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Rev. Code 050

STATE OF DELAWARE
Department of Finance
Division of Revenue
820 N. French Street
P.O. Box 8750
Wilmington, Delaware 19899-8750

REALTY TRANSFER TAX RETURN AND AFFIDAVIT OF GAIN AND VALUE

FORM 5402

Form 5402 must be completed for all conveyances and must be presented at the time of recording.

PART A - TO BE COMPLETED BY GRANTOR/SELLER

1. Enter Employer Identification Number ☐☐ ☐☐☐☐☐☐☐ or Social Security Number of the Grantor ☐☐☐ ☐☐ ☐☐☐☐
2. Name of Grantor
3. Address
City | County
State | Zip Code
4. Date of real estate conveyance ____/____/____

6. The Grantor is a:
- ☐ Resident Individual
- ☐ Non-Resident Individual
- ☐ Domestic Corporation (Delaware)
- ☐ Foreign Corporation (Non-Delaware)
- ☐ S Corporation
- ☐ Government Agency
- ☐ Fiduciary (Estate or Trust)
- ☐ Partnership
- ☐ Non-Profit Corporation

PART B - TO BE COMPLETED BY THE GRANTEE/BUYER

1. Enter Employer Identification Number ☐☐ ☐☐☐☐☐☐☐ or Social Security Number of the Grantee ☐☐☐ ☐☐ ☐☐☐☐
2. Name of Grantee
3. Address
City | County
State | Zip Code

4. The Grantee is a:
- ☐ Resident Individual
- ☐ Non-Resident Individual
- ☐ Domestic Corporation (Delaware)
- ☐ Foreign Corporation (Non-Delaware)
- ☐ S Corporation
- ☐ Government Agency
- ☐ Fiduciary (Estate or Trust)
- ☐ Partnership
- ☐ Non-Profit Corporation

PART C - PROPERTY LOCATION AND COMPUTATION OF THE TAX

1. Address
City | County
State | Zip Code

2. Enter the amount of consideration received including cash, checks, mortgages, liens, encumbrances, and any other good and valuable consideration. Was like kind property exchanged? ☐ Yes ☐ No (If yes, see instructions.)	$
3. Enter the highest assessed value (for local tax purposes) of the real estate being conveyed. Was like kind property exchanged? ☐ Yes ☐ No (If yes, see instructions.)	$
4. Enter the greater of Line 2 or Line 3	$
5. Percentage rate of realty transfer tax paid to the State of Delaware, county and/or municipality	3.0%
6. Percentage rate of realty transfer tax paid to the county or municipality	
7. Delaware realty transfer tax percentage (Subtract Line 6 from Line 5)	
8. Delaware Realty Transfer Tax Due (Multiply Line 4 by Line 7)	$

PART D - EXEMPT CONVEYANCES

If transaction is exempt from Realty Transfer Tax, be certain that all of the above information (including market value of the real estate) is complete and accurate and explain the basis for the exemption:

The seller authorizes the Division of Revenue or such other appropriate state agency as may be designated to obtain any appropriate or necessary federal income tax forms, including their attached schedules or other attachments, and any other related papers filed by such seller which relate solely to the said real estate to which title is purported to be conveyed by the deed or instrument being recorded. Delaware law requires an income tax return to be filed for the taxable year during which there was disposition of real property within this state.

Sworn and Subscribed before me
on this _____ day of
_____, 20____

Seller's Signature

Title of Officer/Partner

INSTRUCTIONS FORM 5402
REALTY TRANSFER TAX RETURN
AND
AFFIDAVIT OF GAIN AND VALUE

Every person who makes, executes, delivers, accepts, or presents for recording any document, except those exemptions defined or described in Section 5401 of Title 30, or in whose behalf any document is made, executed, delivered, accepted or presented for recording, shall be subject to pay for and in respect to the transaction or any part thereof, a Realty Transfer Tax at the rate of two percent (2%) of the value of the property represented by such document, which tax shall be payable at the time of making, execution, delivery, acceptance or presenting of such document for recording. Said tax is to be apportioned equally between the Grantor/Seller and Grantee/Buyer.

