

ACRIS E-Tax Forms are Changing Closings in New York City

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It is expected that the Office of the New York City Register will soon implement a new program to be known as E-Tax Forms. This program will require that certain forms (“Tax Forms”) regularly submitted in connection with the transfer of an interest in real property be completed on the Internet using the Register’s Web-based Automated City Register Information System (“ACRIS”). ACRIS E-Tax Forms will involve property in the Counties of the Bronx, Brooklyn, Manhattan and Queens.

The Tax Forms to be completed on-line are the City’s Real Property Transfer Tax Return (“NYC-RPT”), the New York State Real Estate Transfer Tax Return (“RETT” or “TP-584”), the New York State Real Property Transfer Report for New York City (“RP5217-NYC”), the Affidavit of Compliance with Smoke Detector Requirement (“Smoke Detector Affidavit”), the Customer Registration Form for Water and Sewer Billing (“Water Billing Form”), and the Property Owner’s Registration Form (“Registration Form”). Except for the Registration Form, which will be extracted to the appropriate office, the forms will be printed from ACRIS, signed and submitted to the recording office with the closing instruments. (1)

Transfers which have closed without the Tax Forms having been submitted to the Register’s Office before these new requirements take effect will require completion of the Tax Forms in ACRIS. In such instances, the Register’s Office advises that the signature pages affixed to the usual hard copy forms can be annexed to the ACRIS generated Tax Forms.

The “Affidavit in Lieu of Registration”, required when a property is not a multiple dwelling, the “Preliminary Registration” for apartment buildings, and the New York State Form IT-2663, the “Application for Certification for Recording of Deed and Nonresident Estimated Income Tax Payment Voucher”, will continue to be prepared outside of ACRIS.

Since January 1, 2003, a Cover Page for each document being recorded and Payment Sheets have been prepared on ACRIS. A Cover Page sets forth, among other information, the property and tax addresses of each parcel being transacted, and the name and address of the person to whom a document is being returned. The Payment Sheet sets forth the amounts being paid for

recording fees and transfer taxes. The completion of these forms has largely been the responsibility of the title companies and their agents. During the Cover Page session, entering the Tax Transaction Identification Number (“Tax Transaction ID”) generated by E-Tax Forms will automatically populate fields in the Cover Page module.

On ACRIS, also since January 1, 2003, indices of recorded documents and the documents, recorded as early as 1966 depending on the County, can be viewed online and be printed for further review. For ACRIS, The City of New York’s Department of Finance, of which the Register’s Office is a part, was awarded the Citizens Budget Commission’s Prize for Public Service Innovation for 2003. The title industry has generally found ACRIS to be a useful tool for title examination and recording.

ACRIS E-Tax Forms will force a radical change in real estate closings involving property in the four Counties noted. The Register’s Office anticipates that the Tax Forms will be completed on-line prior to a closing, and that any change or addition to a Tax Form at the closing will be done in ACRIS at a computer terminal with internet access. Only the ACRIS generated Tax Forms, completed entirely on-line will be accepted. Each page of every form will be imprinted with a Tax Transaction ID to verify it was completed in ACRIS.

This new procedure may cause some confusion until users become familiar with the process. If, for example, the Tax Forms are not completed prior to closing, the ability to close will depend on the availability of internet access at the time of closing. This may happen when, for example, the final amount of consideration is not determined or a party is reluctant to provide a tax identification number prior to closing. Hand written or typed Tax Forms, or Tax Forms completed or corrected outside of ACRIS to any extent, will not be accepted by the Register.

ACRIS is on the Internet at <http://www.NYC.gov/ACRIS> . On that screen there are a number of buttons, including ones for “Main Menu Options” and an “E-Tax Forms Tutorial”. Clicking on the “Main Menu Options” button will take the user to a screen on which one of the options will be “Create Tax Forms/Create Cover Pages”. Selecting that option will display a screen on which a Registered User will login by entering a Customer ID and a Customer Keyword. A user not yet registered can create an account and then login. Frequent Users can establish a Customer ID and Keyword for use in multiple ACRIS sessions.

The Customer ID and Keyword are to be between six to twenty alphanumeric characters long and must contain at least one number. Only by entering the Customer ID, the Keyword, and the Tax Transaction ID generated by ACRIS can one access the Tax Forms for a transaction after the process has been commenced.

After logging in, on the next screen the user will be able to create “New Tax Forms”, “Retrieve (the) Tax Transaction” for Tax Forms already in process or completed, create or retrieve a Cover Page Transaction, “Prepay Transfer Tax”, or generate forms to pay transfer taxes for either the transfer of a cooperative unit or another type of unrecorded transfer, such as the transfer of a controlling interest in an entity owning real property. The use of ACRIS to compute transfer tax for the transfer of a cooperative unit or a controlling interest is for now expected to be optional.

When the user chooses “New Tax Forms” a pop-up screen with the Tax Transaction ID will appear along with a caution that the Tax Transaction ID should be printed since it is ‘important for future access and reference’. The Tax Transaction ID should in all instances be printed and placed in a secure location; without it, no one will be able to again access the forms to enter additional information or make corrections, or to print the Tax Forms.

The user is then directed to a screen which starts the process of creating the new Tax Forms. The RPT, Smoke Detector Affidavit, Water Billing Form and Registration Form are completed as a unit (the “RPT Forms”). Entering information once populates fields on each of these forms and other fields will be populated from data stored in the Department’s databases. For example, entering the Borough/County and the tax block and lot on the Property Information screen will populate the “Property Address” fields, and visa versa, and ACRIS will automatically enter on the RPT the number of floors, square footage and assessed valuation. After completion of the RPT Forms, the RP-5217 and the TP-584 are each, separately completed by the user. However, not all of the information inputted into the RPT Forms will populate required fields in the RP5217 and the TP-584.

