General information

Effective November 18, 2004, nonresident individuals, estates, and trusts are required to estimate the personal income tax on the gain, if any, from certain sales, conveyances, or other dispositions (sales or transfers) of shares of stock in a cooperative housing corporation, in connection with the grant or transfer of a proprietary leasehold by the owner of the shares, where the cooperative unit represented by such shares is located in New York State.

Unless the sale or transfer of the cooperative unit is exempt as explained below, you must use Form IT-2664, Nonresident Cooperative Unit Estimated Income Tax Payment Form, to compute the gain (or loss) and pay the full amount of estimated tax due, if applicable. Each grantor/transferor listed on Form TP-584, Combined Real Estate Transfer Tax Return, Credit Line Mortgage Certificate, and Certification of Exemption from the Payment of Estimated Personal Income Tax, Schedule A (or an attachment to Form TP-584), must sign Form TP-584, Schedule D or attach a completed Form IT-2664 with full payment of any estimated personal income tax due. Use 2009 Form IT-2664 for sales or transfers of a cooperative unit after December 31, 2008, but before January 1, 2010.

Form IT-2664, if required, must be filed with Form TP-584, and any estimated personal income tax due from the sale or transfer of a cooperative unit must be paid in full to the New York State Tax Department within 15 days of the delivery of the instrument effecting the sale or transfer. (See Where and when to file on page 2 of these instructions.)

Nonresident individuals, estates, and trusts should take into account the amount of estimated tax paid with Form IT-2664 when they file their 2009 New York State income tax returns. Any tax refund that is due can be claimed at that time. Estimated tax payments made with Form IT-2664 cannot be refunded prior to the filing of an income tax return.

The requirement for payment of estimated tax under Tax Law section 663 does not apply to individuals, estates, or trusts who are residents of New York State at the time of the sale or transfer of a cooperative unit. Additionally, the requirement may not apply to certain sales or transfers, even if the individual, estate, or trust is a nonresident at the time of the sale or transfer. See Exempt sales or transfers below.

New York State Form TP-584, Schedule D, must be completed for sales or transfers of a cooperative unit by New York State residents and nonresidents claiming exemption from the payment of estimated personal income tax under Tax Law section 663. For more information, see Form TP-584 and the instructions for Form TP-584.

For sales or transfers of a fee simple interest in real property by a nonresident, do not use Form IT-2664. See Form IT-2663, Nonresident Real Property Estimated Income Tax Payment Form, and the instructions for Form IT-2663.

Definitions

The following definitions apply to Form IT-2664 and these instructions.

Transferor/seller means the individual, estate, or trust making the sale, conveyance, or other disposition of shares of stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold by the owner of the shares, where the cooperative unit represented by such shares is located in New York State.

Cooperative housing corporation means a corporation that has only one class of stock, that entitles the shareholder to live in a house or an apartment (cooperative unit) in a building or on property owned or leased by the corporation. Housing cooperatives can be, but are not limited to, single-family homes, duplexes, townhouses, apartments, dormitories, land subdivisions with sites and utilities, mobile home parks, and marinas.

Sale or transfer means the sale, conveyance, or other disposition of shares of stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold.

Cooperative unit means the physical space represented by shares of stock in a cooperative housing corporation in connection with a proprietary leasehold.

Proprietary leasehold means an agreement between a cooperative tenant-stockholder and the cooperative housing corporation that defines the rights and obligations of each party regarding use and occupancy of the cooperative unit.

Principal residence means your main home within the meaning of section 121 of the IRC for which you are allowed to exclude the gain for federal income tax purposes.

Exempt sales or transfers

A nonresident is not required to file Form IT-2664 if either of the following apply:

- The transferor or transferee is an agency or authority of the United States of America, an agency or authority of the state of New York, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company. (Tax Law section 663(c)(3))
- The proprietary leasehold being transferred in connection with the sale, conveyance or other disposition of the shares of stock in a cooperative housing corporation is a principal residence of the seller or transferor within the meaning of section 121 of the Internal Revenue Code (IRC). (Tax Law section 663(c)(4))

Section 121 of the IRC relates to the federal exclusion of gain on the sale of a principal residence. If the cooperative unit does not qualify in total as the principal residence of the transferor/seller, see Cooperative unit used in part as a principal residence on page 2.

