



Department of Taxation and Finance

Important

The real property transfer gains tax was repealed for transfers of real property that occur on or after June 15, 1996.

The information in this TSB-M is out-of-date and is provided only for historical purposes.

For additional information concerning the repeal of the tax, see [TSB-M-96\(4\)R](#).

The TSB-M begins on page 2 below.

COMPUTATION OF CONSIDERATION AND ORIGINAL PURCHASE
PRICE FOR CONDOMINIUM OR COOPERATIVE PROJECTS

The following are alternative options for computing the amount of consideration and original purchase price to be reported on the transfer of each unit pursuant to a cooperative, condominium or other plan involving successive transfers subject to the tax imposed by Article 31-B of the Tax Law.

Option A

Actual Consideration paid for each unit with an apportionment of the total Original Purchase Price to each unit.

1. The actual consideration shall be the price paid to the transferor plus any amount paid to a third party on behalf of the transferor.
 - a. Such amount shall be reported on Line 1, Schedule B, of the Transferor Questionnaire, Form TP-580 and
 - b. on Line 1 of the Transferee Questionnaire, Form TP-581.
2. Brokerage fees paid or to be paid by the transferor, reported on Line 2 of Schedule B of Form TP-580.
 - a. The amount shall be the actual fee paid on the transfer of the unit or ,
 - b. an apportionment of the total anticipated brokerage fee to be paid over the entire plan.
3. Brokerage fees paid by the transferee:
 - a. to the transferor shall be reported on Line 2 of the Transferee Questionnaire.
 - b. to a broker shall be reported on Line 3 of the Transferee Questionnaire.
4. The Original Purchase Price (Purchase price paid to acquire real property plus cost of Capital Improvement) shall be apportioned to each unit based on the unit's relationship to the total units, utilizing a fixed common denominator. Such apportioned amount shall be recorded on Line 6 of Form TP-580.

- a. The following methods of apportionment are acceptable to the Department:

Percentage of the -
 - (1) common interest of each unit compared to the total common interest of all units.
 - (2) square footage of each unit compared to the total square footage of all units.
 - (3) shares of stock of each unit compared to the total shares of stock of all units.
 - b. The Department shall consider other methods proposed by the transferor utilizing a fixed common denominator.
 - c. The method of apportionment utilized shall be irrevocable for all units sold under the plan unless prior written permission to change is obtained from the Department.
5. The gain subject to the tax shall be the amount of the actual consideration less the amount of the transferor's brokerage fees, less the apportioned amount of the original purchase price. In no event will the losses incurred on the sale of units be applied to offset gains on other units.
6. The original submission under Option "A" must include the following information and documentation.
- a. Offering Plan-a copy of the offering plan and any amendments thereto.
 - b. Brokerage Fee-a statement from the brokerage firm setting forth the total brokerage fee anticipated under the plan, if this amount is apportioned to each unit.
 - c. Purchase Price to Acquire-a copy of the closing statement and contract of sale setting forth the consideration paid to acquire the real property. List other expenses included in the purchase price, stating the name of the payee and the reason for such payment.
 - d. Capital Improvements-a schedule setting forth the actual amount paid and the name of the payee. In a separate column, any estimated additional amount to be paid throughout the balance of the project for each capital improvement and any other expense incurred to make such capital improvements must be set forth.
 - e. Method of apportionment of Original Purchase Price-state the method of apportionment along with the common denominators of the total units and each unit's portion thereof. The percentage of each unit need not be carried

out beyond four decimal points (one one-hundredth of one percent).

- f. Summary Schedule-set forth actual, estimated and total anticipated Original Purchase Price. Such schedule shall be substantially in the following format:

	<u>Actual To Date</u>	<u>Estimated Additional to be Paid</u>	<u>Total Anticipated (Actual Plus Estimate)</u>
Purchase Price to Acquire	\$	\$ n/a	\$
Capital Improvements	\$ _____	\$ _____	\$ _____
Total Original Purchase Price	\$	\$	\$

- g. The information required in items (b), (d) and (f) above must be updated and submitted upon the sellout of each 25% of the project (25%; 50%; 75% and at completion) and as requested by the Department.

- 7. At least 20 days prior to the date of transfer of each unit the following must be submitted:

- a. TP-580 Transferor Questionnaire
- b. TP-581 Transferee Questionnaire
- c. Purchase contract
- d. A schedule setting forth the apportionment of the original purchase price to the Unit, in a format similar to that in the following example.

