

BY MICHAEL J. BEREY

ACRIS E-Tax Forms Are Changing Closings in New York City

It is expected that the Office of the New York City Register will soon implement a new program to be known as e-tax forms. This program will require that certain tax forms regularly submitted in connection with the transfer of an interest in real property be completed on the Internet using the Register's Web-based Automated City Register Information System (ACRIS). ACRIS e-tax forms will involve property in the Bronx, Brooklyn, Manhattan and Queens.

The tax forms to be completed online are the City's Real Property Transfer Tax Return (NYC-RPT), the New York State Real Estate Transfer Tax Return (RETT or TP-584), the New York State Real Property Transfer Report for New York City (RP5217-NYC), the Affidavit of Compliance with Smoke Detector Requirement (smoke detector affidavit), the Customer Registration Form for Water and Sewer Billing (water billing form), and the Property Owner's Registration Form (registration form). Except for the registration form, which will be extracted to the appropriate office, the forms will be printed from ACRIS,

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signed and submitted to the recording office with the closing instruments.'

Transfers that have closed without the tax forms having been submitted to

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the Register's Office before these new requirements take effect will require completion of the tax forms in ACRIS. In such instances, the Register's Office advises that the signature pages affixed to the usual hard copy forms can be annexed to the ACRIS generated tax forms.

The Affidavit in Lieu of Registration, required when a property is not a multiple dwelling, the Preliminary Registration for apartment buildings, and the New York State Form IT-2663, the Application for Certification for

Recording of Deed and Nonresident Estimated Income Tax Payment Voucher, will continue to be prepared outside of ACRIS.

Cover Page

Since Jan. 1, 2003, a cover page for each document being recorded and payment sheets have been prepared on ACRIS. A cover page sets forth, among other information, the property and tax addresses of each parcel being transacted, and the name and address of the person to whom a document is being returned. The payment sheet sets forth the amounts being paid for recording fees and transfer taxes. The completion of these forms has largely been the responsibility of the title companies and their agents. During the cover page session, entering the tax transaction identification number generated by e-tax forms will automatically populate fields in the cover page module.

On ACRIS, also since Jan. 1, 2003, indices of recorded documents and the documents, recorded as early as 1966 depending on the county, can be viewed online and be printed for further review.

For ACRIS, The City of New York's Department of Finance, of which the Register's Office is a part, was awarded the Citizens Budget Commission's Prize for Public Service Innovation for 2003. The title industry has generally found ACRIS a useful tool for title examina-

tion and recording.

ACRIS e-tax forms will force a radical change in real estate closings. The Register's Office anticipates that the tax forms will be completed online before a closing, and that any change or addition to a tax form at the closing will be done in ACRIS at a computer terminal with Internet access. Only the ACRIS generated tax forms completed online will be accepted. Each page of every form will be imprinted with a tax transaction ID to verify it was completed in ACRIS.

This new procedure may cause some confusion until users become familiar with the process. If, for example, the tax forms are not completed prior to closing, the ability to close will depend on the availability of Internet access at the time of closing. This may happen when, for example, the final amount of consideration is not determined or a party is reluctant to provide a tax identification number prior to closing. Hand written or typed tax forms, or tax forms completed or corrected outside of ACRIS to any extent, will not be accepted by the register.

Navigating the System

ACRIS is on the Internet at <http://www.NYC.gov/ACRIS>. There are a number of buttons on the home page, including ones for Main Menu Options and an E-Tax Forms Tutorial. Clicking on Main Menu Options takes users to a screen on which one of the options is Create Tax Forms/Create Cover Pages. Selecting that option will display a screen on which a registered user will log in by entering a customer ID and a customer keyword. A user not yet registered can create an account and then log in. Frequent users can establish a customer ID and keyword for use in multiple ACRIS sessions.

The customer ID and keyword are to

be between six to 20 alphanumeric characters long and must contain at least one number. Only by entering the customer ID, the keyword, and the tax transaction ID generated by ACRIS can one access the tax forms for a transaction after the process has begun.

After logging in, on the next screen user will be able to create New Tax Forms, Retrieve (the) Tax Transaction for tax forms already in process or completed, create or retrieve a cover page transaction, "Prepay Transfer Tax," or generate forms to pay transfer taxes for either the transfer of a cooperative unit or another type of unrecorded transfer, such as the transfer of a controlling interest in an entity owning real property. The use of ACRIS to compute transfer tax for the transfer of a cooperative unit or a controlling interest is for now expected to be optional.

When the user chooses New Tax Forms, a pop-up screen with the tax transaction ID will appear. The ID should be printed and placed in a secure location; without it, no one will be able to again access the forms to enter additional information, make corrections, or print the forms.

Users are then directed to a screen that starts the process of creating the new tax forms. The RPT, smoke Detector affidavit, water billing form and registration form are completed as a unit (the RPT forms). Entering information once populates fields on each of these forms and other fields will be populated from data stored in the department's databases. For example, entering the borough/county and the tax block and lot on the Property Information screen will populate the Property Address fields, and vice versa, and ACRIS will automatically enter on the RPT the number of floors, square footage and assessed valuation.

