



STATE OF DELAWARE
DEPARTMENT OF FINANCE
DIVISION OF REVENUE
CARVEL STATE BUILDING
820 N. FRENCH STREET
WILMINGTON, DELAWARE 19801

DIVISION OF REVENUE

December 21, 1990

TECHNICAL INFORMATION MEMORANDUM NO. 90-3

SUBJECT: House Bill No. 729, 67 Delaware Laws ch. 262
Realty Transfer Tax

Under the above-referenced Act of the Delaware General Assembly no building permit or certificate of occupancy may be issued by any county or municipality without the applicant for the building permit or certificate of occupancy having filled out and filed with the agency or municipality issuing such permits or certificates a return indicating conformity with this Act. Technical Information Memorandum No. 90-1 served as regulations in implementation of the above-cited Act with respect to applications for building permits.

This Technical Information Memorandum No. 90-3 and the attached form 5401(8)CO shall serve as regulations in implementation of the Act with respect to the issuance of certificates of occupancy or compliance. When the value of the construction is less than \$10,000, the applicant is not required to fill out or file any Division of Revenue form. Moreover, the applicant is not required to file if the certificate of compliance is issued for purposes other than construction or alteration of a building, defined as any structure with a roof supported by columns or walls.

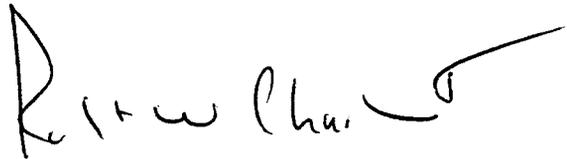
FORM 5401(8)CO, attached, shall be completed at the time of application for a certificate of compliance or occupancy. Under Technical Information Memorandum No. 90-1, (issued August 29, 1990) the filing of a form under this Act to obtain a certificate of occupancy or compliance was waived. By issuance of Technical Information Memorandum 90-3, and FORM 5401(8)CO, this temporary waiver is hereby revoked for all certificates of occupancy or compliance issued after January 15, 1991.

The Act provides a realty transfer tax (at a rate of 1% against amounts exceeding \$10,000) on the value at cost of construction or alteration of, or additions to, buildings on property whenever such construction, etc., is undertaken within one year after the acquisition of the land or land and improvements on which the construction is to occur and provided the contract or undertaking is entered into after September 1, 1990. In the case

of alterations for additions to existing buildings, the tax applies only if the cost of the alteration or addition exceeds 50% of the value, for realty transfer tax purposes, of the land on which the construction, etc., is to occur. No tax is imposed on construction when the conveyance of the land was itself not subject to the realty transfer tax. For purposes of the Act, "contract" is interpreted to include present sale or purchase of building materials to the extent not provided for under a contract in effect prior to September 1, 1990.

It is the Division of Revenue's interpretation of this Act that it does not pertain to certificate of occupancy or compliance by a builder or developer who acquires the land and obtains the building permit for the purpose of including the land with improvements in the builder's or developer's inventory for resale.

If a county issues a certificate of compliance or occupancy for a building in which a certificate is also issued by a municipality, only one local governmental jurisdiction is required to obtain the completion of the Division of Revenue forms by the property owner. Tax payments are to be made at an office of the Division of Revenue and will be evidenced by a receipt for such payment.

A handwritten signature in black ink, appearing to read "Robert W. Chastant". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Robert W. Chastant
Director of Revenue

enc.

STATE OF DELAWARE REALTY TRANSFER TAX DECLARATION FOR CERTIFICATE OF COMPLIANCE OR OCCUPANCY

1. Owner SSN or Federal EIN,
Name and Address

2. SSN or Federal EIN, Name & Address
If other then Owner competing form

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3. Tax Parcel
Property I.D.

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4. Building
Permit No.

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5. Building
Value

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All applicants for a Certificate of Compliance or Occupancy for buildings in which the building permit value or total construction was greater then \$10,000 must complete this form. If the applicant was exempt from the realty transfer tax at the time of application for a building permit, and the reason for this exemption has not changed, then you may answer a "YES", and sign below, if you attach a copy of your previous exemption. YES NO.

