



STATE OF NEW JERSEY  
DEPARTMENT OF THE TREASURY  
DIVISION OF TAXATION  
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**TO: COUNTY CLERKS / RECORDING OFFICERS,  
COUNTY CHIEF FINANCIAL OFFICERS,  
ATTORNEYS AND TITLE OFFICERS**

**FROM: STEPHEN M. SYLVESTER, ASSISTANT DIRECTOR  
DIVISION OF TAXATION**

**SUBJECT: AMENDATORY REALTY TRANSFER FEE LEGISLATION:  
CHAPTER 33, LAWS OF 2006**

**DATE: JULY 18, 2006**

On July 8, 2006, Assembly Bill No. 4701 Assembly Committee Substitute 1R was signed into law and became Chapter 33, Laws of 2006. Chapter 33 imposes a 1% fee on buyers in transfers of Class 4A "commercial property" defined in **N.J.A.C. 18:12-2.2** as well as existing property classes 2 "residential," 3A "farm property (regular)" but only if the property includes a building or structure intended or suited for residential use transferred to the same grantee with the farm property; and cooperative units, that incur the 1% fee for an entire consideration recited in the deed in excess of \$1 million.

Chapter 33 takes effect on August 1, 2006 and applies to transfers of property on or after that date. Chapter 33 contains a special provision, however, for implementation of the new law. Buyers in deeds involving Class 4A "commercial property" sales recorded on or before November 15, 2006 that were transferred pursuant to a contract that was fully executed before July 1, 2006 and who remit the 1% fee shall have it refunded by filing a claim for refund with the Division of Taxation within one year following the recording date of the deed. The Division of Taxation will require documentation including deed photocopy, fully executed Contract of Sale signed by all parties and recorded at the county offices, HUD-1 (settlement statement), and any additional proofs that may be necessary to process the refund claim.

A revised Affidavit of Consideration for Use by Seller (form RTF-1) and revised Affidavit of Consideration for Use by Buyer (form RTF-1EE) are additionally now required to be annexed to and recorded with deeds transferring Class 4 property of any type (commercial, industrial, or apartment properties) as a prerequisite for recording, whether the real property transfer is taxable or exempt from payment of the 1% fee.

Both Affidavits filed and recorded with the deed shall clearly and entirely state the consideration, county and municipality in which the property is situated, county and municipal codes, and block and lot description of the real property conveyed. County recording officers shall forward copies of all RTF-1EE forms filed and recorded with the deeds to the Director of the Division of Taxation on the tenth day of the month following the filing of the deed.

The 1% fee shall not apply to a deed if a real property transfer is incidental to a corporate merger or acquisition and the equalized assessed value of the real property transferred is less than 20% of the total value of all assets exchanged in the merger or acquisition. A grantee claiming an exemption from the 1% fee in such instances, when the deed is offered for recording, is now required to file a merger document in addition to an Affidavit of Consideration for Use by Buyer. Therefore, on transfers of real property incidental to a corporate merger or acquisition, the grantee, legal representative, corporate officer or deponent must file a stamped, approved merger document at the county recording office with form RTF-4, "Filing of Protest of Fee Assessment" and remit any other recording fees that are not exempt. Merger documents (Certificates of Merger) are filed in duplicate with the Commercial Recording Unit in the Division of Revenue. The Website for the Records Unit is [www.nj.gov/njbgs](http://www.nj.gov/njbgs). First, click on "I want to obtain copies of public records." Then click on "Corporate & Business Entities" under the "Search & Photocopy" heading. The Division of Revenue can also be reached by mail: NJ Division of Revenue, Records Unit, PO Box 450, Trenton, NJ 08646. The direct Internet Website for the New Jersey Division of Revenue is <http://www.nj.gov/treasury/revenue/copiesentities.htm>. County recording officers must forward the RTF-4 form, stamped merger document and grantee's Affidavit of Consideration for Use by Buyer to the Division of Taxation. This has the effect of a protest of a deficiency of fee payment filed on the date on which the deed is recorded.

The 1% fee is not imposed if the real property is transferred to a purchaser that is an organization determined by the federal Internal Revenue Service to be exempt from federal income taxation pursuant to the federal Internal Revenue Code of 1986, or if the transfer meets the requirements of the exempt transactions provided in **N.J.S.A.** 46:15-10.

Questions regarding the deed transfer aspects of Chapter 33 should be directed to (609) 292-7974.

In non-deed transfers, a 1% fee shall be imposed on the sale, for consideration in excess of \$1,000,000, of a controlling interest in an entity which possesses, directly or indirectly, a controlling interest in classified real property, which shall be paid by the purchaser of the controlling interest; provided however that in the case of the sale or transfer of a controlling interest in an entity which possesses, directly or indirectly, an interest in classified real property and an interest in other property, real or personal, the 1% fee shall be paid only if the equalized assessed value of the classified real property exceeds \$1,000,000 which shall be paid by the purchaser of the controlling interest and which shall be equal to 1% of the equalized assessed value of the classified real property that is equal to the percentage of the ownership interest transferred. "Classified property" as used in this law means Class 4A "commercial property." Such purchasers must remit this fee on or before the last day of the month following

the month in which the sale of a controlling interest subject to the tax is completed by filing a return with the Director of the Division of Taxation with accompanying payment. The Director may extend this filing time and may examine the books and records of an entity regarding the sale of a controlling interest. Transfers of a controlling interest on or before November 15, 2006 shall not be subject to the tax if the interest was transferred pursuant to a contract or other binding agreement that was fully executed before July 1, 2006.

You may direct any inquiries regarding non-deed transfers of controlling interests in real property to the Division of Taxation by completing the e-mail contact form at [http://www.state.nj.us/treasury/taxation/contactus\\_tyttaxa.html](http://www.state.nj.us/treasury/taxation/contactus_tyttaxa.html). In the "Topic" box, please click on the word "Business." Information on the Realty Transfer Fee law and all revised Realty Transfer Fee forms can also be found on the Division's Websites at:

<http://www.state.nj.us/treasury/taxation/lpt/localtax.htm> (Property Administration)

<http://www.state.nj.us/treasury/taxation> (Division of Taxation)

The new law is enclosed for your review.

I sincerely thank you and your staff members throughout the State for your cooperation in implementing the provisions of this law.

SMS: GDC  
Enclosure