

LEGAL BULLETIN

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Revised Realty Transfer Tax Forms

In order to implement the new Commercial Mansion Tax law the Division of Taxation has amended the RTF-1 (Sellers Affidavit of Consideration) and the RTF-1EE (Buyers Affidavit of Consideration). The Division has also created a new form; the RTF-4 (Protest of Fee Assessment).

As you are aware, the new Commercial Mansion Tax takes effect August 1, 2006 and all the deeds submitted for recording on or after that date must be in compliance. We are therefore providing the above referenced forms as attachments to this Bulletin with several caveats. First, there is a good probability that the forms may be amended by the Division in the coming days in order to correct what the title industry perceives to be inconsistencies and/or unclear provisions between the forms and the law. Second, the Division of Taxation's position regarding when and what forms must be filed on certain transactions may also be amended in the coming days or weeks. Therefore, the information contained in this Bulletin reflects our best interpretation of the Division's position as it exists today. We will of course, keep you advised of the developments and recommend that you also regularly check the Division of Taxation's website for form amendments and/or amendments or clarification of the form filing requirements.

The Division of Taxation is presently requiring that the RTF-1 be filed by the seller in all transfers of class 4 property (4A, 4B & 4C), even if the consideration does not exceed 1 million dollars. Please remember that payment of the Commercial Mansion Tax only applies to transfers of class 4A property in excess of \$1 million. However the Division is requiring the RTF-1 to be annexed to the deed on any class 4 transfers, not just class 4A transfers in excess of \$1 million.

Similarly, the Division is also presently requiring that the RTF-1EE be filed on transfers of all class 4 properties not just the mansion taxable class 4A transfers. **Additionally, because of some ambiguity in the law and the Division's current position we recommend that the RTF-1EE be annexed to all the deeds no matter what the consideration is, and no matter what class of property is being transferred.**

The RTF-4 is to be used when the buyer is claiming an exemption from the Commercial Mansion Tax fee because of a corporate merger or acquisition.

Please note that all RTF forms filed with the County Clerk must be filed in duplicate.

This Bulletin supplements Legal Bulletin 06-11 already in your possession. If you have any questions or concerns please call our office.

We are also attaching a copy of the July 18, 2006 letter to the County Clerks written by Stephen M. Sylvester, Assistant Director, Division of Taxation.