



## **REALTY TRANSFER TAX BULLETIN 2022-01<sup>1</sup>**

**Issued: December 5, 2022**

### **Realty Transfer Tax Payments and Refund Procedure**

#### **I. Purpose**

This Bulletin explains the methods and procedures for obtaining a refund of Commonwealth Realty Transfer Tax ("State RTT"),<sup>2</sup> as well as Local Realty Transfer Tax ("Local RTT") (collectively "RTT") administered by the Department of Revenue ("Department").<sup>3</sup>

#### **II. Payment and Disbursement of State and Local Realty Transfer Tax**

State and Local RTT are remitted either to the county Recorder of Deeds or to the Department.

Normally, RTT is remitted to the Recorder of Deeds ("ROD") of the county where the taxable document is recorded at the time of recording. In these instances, the ROD collects and disburses the State RTT to the Department of Revenue and the Local RTT to the appropriate municipality and school district. The Department has no jurisdiction over and does not administer Local RTT that is paid to the ROD.

If a document is filed with the ROD but RTT is not paid and later upon review the Department determines that RTT is due, the Department will issue an assessment for both the State and Local RTT.<sup>4</sup> RTT paid as the result of an assessment is paid to the Department. In those instances, the Department retains the State RTT and disburses the Local RTT to the appropriate ROD who then distributes the Local RTT to the municipality and school district.

---

<sup>1</sup> This bulletin replaces Realty Transfer Tax Bulletin 2010-01, which is rescinded as of the publication of this bulletin.

<sup>2</sup> The tax under Article XI-C of the Tax Reform Code of 1971, as amended (72 P.S. §§ 8101-C, et seq.).

<sup>3</sup> The tax under Article XI-D of the Tax Reform Code of 1971, as amended (72 P.S. §§ 8101-D, et seq.).

<sup>4</sup> The Department only assesses Local RTT for municipalities and school districts that have adopted the Local RTT under Article XI-D of the Tax Reform Code of 1971, as amended (72 P.S. §§ 8101-D, et seq.). Most municipalities and school districts have adopted this tax. The Department does not collect for the City of Philadelphia.



In some situations, a document may not be recorded. If a taxable document is not recorded, RTT is still required to be paid.<sup>5</sup> In that instance, RTT must be paid to the Department. To pay the tax, the taxpayer must notify the Department of the unfiled document. Upon notification, the Department will issue an assessment. The taxpayer pays the assessed liability to the Department. As indicated above regarding assessed RTT, the Department retains the State RTT and disburses the Local RTT to the appropriate ROD who then disburses the Local RTT to the school district and municipality.

### **III. Methods for Obtaining a Refund of RTT**

When RTT is paid and later the taxpayer believes that a refund is due, the manner of obtaining refund depends upon the way it was paid.

When RTT is paid to the ROD, the taxpayer must seek a refund of Local RTT from the municipality and/or school district.<sup>6</sup> The taxpayer must seek a refund of the State RTT from the Department, as explained below.

When RTT is paid because of a Department assessment, the taxpayer must seek a refund of the assessed State and Local RTT from the Department. If the Department determines that a refund is due, the Department will issue a refund of the State RTT and the taxpayer will have to notify the municipality and/or school district of the Department's determination and obtain a refund of the Local RTT from the municipality and/or school district.

When seeking a RTT refund from the Department, there is an informal method (the "Application for Refund") and a formal method (the "Petition for Refund").

#### **A. Application for Refund**

An Application for Refund is an informal, non-statutory, administrative process. The Application for Refund is filed with the Department's Bureau of Individual Taxes ("BIT") on the "Application for Refund Pennsylvania Realty Transfer Tax" form REV-1651, which is available on the department's website. An application can be mailed or emailed to the Department. Instructions are available on the form.

**\*\*Note:** The Application for Refund does not replace the Petition for Refund (explained below), nor does it toll any statute of limitation for filing a Petition for Refund. If there is any doubt as to whether to file an Application for Refund or a

---

<sup>5</sup> For a taxable document that is not recorded, the RTT is due within thirty days of the date the grantee accepts the document. 72 P.S. § 8102-C.

<sup>6</sup> "Where there has been no determination of unpaid tax, application for refund shall be made to the political subdivision in the manner prescribed by the act of December 31, 1965 (P.L. 1257, No. 511), known as "The Local Tax Enabling Act," 53 Pa.C.S. Ch. 84 Subch. C (relating to local taxpayers bill of rights) or as otherwise provided by law." 72 P.S. § 8111-D(b).



Petition for Refund or if the statute of limitations for filing a Petition for Refund is close to expiring, a taxpayer should file a Petition for Refund.

An Application for Refund should be used to correct simple issues such as duplicate payments, mathematical errors, or clerical errors. An Application for Refund should not be used to resolve substantive legal or factual issues. The Petition for Refund, explained below, should be used for those matters.