Schedule of Apportionment

Method of apportionment:	Square footage
Unit 2 square footage:	1,500
Total units square footage:	18,000
Unit 2 percent of apportionment:	$\frac{1,500}{18,000}$ 8.33%
Total anticipated Original Purchase Price:	\$ 4,200,000
Allocate Original Purchase Price to Unit (\$4,200,000 x 8.33%)	\$ 349,860 Line 6 of TP-580

Option B

Apportionment of the total consideration anticipated and total original purchase price to each unit. This option, in effect, is an allocation of the total anticipated gain to each unit.

1. The total consideration anticipated, total brokerage fees anticipated and total original purchase price anticipated shall be apportioned to each unit based on the unit's percentage to the total units, utilizing a fixed common denominator. Such apportioned amounts shall be recorded on lines 1, 2, and 6 respectively on Form TP-580.
 - a. The following methods of apportionment are acceptable to the Department:

Percentage of the -
 - (1) common interest of each unit compared to the total common interest of all units.
 - (2) square footage of each unit compared to the total square footage of all units.
 - (3) shares of stock of each unit compared to the total shares of stock of all units.
 - b. The Department shall consider other methods proposed by the transferor utilizing a fixed common denominator.
 - c. The method of apportionment utilized shall be irrevocable for all units sold under the plan unless prior written permission to change is obtained from the Department.
2. The gain subject to the tax shall be the apportioned amount of the total consideration less the apportioned amount of the brokerage fee, less the apportioned amount of the original purchase price.
3. The actual amount of the consideration paid by the transferee shall be recorded on line 1 on Form TP-581 (Transferee Questionnaire). Any brokerage fee paid by the transferee to a broker or to a transferor shall be recorded on line 2 and line 3, respectively, on such form.
4. The original submission under Option "B" must include the following information and documentation:
 - a. Offering Plan-a copy of the offering plan and any amendments thereto.
 - b. Gross Consideration-a statement setting forth the basis of determining the total gross consideration anticipated under the plan.

- c. Brokerage Fee-a statement from the brokerage firm setting forth the total brokerage fee anticipated under the plan.
- d. Purchase Price to Acquire-a copy of the closing statement and contract of sale setting forth the consideration paid to acquire the real property. List other expenses included in the purchase price, stating the name of the payee and reason for such payment.
- e. Capital Improvements-a schedule setting forth the actual amount paid and the name of the payee. In a separate column, any estimated additional amount to be paid throughout the balance of the project for each capital improvement and any other expense incurred to make such capital improvements must be set forth.
- f. Method of Apportionment-state the method of apportionment along with the common denominator of the total units and each unit's portion thereof. The percentage of each unit need not be carried out beyond four decimal points (one one-hundredth of one percent).
- g. Summary Schedule-set forth the actual, estimated and total anticipated amounts to be received or paid over the entire project which relates to items (b) , (c), (d), and (e) above. Such schedule shall be substantially in the following format:

Summary Schedule

	<u>Actual To Date</u>	<u>Estimated Additional through Completion</u>	<u>Total Anticipated (Actual plus estimated)</u>
1. Gross Consideration	\$	\$	\$
2. Brokerage fees	\$ _____	\$ _____	\$ _____
3. Consideration (line 1 minus line 2)	\$	\$	\$
4. Purchase Price to Acquire	\$	\$ n/a	\$
5. Cost of Capital Improvements	\$ _____	\$ _____	\$ _____
6. Original Purchase Price (line 4 plus line 5)	\$ _____	\$ _____	\$ _____
7. Gain subject to Tax (line 3 minus line 6)	\$	\$	\$

- h. The information required in items (b), (c), (e) and (g) above must be updated and submitted upon the sellout of each 25% of the project (25%; 50%; 75% and at completion) and as requested by the Department.
5. At least 20 days prior to the transfer of a unit the following information must be submitted:
- a. TP-580 Transferor Questionnaire
 - b. TP-581 Transferee Questionnaire
 - c. Purchase Contract
 - d. A schedule setting forth the apportionments to the unit, attached to TP-580, in a format similar to that in the following example.

Schedule of Apportionment

Method of apportionment:		Shares of stock
Unit No. <u>1</u> shares of stock:		500
Total shares of stock all units:		63,000
Unit No. <u>1</u> percent of apportionment	$\frac{500}{63,000}$.79%
	<u>Total Anticipated x Unit Percentage</u>	<u>Apportionment</u>
Consideration (line 1)	\$5,040,000 x .0079	\$39,816
Brokerage fee (line 2)	\$ 252,000 x .0079	1,991
Original Purchase Price (line 6)	<u>\$3,652,000 x .0079</u>	<u>28,851</u>
Gain subject to tax (line 8)	\$1,136,000 x .0079	\$ 8,974