Note: A cooperative unit that qualifies in total as the principal residence of the transferor/seller qualifies for the exemption even if part of the gain is not excluded under IRC section 121 because the gain exceeds the amount of the exclusion provided for in that section.

To claim exemption from the payment of estimated personal income tax under section 663(c) of the Tax Law, see Form TP-584, Schedule D.
Special rules

Cooperative unit used in part as a principal residence

If a portion of the cooperative unit sold or transferred qualifies as your principal residence and a portion of the cooperative unit was used for any other purpose, the payment of estimated personal income tax is required on the gain allocable to the portion of the cooperative unit that does not qualify as your principal residence.

To exclude the gain on the portion of the cooperative unit used as your principal residence, you generally must have owned and lived in the cooperative unit as your main home for at least 2 years during the 5-year period ending on the date of the sale or transfer.

Method of allocation — For purposes of determining the amount of gain allocable to the portion of the cooperative unit used as your principal residence and the portion used for any other purpose, you must allocate the basis and the amount realized between the portions using the same method of allocation as used for federal personal income tax purposes (see Form IT-2664, page 2, Worksheet for Part 2, line 18).

Installment sales

You are required to compute the total gain, if any, on the sale or transfer of the cooperative unit. However, you pay estimated personal income tax only on that portion of the gain that will be reported on your 2009 federal personal income tax return.

For payments of estimated personal income tax due on installment payments received in tax years after 2009, you must use either Form IT-2105, Estimated Income Tax Payment Voucher for Individuals, or Form IT-2106, Estimated Income Tax Payment Voucher for Fiduciaries. For more information, see Form IT-2105 or Form IT-2106 and their instructions.

Estates and trusts

Estates and trusts are required to estimate the personal income tax due on the entire gain, if any, on the sale or transfer of a cooperative unit, without regard to any distributions of the gain to beneficiaries that may occur during the tax year of the sale.

Fiduciaries of both estates and trusts that pay estimated tax may elect to have any portion of estimated tax payments allocated to any of the beneficiaries. When fiduciaries file the estate's or trust's income tax return for the year, they must file Form IT-205-T, Allocation of Estimated Tax Payments to Beneficiaries, to show the allocation of any estimated tax payment among the beneficiaries. See the instructions for Form IT-205-T for information about how to file and when to file Form IT-205-T.

Where and when to file

Complete Form IT-2664 and attach a check or money order made payable to NYS Income Tax for the full amount of any estimated tax due (see Form IT-2664, page 3). You must file Form IT-2664 together with your Form TP-584 and a separate check or money order for full payment of any real estate transfer tax due as shown on Form TP-584 (see Form TP-584, page 2).

Mail both forms, together with any required payments, to the NYS Tax Department at the address below within 15 days of the delivery of the instrument effecting the sale or transfer of the cooperative unit.

NYS TAX DEPARTMENT
RETT RETURN PROCESSING
PO BOX 5045
ALBANY NY 12205-5045

If you use a delivery service other than the U.S. Postal Service, see Private delivery services on page 3 of Form IT-2664.

Line instructions for Form IT-2664

A separate Form IT-2664 must be filed by a nonresident for each sale or transfer of a cooperative unit located in New York State, unless the nonresident transferor/seller is exempt from the requirement to pay estimated tax as provided for under Tax Law section 663(c) (see Form TP-584, Schedule D).

Multiple transferor/sellers

If more than one transferor/seller (as listed on Form TP-584, Schedule A, or an attachment to Form TP-584) is required to file Form IT-2664, each transferor/seller must complete and submit a separate Form IT-2664. If a payment of estimated personal income tax is required, each Form IT-2664 must have a separate check or money order.

Married couples who are nonresident transferors/sellers and are required to file Form IT-2664 may file one Form IT-2664. If a payment of estimated personal income tax is due, you may use one check or money order.

Item A

Mark an X in the applicable box to indicate whether the transferor/seller is an individual, estate, or trust. If the transferor/seller is a revocable living trust, or any other trust in which an individual is treated as the owner of the trust, mark an X in the box for an individual. For all other estates and trusts, mark an X in the box for an estate or trust.

