



## SUTTON LAND TITLE AGENCY

### Real Estate Memo

**Date: August 2, 2006**

**To: Sutton Clients**

**From: Samuel Bergman, Senior Counsel, Commercial Closings**

**Re: New Jersey Mansion Tax**

New Jersey's "Mansion Tax," the Realty Transfer Tax surcharge of 1% on residential properties with sales prices exceeding \$1,000,000.00, payable by the grantee, has been expanded to affect additional classes of real property.

That tax has been amended, effective August 1, 2006, in two important respects, summarized below.

- The tax will also be imposed on any sale for consideration exceeding \$1 million of real estate classified as Class 4A "commercial property."
- The tax will also be imposed on any sale, or series of sales occurring within six months, for consideration exceeding \$1 million of a "controlling interest" (i.e., more than 50%) in an entity which, in turn, owns commercial real property having an assessed value exceeding \$1 million. The tax is collected through the filing of a tax return to be filed at the end of the month in which the sale occurs. The amendment exempts, among others, conveyances to or from governmental entities and purchases by non-profit institutions.

Any deeds delivered for recording to the county recording officer on or after August 1, 2006 must satisfy the new tax burden and must be accompanied by new, revised Division of Taxation forms. 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 Director of the Division of Taxation to County Clerks and Recording Officers. These postings include:

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 4A 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

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of Consideration, the statutory revision requires, in every transaction involving the transfer of any Class 4A 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

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 the 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.**

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**The foregoing notice contains merely a summary of the important subject discussed. It is not intended as a legal opinion or as a comprehensive discussion of this matter, and you are accordingly encouraged to contact our legal department for copies of the forms or further information regarding this subject matter.**