

“Mansion Tax” Changes Prompt a New Form and Revisions to Prior Forms

NJ Bulletin 2006-0021:

As you have been previously advised by NJ Bulletin 2006-0019: “Mansion Tax” Extended to Commercial Properties and by NJ Bulletin 2006-0020: New Jersey Issues “Mansion Tax” Notice, effective August 1, 2006, the Realty Transfer Tax (“RTF”) surcharge of 1% on residential properties exceeding \$1,000,000.00 in sales price (dubbed the “Mansion Tax” back in 2004 when the 1% surcharge was first enacted) will be extended to real property classified as Class 4A “commercial properties.” Any deeds delivered for recording to the county recording officer on or after August 1, 2006 must utilize the new and revised forms (discussed below) and satisfy the new tax burden. For any deals closing before August 1st, you must collect the extra RTF money and require execution and delivery of the revised Division of Taxation forms unless you can guarantee that your documents will both be (1) delivered to the County before the close of business on July 31st, and that you will obtain proof of such timely delivery to the County office involved, and (2) accepted by the County office involved, without any risk that the Clerk’s or Registrar’s later review of the documents will result in a rejection of the proffered documents. The risk is, of course, that a subsequent re-submission of the “kicked-back docs” may trigger a demand for a commercial property “Mansion Tax” surcharge that was not collected when the closing occurred in July 2006.

The New Jersey Department of the Treasury, Division of Taxation, has posted to its website (<http://www.state.nj.us/treasury/taxation/index.html?prntlpt.htm~mainFrame>) a new form as well as revisions to several existing forms, in addition to a letter from the Assistant.

1. A new form, RTF-4 (8/2006), Filing of Protest of Fee Assessment Pursuant to Chapter 33, P.L. 2006, to be used “on transfers of real property incidental to corporate mergers or acquisitions.”
2. An existing form, RTF-1, Affidavit of Consideration for Use by Seller, which has been revised and now bears a revision date of 8/2006. Please be reminded that the statutory revision requires, in every transaction involving the transfer of a Class 4 commercial property, regardless of type (commercial, industrial or apartment properties), that a seller’s affidavit of consideration be annexed to the deed. Also, please note that a “County Municipal Code” is now required on the affidavit.
3. An existing form, RTF-1EE, Affidavit of Consideration for Use by Buyer, which has been revised and now bears a revision date of 8/2006. Just like the aforementioned seller’s affidavit of consideration, the statutory revision requires, in every transaction involving the transfer of any Class 4 commercial property (commercial, industrial or apartment properties), that a buyer’s affidavit of consideration be annexed to the deed, even if the transfer is exempt from the expanded version of the “Mansion Tax.” Also, please note that a “County Municipal Code” is now required on the affidavit.

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4. An existing form, RTF-3, Claim for Refund - Realty Transfer Fee, which has been revised and now bears a revision date of 8/2006. The new statute allows for a refund of the commercial property 1% RTF surcharge to those buyers whose contracts of purchase were fully executed prior to July 1, 2006 and whose vesting deeds are recorded on or before November 15, 2006. The application for a refund by eligible buyers must be made within one (1) year of the recording of their deeds, and must be accompanied by a copy of the deed, the recorded sales contract and the HUD-1 settlement statement.

5. The July 18, 2006 letter from the Assistant Director of the Division of Taxation to County Clerks and Recording Officers entitled Amendatory Realty Transfer Fee Legislation: Chapter 33, Laws of 2006.

Please feel free to consult with any officer of First American if you should have any questions about these forms and procedures.

For more information about Two Rivers Title Company, LLC, please visit our [website](http://www.tworivertitle.com)
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