

Delaware Form 5403
Real Estate Tax Return
Declaration of Estimated Income Tax
Instructions

Every non-resident individual, pass through entity or corporation who makes, executes, delivers, accepts, or presents for recording any document, except those exemptions defined or described in Sections 1126, 1606 and 1909 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, an estimated tax payment at a rate of 8.7% for C Corporations and 6.6% for all other entities of the value of the gain on the property sold as 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 paid by the Transferor(s)/Seller(s).

SPECIFIC INSTRUCTIONS

- Line 1.** Enter a description and address of the property transferred/sold, including the tax parcel number and date of transfer. If you need to describe transfer issues please do so here.
- Line 2.** Check the appropriate box to indicate whether the Transferor/Seller is an Individual or Revocable Living Trust, a Corporation, Trust or Estate, Business Trust, Partnership, S corporation, Limited Liability Company, or other, such as a Government Agency or Non-Profit corporation.
- Line 3.** Check the appropriate box to indicate how the transferor/ seller acquired the property.
- Line 4.** Enter the Transferor/Seller's name; SSN or EIN; and address to which correspondence is to be mailed after settlement. (Enter only one name and SSN or EIN per return. If more than one transferor/ seller, use separate forms for each; however, if Transferors/Sellers are husband and wife, enter only the primary taxpayer name and SSN, and only file one return. If transferor/seller is not an individual, list only EIN of non-individual transferor/seller and file only one Form 5403 for such transferor/seller – no Form 5403 should be filed for the members, partners, stockholders, trustees or other individuals or entities having an ownership interest in any such non-individual transferor/seller.)
- Line 5.** Check the appropriate box to indicate if the transferor(s)/seller(s) are resident individuals, pass-through entities or corporations that are not subject to net gain withholding; the sale or exchange is exempt from capital gain recognition because of either Federal or Delaware exemption; the gain realized will be excluded from income for tax year of sale; or the sale is exempt due to foreclosure pursuant to 30 Del. C. § 1126(b)(3a)(3). If any of the above boxes in Section 5 are checked, stop here, do not complete Sections 6, 7 and 8 below, and no payment is due at this time. Be sure to only check one box.
- Line 6.** On line 6.a enter the Total sales price.
On line 6.b enter the Selling expenses/reductions to sale price.
On line 6.c enter the Net sales price by subtracting line 6.b from line 6.a.
On line 6.d enter the Adjusted basis. Adjusted basis includes the original purchase price of the property, non-deductible closing costs, and the cost of improvements, reduced by any depreciation previously taken for tax purposes.
On line 6.e enter the Total gain by subtracting line 6.d from line 6.c. This is the transferor's/seller's gain for purposes of computing your estimated payment for Delaware income tax purposes.
On line 6.f enter the Delaware estimated income tax due by multiplying the amount on line 6.e by 8.7% if the taxpayer is a C corporation, and by 6.6% for all other taxpayers.
- Line 7.** If the transferor(s)/seller(s) is/are reporting gain under the installment method no payment is due at this time, but by law you must report and remit any capital gain tax to the State of Delaware when any capital gain as a result of the sale of property in Delaware is recognized for Federal tax purposes.
- Line 8.** Enter the amount of Delaware estimated income tax due from Line 6.f, unless you completed Section 7. This is the amount of estimated tax payment due to the Delaware Division of Revenue that you must remit with this form unless line 7 is completed.

The Transferor/Seller must sign Form 5403, print their full name and title, if any. This form and the estimated income tax, if any, reported due and payable on this form must be remitted with the deed to the Recorder's Office before the Recorder shall record a deed conveying title in Delaware real estate. The tax returns or reports and the amounts of tax collected pursuant to Title 30 of the Delaware Code, Sections 1126, 1606 or 1909, and the Recorder's Office and its employees or agents, shall be subject to the secrecy provisions and penalties of Title 30 of the Delaware Code, Section 368.

If you need assistance with filling out this form please contact the Division of Revenue at (302) 577-8200.