



# REALTY TRANSFER TAX RETURN AND AFFIDAVIT OF GAIN AND VALUE FORM 5402

STATE OF DELAWARE  
Division of Revenue  
820 N. French Street  
P.O. Box 8750  
Wilmington, Delaware  
19899-8750



DF42717019999

Rev. Code 0050

Form 5402 must be completed for all conveyances and must be presented at the time of recording.

### PART A - TO BE COMPLETED BY GRANTOR/SELLER

1. Enter Employer Identification Number  or Social Security Number of the Grantor

2. Name of Grantor \_\_\_\_\_

3. Address \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_  
County \_\_\_\_\_

4. Date of real estate conveyance \_\_\_\_\_

5. The Grantor is a:
- Resident Individual
  - Non-Resident Individual
  - Domestic Corporation (Delaware)
  - Foreign Corporation (Non-Delaware)
  - S Corporation
  - Government Agency
  - Fiduciary (Estate or Trust)
  - Partnership
  - Non-Profit Corporation

### PART B - TO BE COMPLETED BY GRANTEE/BUYER

1. Enter Employer Identification Number  or Social Security Number of the Grantee

2. Name of Grantee \_\_\_\_\_

3. Address \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_  
County \_\_\_\_\_

4. The Grantee is a:
- Resident Individual
  - Non-Resident Individual
  - Domestic Corporation (Delaware)
  - Foreign Corporation (Non-Delaware)
  - S Corporation
  - Government Agency
  - Fiduciary (Estate or Trust)
  - Partnership
  - Non-Profit Corporation

### PART C - PROPERTY LOCATION AND COMPUTATION OF THE TAX

1. Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

2. Enter the amount of consideration received including cash, checks, mortgages, liens, encumbrances, and any other good and valuable consideration ..... \$

Was like kind property exchanged?  Yes  No (If yes, see instructions.)

3. Enter the highest assessed value (for local tax purposes) of the real estate being conveyed ..... \$

Was like kind property exchanged?  Yes  No (If yes, see instructions.)

4. Enter the greater of Line 2 or Line 3 ..... \$

5. Percentage rate of realty transfer tax paid to the State of Delaware, county and/or municipality ..... 4.0%

6. Percentage rate of realty transfer tax paid to the county or municipality .....

7. Reduction for contracts executed prior to 8/1/2017 (see instructions) .....

8. Delaware Realty Transfer Tax percentage (subtract Lines 6 and 7 from Line 5) ..... \$

9. Delaware Realty Transfer Tax due (multiply Line 4 by Line 8) ..... \$

- County
- New Castle
  - Kent
  - Sussex

### PART D - EXEMPT CONVEYANCES

If transaction is exempt from Realty Transfer Tax, be certain that all of the above information (including market value of the real estate) is complete and accurate and explain the basis for the exemption: \_\_\_\_\_

The seller authorizes the Division of Revenue or such other appropriate state agency as may be designated to obtain any appropriate or necessary federal income tax forms, including their attached schedules or other attachments, and any other related papers filed by such seller which relate solely to the said real estate to which title is purported to be conveyed by the deed or instrument being recorded. Delaware law requires an income tax return to be filed for the taxable year during which there was disposition of real property within this state.

Sworn and Subscribed before me

on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

Seller's Signature \_\_\_\_\_

Title of Officer/Partner \_\_\_\_\_

Signature \_\_\_\_\_

**INSTRUCTIONS FORM 5402  
REALTY TRANSFER TAX RETURN  
AND  
AFFIDAVIT OF GAIN AND VALUE**

Every person who makes, executes, delivers, accepts, or presents for recording any document, except those exemptions defined or described in Section 5401 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, a Realty Transfer Tax at the rate of four percent (4%) (unless an exemption or reduction applies) of the value of the property 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 apportioned equally between the Grantor/Seller and Grantee/Buyer.

The following shall also be subject to the Realty Transfer Tax provisions:

1. Any writing purporting to transfer a title interest or possessory interest for a term of more than five (5) years in a condominium unit or any unit properties subject to the Unit Properties Act.
2. Any writing purporting to assign or transfer a leasehold interest or possessory interest in residential property under a lease for a term of more than five (5) years.
3. Any writing purporting to transfer a title interest in a mobile home which has been permanently affixed to realty by sewer, electric, and water connections.
4. Any writing purporting to transfer an intangible interest in a corporation, partnership, or trust where the beneficial owner(s) before the conveyance(s) owns less than 80% of the beneficial interest after the conveyance(s).

