



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF TAXATION
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MEMORANDUM

**TO: COUNTY CLERKS/RECORDING OFFICERS,
COUNTY CHIEF FINANCIAL OFFICERS,
ATTORNEYS AND TITLE OFFICERS**

**FROM: SHELLY REILLY, ASSISTANT DIRECTOR
DIVISION OF TAXATION**

SUBJECT: CLARIFICATION ON GRADUATED PERCENT FEE IMPLEMENTATION

DATE: JULY 9, 2025

On July 2, 2025, the Division of Taxation issued a memorandum outlining the changes effected by P.L. 2025, c. 69, namely, that the 1% Fee on grantees of deed transactions in excess of \$1 million in consideration was now a Graduated Percent Fee imposed on grantors of such deed transactions. This memorandum serves to supplement that July 2 memorandum with additional policy determinations for the initial implementation of the new fee structure and the “grace period” provided in the law for deeds transferred based on contracts executed prior to July 10, 2025 and recorded on or before November 15, 2025.

A summary of the applicable rules is followed by a longer explanation of the interpretation generating these policies:

- For all deeds **submitted for recording on or after July 10**, the statutes put legal responsibility for payment of all transfer fees on the seller. Any contract provisions allocating responsibility otherwise are private legal arrangements and taxpayers with questions on the effect of the law on real estate contracts should be directed to consult with competent private legal counsel.¹
- All deeds **received by the county recording officer on or before July 9, 2025** will have the 1% fee applied, whenever the actual recording occurs.²
 - If a deed was received by the county recording officer on or before July 9, 2025 but returned for corrections, **the initial submission date governs** and the 1% fee applies.
- Under the “mailbox rule” for State taxes, a deed and fee payment committed to the United States Postal Service must be treated as though it was received on the date of the postmark, so long as it has proper postage and was properly addressed. Any deed with **a postmark**

dated on or before July 9 is to be treated as received on or before July 9 and subject to the 1% fee.³

1. P.L. 2025, c. 69 amends N.J.S.A. 46:15-7.2 to put the liability for payment of the Graduated Percent Fee on the grantor in a transaction. N.J.S.A. 46:15-7.2(c) provides that the fee is ‘subject to the provisions of the State Uniform Tax Procedure Law, R.S. 54:48-1 et seq.’ N.J.S.A. 54:49-1 makes states taxes “a personal debt of the taxpayer to the State.” While the non-payment of the Graduated Percent Fee would constitute a tax debt of the grantor, in reality, a deed with a stated consideration in excess of \$1 million will not be recorded without payment of the Graduated Percent Fee. In the case of all taxes, legal liability is not the same as requiring a payment to come from a specific person. That is, so long as the Graduated Percent Fee is paid, the State has no interest in the identity of the actual payor. The legal liability only matters with respect to who has the right to file a claim for refund and who would be liable if an audit discovers an underpayment. If the grantor and grantee have contracted to shift liability for any of the realty transfer fees due at the time the deed is submitted for recording, it remains a matter of contract law. It is not the role of the Division of Taxation to interpret provisions of contracts between two private parties or to offer legal advice on the effect a change to a tax statute has on such contracts.
2. Section 5 of P.L. 2025, c.69 provides that the new rates apply to “transfers of real property ... occurring on or after July 10, 2025.” That phrasing is ambiguous as to what action determines the applicable rate; the date of closing, the date of submission to the county recording officer, the date the deed is actually recorded, etc. N.J.S.A. 46:15-7.2(a), as amended by P.L. 2025, c. 69, provides that the fees levied on deed transactions “shall be collected by the county recording officer at the time the deed is **offered** for recording.” (Emphasis added). Accordingly, the operative date to determine whether a transfer in excess of \$2 million should be charged 1% of consideration or a higher percentage is the date on which the deed is **submitted** to the county for recording.
3. N.J.S.A. 46:15-7.2(c) provides that the fee is ‘subject to the provisions of the State Uniform Tax Procedure Law, R.S. 54:48-1 et seq.’ Amongst other provisions, the State Uniform Tax Procedure Law adopts a “mailbox rule” in N.J.S.A. 54:49-3.1. Put succinctly, if a tax payment is **postmarked** within the applicable timeframe for the payment to be made, and upon delivery from the United State Postal Service it is determined that “the document was deposited in the mail, postage prepaid, properly addressed to the ... officer with whom the document is required to be filed,” it shall be deemed to be delivered on the date of the postmark.

SR:KFB