If the Department's BIT receives an Application for Refund that should have been filed as a Petition for Refund, the BIT will refer the application to the Department's Board of Appeals ("BOA") for consideration under the Board's Petition for Refund procedures. The taxpayer will be notified of the referral. Any such application presented to the BOA will be deemed to be filed with the BOA on the date the BIT received the Application for Refund. The BOA may require additional forms (such as the Petition for Refund Form (REV-65), documentation, and information to be filed for purposes of perfecting the Petition for Refund.

## **B. Petition for Refund**

A Petition for Refund is the statutory method for obtaining an RTT refund from the Department. A timely filed Petition for Refund tolls the filing deadline and preserves a taxpayer's due process rights. A Petition for Refund may be filed for any RTT refund over which the Department has jurisdiction and is the method that should be used to obtain an RTT refund when substantive legal or factual issues are involved (including constitutional challenges).

A Petition for Refund must be filed with the BOA in accordance with the requirements of Article XXVII of the Tax Reform Code of 1971, *as amended*, and Chapter 7 of Title 61 of the PA Code. The Petition for Refund form (REV-65) is available on the Department's website. The Petition can be filed electronically through the Department's website or by mail.

## **IV. Who Can File, Proof, and Issuance**

### **A. Eligibility**

Any party that is liable for and paid RTT can file for a refund. Other parties, such as attorneys, title agents and other closing agents, can file an appeal on behalf of an RTT taxpayer, but the refund must be filed in the RTT taxpayer's name. Anyone who files on behalf of an RTT taxpayer must provide a Power of Attorney and Declaration of Representative Form (Form REV-677) signed by the RTT taxpayer.

### **B. Proof**



Any party that files for a refund must be able to provide documentary proof that the party paid the tax and the specific amount paid.

### **C. Joint and Several Liability**

RTT is a joint and several liability of all parties (grantors and grantees) to the real estate transaction.<sup>7</sup> Therefore, all parties are liable for the tax. In most instances, the parties to the real estate transaction divide the obligation to pay the State and Local RTT tax liability equally among themselves. However, the parties can contractually allocate the State and Local RTT liability amongst themselves as they agree. Regardless of how the parties allocate the RTT liability, all parties are jointly and severally liable for the full tax. Any underpayment can be collected from any of the parties.<sup>8</sup>

Because of the joint and several nature of RTT, more than one party might contribute to the RTT liability. Further, RTT payments often do not come from the parties to the transaction. Attorneys, title companies, and other closing agents frequently remit RTT payments. In those instances, the Department will not know which taxpayer paid the RTT or the amount. If a refund of RTT is requested, it is advisable for all parties to the real estate transaction to file a Petition for Refund and make their own claim for the portion of the RTT refund to which each party is entitled.

### **D. Issuance of Refund**

The Department cannot issue a single RTT refund check jointly in the name of multiple parties. As indicated above, it is advisable for all parties to a transaction to file individual refund requests for the portion of the tax that each party paid.

If a party files for a refund of RTT paid by multiple parties, the filing party must obtain the consent of all the parties to the transaction for the Department to issue the entire refund to the filing party. The consent must be in writing, signed, and notarized by all parties to the transaction. A consent form (Form REV-1894) is available on the Department's website. If the consent is not obtained, the refund will be denied.

If less than all parties to the real estate transaction files for a refund, the filing party is only entitled to a refund of the amount of RTT that the party paid. As indicated above, the filing party must provide proof that the RTT was paid and the specific amount that the party paid. If a party is unable to provide such proof, the refund request will be denied.

---

<sup>7</sup> In the case of an acquired real estate company, only the acquired company is subject to the tax. In this case, there is no joint and several liability. The acquired company must be filed a Declaration of Acquisition (Form REV-1728) and pay the tax on that document.

<sup>8</sup> Parties who are statutorily exempt from RTT are not liable for the RTT. The full amount of the RTT liability is imposed upon and collectable from all non-exempt parties. See *Wilson Partners, L.P. v. Commonwealth*, 723 A.2d 1079 (Pa. Cmwlth. 1999).



## **V. Timeframe to file for a Refund**

### **A. Petition for Refund**

A Petition for Refund must be filed within the timeframe prescribed under 72 P.S. § 10003.1. Generally, the Petition must be filed with the BOA within three years of the payment of the tax, or in the case of amounts paid as a result of an assessment, within six months of the actual payment of the tax.

### **B. Application for Refund**

The Department will not consider an Application for Refund unless it is filed within the timeframe for which a Petition for Refund must be filed. Further, as indicated above, the Application for Refund is an informal, non-statutory, administrative procedure. The Department is not required to act on an Application for Refund. If the Department does not act on an Application for Refund, the taxpayer should file a Petition for Refund with the BOA within the statutory timeframe outlined above.