokerage Fee** – a copy of the brokerage agreement, if any, and any modifications to the brokerage agreement **not previously** furnished to the Tax Department.
- (3) **Schedule of Original Purchase Price for the Final Computation – Form DTF-1000**

(4) Schedule of Units, Shares or Parcels Transferred Before June 15, 1996, Final Computation – Form DTF-1004.

(5) Builders' Exemption – a statement establishing that all the criteria for entitlement to the builders' exemption have been met for transfers before June 15, 1996.

F. Installment Payments

If the final computation results in an underpayment of gains tax due of more than \$10,000, the transferor, without prior departmental approval, may elect to pay the tax due, plus interest, in three equal annual installments. The first installment must be paid on or before May 31, 1997. The second installment must be paid on or before May 31, 1998. The third installment must be paid on or before May 31, 1999. However, in order for the taxpayer to validly make this election, without prior departmental approval, the taxpayer **must** file the final computation and pay the first installment by May 31, 1997.

If the Tax Department determines that additional tax is due, in addition to that shown in the final computation, a taxpayer making the election to pay the tax in installments may include the additional tax, plus applicable interest, with any of the remaining installment payments.

G. 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, 31 and 31-B 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 the tax on gains derived from certain real property transfers, 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, in the case of the mortgage recording tax, failure to secure a refund of all or a portion of that 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 (from New York State only) 1 800 CALL TAX (1 800 225-5829); from areas outside New York State, call (518) 438-8581.

Specific Instructions

Section I — Final Computation

Line 1 — Enter the actual aggregate consideration received or entitled to be received from all units, shares, parcels or interests transferred after March 28, 1983 (except grandfathered transfers), but before June 15, 1996. If the final computation is for a condominium or cooperative plan, complete Section II.

Line 2 — Enter the amount of brokerage fees actually incurred by the transferor that are attributable to the units, shares, parcels or interests transferred after March 28, 1983 (except grandfathered transfers), but before June 15, 1996.

Line 3 — Subtract line 2 from line 1. If line 3 is less than \$1 million, skip to line 16 and enter "0" on line 16.

Line 4 — Enter the portion of the purchase price paid to acquire the interest in real property that is attributable to the units, shares, parcels or interests transferred after March 28, 1983 (except grandfathered transfers), but before June 15, 1996. This amount must agree with the amount reported on Form DTF-1000, Part I, line 1, Allocated Amount column.

Line 5 — Enter the portion of other acquisition costs incurred by the transferor that is attributable to the units, shares, parcels or interests transferred after March 28, 1983 (except grandfathered transfers), but before June 15, 1996. This amount must agree with the amount reported on Form DTF-1000, Part II, line 10, Allocated Amount column.

Line 6 — Enter the portion of the cost of any capital improvements made and that is attributable to the units, shares, parcels or interests transferred after March 28, 1983 (except grandfathered transfers), but before June 15, 1996. This amount must agree with the amount reported on Form DTF-1000, Part III, Section B, line 64, Allocated Amount column.

Line 7 — For transfers pursuant to condominium or cooperative plans, enter the portion of allowable conversion costs incurred by the transferor that is attributable to the units or shares transferred after March 28, 1983 (except grandfathered transfers), but before June 15, 1996. This amount must agree with the amount reported on Form DTF-1000, Part IV, line 15, Allocated Amount column.

Line 8 — Enter the portion of allowable selling expenses incurred by the transferor that is attributable to the units, shares, parcels or interests transferred after March 28, 1983 (except grandfathered transfers), but before June 15, 1996. This amount must agree with the amount reported on Form DTF-1000, Part V, line 5, Allocated Amount column.

Line 9 — Enter the amount of any New York State, New York City or other local real estate transfer taxes that is attributable to the units, shares, parcels or interests transferred on or after June 9, 1994, but before June 15, 1996. This amount must agree with the amount reported on Form DTF-1000, Part VI, line 4.