After completing the RPT forms, the RP-5217 and the TP-584 are each,

separately completed. However, not all of the information input into the RPT forms will populate required fields in the RP5217 and the TP-584.

Tutorial

Viewing the online e-tax forms tutorial is recommended. To further assist users, there is a Help button on most screens, an ACRIS Help Desk at 212-487-6300, and acrishelp@finance.nyc.gov, an e-mail address for assistance.

The title companies and their agents can also provide assistance, however, following are a few pointers on using ACRIS e-tax forms.

On the left side of each screen is a Completion Checklist with all the forms and schedules for the tax forms that are being processed. Required forms and schedules will be marked with an asterisk. Optional forms and schedules will have only a check mark. Once a form is completed, a check mark appears next to the name of the form or schedule. A required form or schedule will not be complete, and final tax forms without a "draft" watermark will not be printed, unless all required information is entered. If the transaction screen does not display a "Final" button, the user should review the checklists to see which forms or schedules are still incomplete.

Numerous required fields are also indicated by placement of an asterisk. Among the required fields are the names and addresses of the parties and their attorneys, their Social Security or taxpayer identification numbers, and their telephone numbers. Entering zeroes for the Social Security number or taxpayer ID is not acceptable.

A schedule to a transfer tax form can, depending on the circumstances of a transaction, become a required schedule. If, for example, a whole or partial mere change exemption from transfer

tax is claimed by marking box "S" on the NYC-RPT's Condition of Transfer screen, RPT Schedule M (Mere Change of Form Transfers) and TP-584 Schedule F become required schedules. Further, if the grantor or grantee is either a partnership or a limited liability company, ACRIS will require information as to at least two partners or members be entered on the grantor or grantee screen, as applicable.

Users should also be aware that if an optional form or schedule is started, ACRIS will require that form or schedule to be completed.

Data Grids

Entered information is saved and moved to a Data Grid at the bottom of the screen when users click the "Add" button. Information can be edited, deleted, copied and pasted. When completing the RP5217-NYC and the TP-584, certain information entered for the RPT forms may populate the data grid at the bottom of these other forms and users may not be able to enter similar information.

Data grids, which require users to scroll down to see, should be reviewed before attempting to enter the same information again.

Tax forms that are not completed in full will be printed with the watermark "DRAFT-Required Fields Not Completed." Although those draft forms can be printed, they cannot be submitted for recording. The only pages that can be printed without the watermark while the forms are otherwise in draft are the signature pages, which will enable the forms to be pre-signed when necessary. The signature pages can later be combined with the final tax forms. Note that multiple signature pages can be printed, if required. However, photocopying signature pages will not be accepted, notwithstanding that

the city will accept forms completed outside the closing but faxed to the closing.

The Finance Department has indicated that only one signature will be required for each of the RPT and TP-584, as has been the practice, even though the program will generate signature pages with multiple signature lines when there is more than one grantor or grantee. It is noted, however, that the statute of limitations for the assessment of additional transfer taxes, and interest and penalties, does not run for parties not signing the forms.

In addition, Schedule D of TP-584 ("certification of exemption from the payment of estimated personal income tax" under Tax Law Section 663) must be signed by all parties claiming an exemption on Schedule D from the requirement that a non-resident individual, estate or trust pay estimated income tax from the gain on a sale of real property in New York state.²

There are other items that merit particular attention. If the water billing form, which is an optional form, is not completed, the water bills will be sent only to the grantee. The grantee's address entered in the grantee screen for the RPT forms automatically becomes the billing address on the water billing form; that address cannot be overridden on the Water and Sewer billing screen without changing the grantee's address on the grantee screen.

After completing the Property Information and Condition of Transfer screens, and any required schedules to the tax forms, the Details of Consideration and Computation of Tax screens, the NYC-RPT tax will be automatically calculated. Similarly, the state transfer tax and any additional tax imposed under Tax Law Section 1402-a (the Mansion Tax), if applicable, will be computed based on information entered

and schedules completed in the TP-584 module. It remains to be seen whether the Finance Department accounted for all nuances contained in the state and city transfer tax regulations.

Conclusion

Notwithstanding these particular concerns, the program is well designed and the real estate community should find it a valuable tool. The Finance Department notes that e-tax forms will reduce data entry, automatically calculate transfer taxes, and reduce error by confirming that all required fields and tax form schedules have been completed. The forms will open and print, and they can be saved to disk, in PDF format.

ACRIS e-Tax forms and the changes it will make to the closing process will have to be taken into account by all involved parties. Seller's counsel will need to prepare the forms, or arrange for their preparation, in consultation with counsel for the purchaser in advance of closing. Lender's counsel may find it prudent to provide Internet access at all closings. Title insurance companies and their agents will provide various services to ensure completion of closings. In preparation for that change, consideration should be given to reviewing closing procedures, to ordering high-speed Internet access if not now in place, and to reviewing the online tutorial.

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1. The NYC Department of Finance advises that the registration form will be filed only after the conveyance to which the form relates has been recorded. The water billing form is in all instances an optional form.

2. See Berey, "Rules Change on September 1 for Real Property Recordings", NYLJ, Aug. 20, 2003.