



## UNDERWRITING COMMUNICATION

Issued by

*First American Title Insurance Company*

### **NJ-2015-006-Advisory**

**Title:** New Jersey Revises Several GIT/REP Forms Necessary for Deed Recordings  
**Issued By:** Laurence J. Usignol  
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**Purpose:** To inform title closers that the State of New Jersey has revised three (3) of the GIT/REP forms that are used when deeds are recorded.

**Background:** Back in 2004, the State of New Jersey amended the Gross Income Tax Act (the origin of the "GIT" reference) to require certain non-resident selling parties (i.e., individuals, estates or trusts) to pay an estimated income tax (but not larger than 2% of the consideration stated in the deed) at the time of the delivery of the deed for recording. Several forms designed to report the transaction details to the State taxing authorities (the "REP" portion of the acronym) were adopted in 2004 by the New Jersey Division of Taxation to accompany the deed when tendered for recording. Those forms have been periodically amended and posted on the State website (<http://www.state.nj.us/treasury/taxation/prntgit.shtml>) without fanfare and without explanatory materials.

**Advisory:** The Division of Taxation website now offers amended versions of three (3) of the GIT/REP forms that may be used whenever a deed is tendered for recording (the choice of the form being dependent on the circumstances of the particular transaction). Since the Division of Taxation has not indicated when the pre-existing versions become obsolete for use, or when the new versions must be used, prudence dictates that you make an immediate changeover to the new versions of the GIT/REP forms. Attached please find copies of the amended GIT/REP forms:

1. NONRESIDENT SELLER'S TAX DECLARATION, GIT/REP-1, revised "9-15". **The 2015 revision mandates the recording of a power of attorney instrument if the form is being signed by an attorney in fact for the absent seller.**
2. NONRESIDENT SELLER'S TAX PREPAYMENT RECEIPT, GIT/REP-2, REVISED "4-15". **The 2015 revision warns that the original form countersigned by the appropriate state official "MUST HAVE A RAISED SEAL."**
3. SELLER'S RESIDENCY CERTIFICATION/EXEMPTION, GIT/REP-3, revised "9-2015". **The 2015 changes are numerous:**
  - **The previous "Consideration" blank has been refined to now read "Total Consideration" and "Owner's Share of Consideration".**
  - **The ten (10) "Seller's Assurances" found in the 2010 version of the GIT/REP-3 have all been amended for grammar, syntax, and clarification, but the substance of the Assurances is relatively unchanged.**
  - **The new version of the GIT/REP-3 adds four (4) new grounds for possible exemptions from the withholding requirement, pertaining to:**
    - **Relocation companies**
    - **Divorce decrees and settlement agreements**
    - **Cemetery plots**
    - **Net proceeds issues**

The State Division of Taxation has NOT amended the other GIT/REP forms, but they are attached here for the sake of completeness, so that you will have the full library of State GIT/REP forms at your disposal if your customers inquire:

- WAIVER OF SELLER'S FILING REQUIREMENT OF GIT/REP FORMS AND PAYMENT, GIT/REP-4, rev. "11-04".
- WAIVER OF SELLER'S FILING REQUIREMENT OF GIT/REP FORMS AND PAYMENT FOR CORRECTED DEED WITH NO CONSIDERATION, GIT/REP-4a, rev. "6-10".

As we have seen time and time again, the State of New Jersey can and will change its forms at any time without warning or explanation, so be vigilant and consult the aforementioned State website periodically for your own information.

We cannot serve as tax advisors to the parties in the real estate transaction, and therefore we cannot advise the parties as to selection of the applicable GIT/REP form or as to the eligibility of a seller for any exemption from the withholding requirement ("SELLER'S ASSURANCES").

You should alert your closing-attorney customers to this change in State forms.

**Attachments (GIT/REP-1, -2, -3-, -4 and -4a)**

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This Underwriting Communication should become a permanent part of your records to assure compliance with its requirements.

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