- Line 10** — Enter the portion of allowable 421-a costs incurred by the transferor that is attributable to the units, shares, parcels or interests transferred on or after April 15, 1993, but before June 15, 1996. This amount must agree with the amount reported on Form DTF-1000, Part VII, line 8. See Form DTF-700-I (11/94), *Specific Instructions*, Part VII - *Allowable 421-a Costs*, for specific information regarding the calculation of the allowable costs, fees and expenses incurred to acquire a full or partial real estate tax exemption under section 421-a of the Real Property Tax Law.
- Line 11** — Enter the portion of allowable lease-up costs that was incurred by the transferor and attributable to the units, shares, parcels or interests transferred on or after June 9, 1994, but before June 15, 1996. See Form DTF-701-I (6/95), *Specific Instructions, Section II*, line 11 for more information regarding the calculation of the allowable lease-up costs.
- Attach an explanation of **how you allocated** the allowable lease-up costs to the units, shares, parcels or interests transferred after March 28, 1983 (except grandfathered transfers), but before June 15, 1996.
- Line 12** — Add lines 4 through 11. Attach Form DTF-1000, *Schedule of Original Purchase Price for the Final Computation*, to confirm the amounts reported on lines 4 through 11.
- Line 13** — Subtract line 12 from line 3. If line 3 is less than line 12, enter "0."
- Line 14** — Enter the amount of builders' exemption claimed for a qualifying capital improvement when construction began on or after January 1, 1994, that is attributable to the units, shares, parcels or interests transferred before June 15, 1996. See section D on page 1 for a brief discussion regarding this exemption.
- Line 15** — Subtract line 14 from line 13. If line 13 is less than line 14, enter "0." This is the amount of gain subject to tax.
- Line 16** — To compute the total gains tax due, multiply the amount on line 15 by 10% (.10).
- Line 17** — Enter the amount of gains tax previously paid. If you are currently making installment payments for transfers before June 15, 1996, the department will send you special instructions for computing lines 17 through 20. If you have additional questions or you have not received the special instructions contact the department at (518) 485-8175.
- Line 18** — If the amount on line 17 is more than line 16, subtract line 16 from line 17 and enter the amount of overpayment on line 18. This is the amount of gains tax refund you are requesting.
- Line 19** — If the amount on line 17 is less than line 16, subtract line 17 from line 16 and enter the amount of underpayment on line 19. This is the amount of gains tax you owe. The department will notify you of any interest and penalty liability you may have.
- Line 20** — If the amount on line 19 is more than \$10,000, you may elect to pay the gains tax you owe, plus applicable interest, in three equal annual installments. Payments equal to $\frac{1}{3}$ of the amount you owe, plus interest, must be paid on or before May 31, 1997 (the first installment), on or before May 31, 1998 (the second installment) and on or before May 31, 1999 (the third installment). See Section F, *Installment Payments*.
- The department will notify you of your interest liability. Interest on installment payments is computed at a variable rate equal to the federal short term rate plus three percentage points.
- Make checks or money orders payable to **New York State Department of Taxation and Finance**.
- ## Section II — Computation of Aggregate Consideration for Transfers Pursuant to Condominium or Cooperative Plans
- Line 1** — Enter the total actual selling price for all the units or shares transferred after March 28, 1983 (except grandfathered transfers), but before June 15, 1996.
- Line 2** — Enter the amount of any mortgage indebtedness that is allocated to the units or shares transferred after March 28, 1983 (except grandfathered transfers), but before June 15, 1996. This amount includes the allocated amount of the unpaid balance of any mortgage to which the real property is subject when transferred by the realty transferor to the cooperative housing corporation and any mortgage taken back by the realty transferor. If there were changes in the mortgage indebtedness other than as a result of normal amortization, please attach a detailed explanation.
- In the space to the left, enter the total amount of any mortgage indebtedness.
- Line 3** — Enter the amount of New York City real property transfer tax or other similar local transfer tax paid by a transferee on the transferor's behalf for units or shares transferred after March 28, 1983 (except grandfathered transfers), but before June 15, 1996.
- Line 4** — Enter the amount of New York State real estate transfer tax paid by a transferee on the transferor's behalf for units or shares transferred

after March 28, 1983 (except grandfathered transfers), but before June 15, 1996.

Line 5 — Enter the amount of economic gain derived from any lease executed on or after March 28, 1983, from the cooperative housing corporation to the realty transferor.

Line 6 — Add lines 1 through 5.

Line 7 — Enter the amount contributed to the reserve fund allocated to the units or shares transferred after March 28, 1983 (except grandfathered transfers), but before June 15, 1996.

In the space to the left, enter the total amount contributed to the reserve fund by the transferor.

Line 8 — Enter the amount contributed to a working capital fund allocated to the units or shares transferred after March 28, 1983 (except grandfathered transfers), but before June 15, 1996.

In the space to the left, enter the total amount contributed to a working capital fund by the transferor.

Line 9 — Enter the amount of mortgage amortization incurred while the transferor or a party related to the transferor held unsold shares allocated to

the shares transferred after March 28, 1983 (except grandfathered transfers), but before June 15, 1996. Attach a copy of a mortgage amortization schedule if **not previously** furnished to the Tax Department.

In the space to the left, enter the total amount of mortgage amortization incurred before June 15, 1996.

Line 10 — Enter the amount of discounts, credits or rebates attributable to transferees for units or shares transferred after March 28, 1983 (except grandfathered transfers), but before June 15, 1996.

In the space to the left, enter the total amount of discounts, credits or rebates allowed to the transferees.

Line 11 — Add lines 7 through 10.

Line 12 — Subtract line 11 from line 6. Enter this amount here and in Section I, line 1.

Affidavit of Transferor

The final computation must be acknowledged before a notary public.