Item B

If you are reporting the sale or transfer of a cooperative unit as an installment sale for federal income tax purposes (you are using federal Form 6252, Installment Sale Income, to report the sale), mark an X in the Yes box on item B. Give the duration of the installment agreement in months if the duration of the agreement is for 12 months or less, or in years if the duration of the agreement is more than 12 months.

Item C

If only a portion of the cooperative unit being sold or transferred qualifies as your principal residence for federal income tax purposes, mark an X in this box.

Part 1 — Sale or transfer information

For individuals, print your full name, social security number (SSN), and address. If you are married and filing one Form IT-2664, print your spouse's name and SSN in the spaces provided.

For estates and trusts, print the name of the estate or trust and enter the employer identification number (EIN). Enter the name of the fiduciary on the second name line.

If your mailing address is a PO box, you must also include your street address.

Foreign address — Enter the information in the following order: city, province or state, and then country (all in the City box). Follow the country’s practice for entering the postal code. Do not abbreviate the country name.

Location and description of the cooperative unit

Enter the address (including the unit number, if applicable, and county), a description of the cooperative unit (such as apartment or townhouse), and the tax map number of the building or property if known.
Date of conveyance
Enter the date of the conveyance from Form TP-584, Schedule A.

Part 2 — Estimated tax information
Note: If the transferor/seller is not required to recognize any gain or loss with respect to the transfer under provisions of the Internal Revenue Code (IRC) (except for section 121), do not complete Part 2. Estimated tax information, or Worksheet for Part 2. Continue with Part 3.

You must complete the Worksheet for Part 2 on page 2 of Form IT-2664 before completing this part.

Line 1
Enter the amount from Worksheet for Part 2, line 15.

Line 2
Enter the amount from Worksheet for Part 2, line 17. If the amount on line 17 is greater than zero, enter the total amount of gain on the sale or transfer of the cooperative unit. If the sale or transfer of the cooperative unit does not result in a gain or results in a loss, enter 0.

Line 3
Enter the amount of estimated tax due from Worksheet for Part 2, line 20. Also enter this amount on Form IT-2664-V, on page 3 of Form IT-2664. You must remit this amount to the New York State Tax Department with Form IT-2664. If there is no payment of estimated tax due, enter 0 on line 3, and on Form IT-2664-V. In addition you must complete Part 3.

Part 3 — Nonpayment of estimated tax by a nonresident upon the sale or transfer of a cooperative unit
If you complete Worksheet for Part 2 on Form IT-2664, page 2, and line 17 of the worksheet results in a loss (less than or equal to zero), mark an X in box 4A and continue with these instructions.

If you are not required to recognize any gain or loss with respect to the sale or transfer of a cooperative unit, mark an X in box 4B, complete the Brief summary of the transfer section, and continue with these instructions.

You must complete Form IT-2664-V on page 3 of Form IT-2664.

Note: Although the payment of estimated tax may not be required upon the sale or transfer of a cooperative unit, the transferor/seller may still be required to file a New York State income tax return to report the sale or transfer.

For more information on filing requirements for nonresidents, see Publication 88, General Tax Information for New York State Nonresidents and Part-Year Residents, Form IT-203, Nonresident and Part-Year Resident Income Tax Return, and the instructions for Form IT-203.

Part 4 — Signature
Form IT-2664 must be signed by the nonresident transferor/seller (an individual, a trustee, an executor, or other fiduciary of an estate or trust). If you are married and filing one Form IT-2664, both spouses must sign in the spaces provided. In addition, Form IT-2664 may be signed by an authorized agent with a power of attorney (see Form POA-1, Power of Attorney).
Need help?

Internet access: www.nystax.gov
Access our Answer Center for answers to frequently asked questions; check your refund status; check your estimated tax account; download forms, publications; get tax updates and other information.

Fax-on-demand forms: Forms are available 24 hours a day, 7 days a week. 1 800 748-3676

Telephone assistance is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday.
Refund status: 1 800 443-3200
(Automated service for refund status is available 24 hours a day, 7 days a week.)
To order forms and publications: 1 800 462-8100
Personal Income Tax Information Center: 1 800 225-5829
From areas outside the U.S. and outside Canada: (518) 485-6600

Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY): If you have access to a TTY, contact us at 1 800 634-2110. If you do not own a TTY, check with independent living centers or community action programs to find out where machines are available for public use.

Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 225-5829.