The following shall also be subject to the Realty Transfer Tax provisions:

1. Any writing purporting to transfer a title interest or possessory interest for a term of more than five (5) years in a condominium unit or any unit properties subject to the Unit Properties Act.
2. Any writing purporting to assign or transfer a leasehold interest or possessory interest in residential property under a lease for a term of more than five (5) years.
3. Any writing purporting to transfer a title interest in a mobile home which has been permanently affixed to realty by sewer, electric, and water connections.
4. Any writing purporting to transfer an intangible interest in a corporation, partnership, or trust where the beneficial owner(s) before the conveyance(s) owns less than 80% of the beneficial interest after the conveyance(s).

SPECIFIC INSTRUCTIONS

PART A - GRANTOR/SELLER

Line 1. Enter the Grantor(s)/Seller(s) Federal Employer Identification or Social Security Number, whichever is used. If the Grantor/Seller has applied for a Federal Employer Identification Number, please enter “Applied For” on Line 1 and notify the Division of Revenue when the number is obtained.

Line 2. Enter the name(s) of the Grantor(s)/Seller(s) [individual, partnership, or corporate name(s)].

Line 3. Enter the address of the Grantor/Seller to which correspondence is mailed.

Line 4. Check in the appropriate space whether a gain was or was not realized by the Grantor/Seller on the sale of the real estate conveyed.

Line 5. Check the appropriate box to indicate whether the Grantor/Seller is a Resident or Non-Resident of the State of Delaware, a Domestic Corporation, Foreign Corporation, S Corporation, Government Agency, Fiduciary, Partnership, or Non-Profit Corporation.

PART B - GRANTEE/BUYER

Line 1. Enter the Grantee(s)/Buyer(s) Federal Employer Identification or Social Security Number, whichever is used. If the Grantor/Seller has applied for a Federal Employer Identification Number, please enter “Applied For” on Line 1 and notify the Division of Revenue when the number is obtained.

Line 2. Enter the name(s) of the Grantee(s)/Buyer(s) [individual, partnership, or corporate name(s)].

Line 3. Enter the address of the Grantee/Buyer to which correspondence is mailed.

Line 4. Check the appropriate box to indicate whether the Grantor/Seller is a Resident or Non-Resident of the State of Delaware, a Domestic Corporation, Foreign Corporation, S Corporation, Government Agency, Fiduciary, Partnership, or Non-Profit Corporation.

PART C - PROPERTY LOCATION AND COMPUTATION OF TAX

Line 1. Enter the exact location of the real estate being conveyed.

Line 2. Enter the amount of consideration received. Consideration includes cash, checks, mortgages, liens, encumbrances, and any other good and valuable consideration. If consideration also includes the exchange of like kind property, include the full and complete market value of the real estate received in determining the consideration to be taxed at 1.5% by the State of Delaware and 1.5% by either the municipality or the county.

Line 3. Enter the highest assessed value (for local tax purposes) of the real estate being conveyed. If consideration includes the exchange of like kind property, include the full and complete market value of the real estate received in determining the consideration to be taxed at 1.5% by the State of Delaware and 1.5% by either the municipality or the county.

Line 4. Enter the greater of Line 2 or Line 3.

Line 5. The percentage rate of realty transfer tax paid to the State of Delaware, county and/or municipality is 3.0%.

Line 6. Enter the percentage of tax paid to the county or municipality only.

Line 7. Subtract Line 6 from Line 5.

Line 8. Multiply Line 4 by Line 7. This is the amount of Realty Transfer Tax due to the Delaware Division of Revenue.

PART D - EXEMPT CONVEYANCES

Explain the basis for the exemption from Realty Transfer Tax. Cite the Section of the exemption from Section 5401 of 30 Del. C. if known. If Section 5401(1)(j) is claimed as the basis for the exemption where property is transferred **from** a trustee, nominee, or straw party, attach a copy of the conveyance which shows the transfer **to** the trustee, nominee, or straw party to this return.

The Seller must sign his/her name and provide his/her title. The Return must be notarized and dated.