If you are not sure of an exemption and/or can not readily obtain your copy of the previous exemption form, please complete the questions below. Please be advised that an exemption to the tax or the amount of tax due as reported with your application for the building permit, may have changed. If you previously paid a transfer tax and these construction costs have increased then you must complete the form.

If you answer "Yes" to any exemption (detail listed below) you may stop and sign at item 9. If you answer "No" please continue filling out the form.

6. A. Were the costs of all contracts for all phases of this construction, alteration or addition less than \$10,000? The total cost must include all contracts entered into after September 1, 1990, and all materials supplied after that date, to the extent such materials are not required to be supplied in the contract(s). YES NO.

B. Is this certificate sought by a builder or developer for a building for resale, on land owned by the builder or developer? YES NO.

C. Was this construction totally governed by contracts or agreements entered into before September 1, 1990? YES NO.

D. Is the certificate requested for construction or alternation of, or addition to, something other than a "building"? (A structure having a roof supported by column or walls is a building for these purposes.) YES NO.

7. Was the land held for more than one year before entering into any contracts governing this construction, please check and complete the appropriate response to the following questions:

The land was acquired before January 1, 1988;

The land was acquired on or after January 1, 1988; ownership in realty was transferred (settlement date) to owner on (date) _____.
And the contract for this construction was entered into for labor or materials were first supplied on (earliest date) _____.

8. Was the realty on which construction occurred when transferred to the present owner exempt from realty transfer tax. YES NO. If YES, specific basis of exemption must be stated:

9. Subject to penalties of perjury, I swear or affirm the foregoing is true and correct to the best of my knowledge and belief.

Please Print

Owner's Signature

STATE OF DELAWARE REALTY TRANSFER TAX DECLARATION FOR CERTIFICATE OF COMPLIANCE OR OCCUPANCY

Social Security or Federal EIN

Name of Owner

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1. (a) Was the Building Permit applied for solely for alteration to an existing building: <input type="checkbox"/> YES <input type="checkbox"/> NO IF NO GO TO ITEM #2.	
(b) If YES, enter the value at the time of conveyance for realty tax purposes of land and improvements on which construction is intended:	\$
2. Enter amount of money paid or to be paid under any and all contracts which (a) pertain to all phases of the construction or alteration of, or addition to, the building for which the Building Permit was sought; and (b) were entered into after September 1, 1990. Include all purchases of supplies after September 1, 1990 to the extent not required under contracts entered into on or before September 1, 1990.	\$
3. (a) Subtract \$10,000 from the amount entered in Item #2 and enter the results here:	\$
(b) If Item #1 is answered "YES," is the amount entered in Item # 2 less then 50% of the amount entered in Item 1(b)? <input type="checkbox"/> YES <input type="checkbox"/> NO.	
IF YES, YOU MAY STOP HERE AND SIGN BELOW.	
(c) IF EITHER Item #1(a) or Item #3(b) is answered NO, multiply the amount entered in Item #3(a) by (.01) and enter result here:	\$
(d) Have you previously paid a realty transfer tax on FORM 5401(8)BP relative to this or other phases of the same construction? <input type="checkbox"/> YES <input type="checkbox"/> NO. If YES, please attach copy of earlier FORM 5401(8)BP. Enter amount paid with earlier FORMS 5401(8)BP:	\$
(e) Subtract amount entered on line 3(d) from amount entered on line 3 (c) and enter the difference here:	\$
(f) Amount of local tax, if applicable:	\$
(g) Total of (e) and (f):	\$

YOU MUST PAY THE AMOUNT ON LINE 3(g) TO THE STATE OF DELAWARE DIVISION OF REVENUE PRIOR TO BEING ISSUED THE CERTIFICATE OF COMPLIANCE OR OCCUPANCY.

4. Subject to the penalties of perjury, I swear or affirm the foregoing is true and correct to the best of my knowledge and belief.

Owner's Signature

Please Print