Viewing the online E-Tax Forms Tutorial is recommended. To further assist the user there will be a “Help” button on most screens, an ACRIS Help Desk at 212-487-6300, and an email address for assistance at acrishelp@finance.nyc.gov . The title companies and their agents will also provide assistance. However, a few points on using ACRIS E-Tax Forms can be provided in this article.

For example, on the left side of each screen will be a Completion Checklist listing all the forms and the schedules for the Tax Forms in the part of E-Tax Forms that is being processed. Required forms and schedules will be marked with an asterisk. Optional forms and schedules will have only a checkmark. Once a form is completed a check mark will appear next to the name of the form or schedule. A required form or schedule will not be complete, and final Tax Forms without a “Draft” watermark will not be printed unless all required information is entered. If the Transaction screen does not display a “Final” button, the user should review the Checklists to see which forms or schedules are still incomplete.

Numerous required fields are also indicated by placement of an asterisk. Among the required fields are the names and addresses of the parties and their attorneys, their social security or taxpayer identification numbers, and their telephone numbers. Entering zeroes when the social security number or taxpayer identification number is unavailable or not known will be accepted by ACRIS. “Pending” will not be acceptable.

A schedule to a transfer tax form can, depending on the circumstances of a transaction, become a required schedule. If, for example, a whole or partial mere change exemption from transfer tax is claimed by marking box “S” on the NYC-RPT’s Condition of Transfer screen, RPT Schedule M (“Mere Change of Form Transfers”) and TP-584 Schedule F become required schedules. Further, if the grantor or grantee is either a partnership or a limited liability company, ACRIS will require information as to at least two partners or members be entered on the Grantor or Grantee screen, as applicable.

Each user should also be aware that if an optional form or schedule is started, ACRIS will require that form or schedule to be completed. Care must be taken, therefore, before clicking on a tab on a screen or the name of a form or schedule on a Completion Checklist for a form or schedule that is not required.

Information entered is saved and moved on a Data Grid at the bottom of a screen when the user clicks on an “Add” button. Information can be edited, deleted, copied and pasted. When completing the RP5217-NYC and the TP-584, certain information entered for the RPT Forms may populate the Data Grid at the bottom of these other forms and the user may not be able to enter any similar information. The Data Grid is at the bottom of the screen and the user will have to scroll down. It is therefore advisable that Data Grids be reviewed before attempting to enter the same information again.

Tax Forms which are not completed in full will be printed with the watermark “DRAFT-Required Fields Not Completed”. Although those “Draft” forms can be printed, they are not final and cannot be submitted for recording. The only pages that can be printed without the watermark while the forms are otherwise in “Draft” are the signature pages, which will enable the forms to be pre-signed when necessary. The signature pages can later be combined with the final Tax Forms. Note that multiple signature pages can be printed, if required. However, xeroxed signature pages will not be accepted, notwithstanding that the City will accept forms completed outside the closing but faxed to the closing.

The Finance Department has indicated that only one signature will be required for each of the RPT and TP-584, as has been the practice, even though the program will generate signature pages with multiple signature lines when there is more than one grantor or grantee. It is noted, however, that the statute of limitations for the assessment of additional transfer taxes, and interest and penalties, does not run for parties not signing the forms. In addition, Schedule D of TP-584 (“Certification of exemption from the payment of estimated personal income tax” under Tax Law Section 663) must be signed by all parties claiming an exemption on Schedule D from the requirement that a non-resident individual, estate or trust pay estimated income tax from the gain on a sale of real property in New York State. (2)

There are other items which will merit particular attention. If the Water Billing Form, which is an optional form, is not completed, the water bills will be sent only to the Grantee. The Grantee’s address entered in the Grantee screen for the RPT Forms automatically becomes the billing address on the Water Billing Form; that address cannot be overridden on the Water and Sewer billing screen without changing the Grantee’s address on the Grantee screen.

After completing the Property Information and Condition of Transfer screens, and any required schedules to the Tax Forms, the Details of Consideration and Computation of Tax screens, the NYC-RPT tax will be automatically calculated. Similarly, the State Transfer Tax and any Additional Tax imposed under Tax Law Section 1402-a (the “Mansion Tax”), if applicable, will be computed based on information entered and schedules completed in the TP-584 module. It remains to be seen whether the Finance Department accounted for all nuances contained in the State and City transfer tax regulations.

Notwithstanding these particular concerns, the program is well designed and the real estate community should find it to be a valuable tool. The Finance Department notes that E-Tax Forms will reduce data entry, automatically calculate transfer taxes, and reduce error by confirming that all required fields and Tax Form schedules have been completed. The forms will open and print, and they can be saved to disk, in Adobe ® PDF format.

ACRIS E-Tax Forms and the changes it will make to the closing process will have to be taken into account by all involved parties. Seller's counsel will need to prepare the forms, or arrange for their preparation, in consultation with counsel for the purchaser in advance of closing. Lender's counsel may find it prudent to provide internet access at all closings. Title insurance companies and their agents will provide various services to ensure completion of closings. In preparation for that change, consideration should be given to reviewing closing procedures, to ordering high speed internet access if not now in place, and to reviewing the on-line Tutorial.

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(1) The NYC Department of Finance advises that the Registration Form will be filed only after the conveyance to which the Form relates has been recorded. The Water Billing Form is in all instances an optional form.

(2) See Berey, "Rules Change on September 1 for Real Property Recordings", New York Law Journal, August 20, 2003.

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