



# Real Estate Transfer Tax Changes

## Informational Bulletin

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Director of Revenue

For paper versions of Form PTAX-203 and Form PTAX-203-B, visit the county recorder's office.

For electronic versions of Form PTAX-203 and Form PTAX-203-B, visit our web site at [www.revenue.state.il.us/retd](http://www.revenue.state.il.us/retd).

To:

**All persons or entities transferring a beneficial interest in real property located in Illinois**

Public Act 93-657 amends the Illinois Real Estate Transfer Tax Law. Effective **June 1, 2004**, the tax is imposed on the privilege of transferring the following additional types of beneficial interests in real property:

- ◆ the lessee interest in a ground lease for a term of 30 or more years; and
- ◆ the indirect interest in real property as reflected by a controlling interest in a real estate entity.

Before June 1, 2004, these transactions were not taxed by the State of Illinois.

This informational bulletin explains

- ◆ the additional types of beneficial interests now subject to the tax;
- ◆ what forms must be completed; and
- ◆ how much tax is owed.

### When is a ground lease subject to the tax?

A ground lease with at least a 30-year term is subject to tax. Be sure to include any expired portion and all options to renew or extend the lease when you calculate this 30-year requirement.

**Note:** Any interest of the lessee in improvements on the parcel is also subject to tax.

### What is a real estate entity?

A "real estate entity" is any person including, but not limited to, any partnership, corporation, limited liability company, trust, other entity, or multi-tiered entity that exists or acts substantially to hold direct or indirect title to or beneficial interest in real property.

Generally, an entity meets this definition if it owns, directly or indirectly, real property with a fair market value greater than 75 percent of the total fair market value of all its assets. **Do not** deduct any mortgage, lien, or encumbrance, when you make this determination.

### When is a controlling interest transfer subject to the tax?

A controlling interest transfer that includes more than 50 percent of the fair market value of all ownership interests or beneficial interests in a real estate entity is subject to tax.

**Note:** Interests will be aggregated if there is a series of related transfers within a rolling 24-month period. For more information, see Form PTAX-203-B instructions.

**What forms must be filed?**

Both Form PTAX-203, Illinois Real Estate Transfer Declaration, and Form PTAX-203-B, Illinois Real Estate Transfer Declaration Supplemental Form B, must be filed for ground leases and controlling interest transfers. These forms must be filed in the county where the property is located within **three business days** after the transfer or when a document is recorded, whichever is **earlier**.

Paper versions of both forms are available in the county recorder's office.

We are in the process of revising Form PTAX-203. Until both the paper and electronic versions of this form are available, please use the instructions in the gray box to the right.

**How much tax is owed?**

The state tax is based on the net consideration for the transfer after allowed deductions. The rate is 50 cents per each \$500 of value or fraction thereof.

There is currently no county tax on ground leases or controlling interest transfers, except in Cook County.

***Interim Instructions for Form PTAX-203***

(ground leases or controlling interest transfers)

- 1** On the line provided in Step 1, Line 5 (Other), write "ground lease" or "controlling interest in a real estate entity".
- 2** **Do not** complete Step 2 of Form PTAX-203. (You will calculate the amount of tax due in Step 4 of Form PTAX-203-B.)
- 3** Substitute the appropriate terms for "seller" and "buyer" in Step 4 of Form PTAX-203.
- 4** Write "Form PTAX-203-B" in the blank area to the right of the preparer's email address in Step 4 of Form PTAX-203.