**SPECIFIC INSTRUCTIONS**

**PART A - GRANTOR/SELLER**

**Line 1.** Enter the Grantor(s)/Seller(s) Federal Employer Identification or Social Security Number, whichever is used. If the Grantor/Seller has applied for a Federal Employer Identification Number, please enter "Applied For" on Line 1 and notify the Division of Revenue when the number is obtained.

**Line 2.** Enter the name(s) of the Grantor(s)/Seller(s) [individual, partnership, or corporate name(s)].

**Line 3.** Enter the address of the Grantor/Seller to which correspondence is mailed.

**Line 4.** Enter the date of the real estate conveyance.

**Line 5.** Check the appropriate box to indicate whether the Grantor/Seller is a Resident or Non-Resident of the State of Delaware, a Domestic Corporation, Foreign Corporation, S Corporation, Government Agency, Fiduciary, Partnership, or Non-Profit Corporation.

**PART B - GRANTEE/BUYER**

**Line 1.** Enter the Grantee(s)/Buyer(s) Federal Employer Identification or Social Security Number, whichever is used. If the Grantor/Seller has applied for a Federal Employer Identification Number, please enter "Applied For" on Line 1 and notify the Division of Revenue when the number is obtained.

**Line 2.** Enter the name(s) of the Grantee(s)/Buyer(s) [individual, partnership, or corporate name(s)].

**Line 3.** Enter the address of the Grantee/Buyer to which correspondence is mailed.

**Line 4.** Check the appropriate box to indicate whether the Grantor/Seller is a Resident or Non-Resident of the State of Delaware, a Domestic Corporation, Foreign Corporation, S Corporation, Government Agency, Fiduciary, Partnership, or Non-Profit Corporation.

**PART C - PROPERTY LOCATION AND COMPUTATION OF TAX**

**Line 1.** Enter the exact location of the real estate being conveyed.

**Line 2.** Enter the amount of consideration received. Consideration includes cash, checks, mortgages, liens, encumbrances, and any other good and valuable consideration. If consideration also includes the exchange of like kind property, include the full and complete market value of the real estate received in determining the consideration to be taxed at 2.5% by the State of Delaware and 1.5% by either the municipality or the county.

**Line 3.** Enter the highest assessed value (for local tax purposes) of the real estate being conveyed. If consideration includes the exchange of like kind property, include the full and complete market value of the real estate received in determining the consideration to be taxed at 2.5% by the State of Delaware and 1.5% by either the municipality or the county.

**Line 4.** Enter the greater of Line 2 or Line 3.

**Line 5.** The percentage rate of realty transfer tax paid to the State of Delaware, county and/or municipality is 4.0%.

**Line 6.** Enter the percentage of tax paid to the county or municipality only (1.5%).

**Line 7.** If the contract for the sale of real estate was executed prior to August 1, 2017, enter 1%. If claiming the 1% reduction, you **MUST** attach a copy of the contract of sale or an affidavit, signed under penalty of perjury, that the contract was executed before August 1, 2017; failing to do so will result in the denial of this exception, and could delay the recording of this document. Under the provisions of Delaware Code, Title 30 §368, any information provided remains confidential.

**Line 8.** Subtract Lines 6 and 7 from Line 5.

**Line 9.** Multiply Line 4 by Line 8. This is the amount of Realty Transfer Tax due to the Delaware Division of Revenue.

**PART D - EXEMPT CONVEYANCES**

Explain the basis for the exemption from Realty Transfer Tax. Cite the Section of the exemption from Section 5401 of 30 Del. C. if known. If you require additional space, please attach a separate sheet. If Section 5401(1)(j) is claimed as the basis for the exemption where property is transferred from a trustee, nominee, or straw party, attach a copy of the conveyance which shows the transfer to the trustee, nominee, or straw party to this return. The Seller must sign his/her name and provide his/her title. **The Return must be notarized and dated.**