



FIDELITY NATIONAL TITLE UPDATES

– BULLETIN –

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"Appreciate the Fidelity Difference"

SPECIAL EDITION

ACRIS, ONLINE TAX FORM PREPARATION FOR RECORDED DOCUMENTS REQUIRED AFTER JULY 5, 2004

Effective July 5, 2004 the New York City Register's *Automated City Register Information System (ACRIS)*, an internet based real property records access system, will introduce its Phase 2.1 enhancement – E-Tax forms preparation. Using this internet portal, users will now be required to submit electronically created *New York State Transfer Tax Return (TP-584)* or *New York City Real Property Transfer Tax Return (NYCRPT)* and *Real Property Transfer Report (RP-5217NYC)* forms along with the instruments for recording for which these forms are required. The use of the ACRIS system and its new E-Tax forms is limited to the Counties of New York, Kings, Queens and the Bronx. Recording cover page and tax documentation requirements in Richmond County (Staten Island) remain unaffected and unchanged by these changes made in the ACRIS system.

In order to reduce the instances of delayed or adjourned closings, we are providing an overview of the E-Tax system. Real estate lawyers and other professionals are strongly urged to visit the tutorial available on the Department of Finance's ACRIS website (www.ci.nyc.ny.us/html/dof/html/acris.html) for a more complete view of the E-Tax system.

On January 6, 2003 the City of New York introduced their online ACRIS records system. Under ACRIS, the public can now view and access recorded land records over the internet as well as at the various borough offices of the City Register. In addition, the City adopted a system requiring that all instruments to be recorded in the Register's offices be accompanied by a computer generated "cover page." The cover page itself must be completed by the presenter of the document in online session. The data entered describing

the transaction, including the names of parties, consideration paid and property description is captured and used to calculate the recording fees and taxes and also used to populate the Register's official document index. Previously, the Register would accept hand written or typed forms of transfer tax returns and transfer report forms. However, with the introduction of the E-Tax Phase of ACRIS the Transfer Tax and Transfer Report forms must now be created in an online session much like the cover page sessions used by the title industry to create the required document cover pages for recording.

Here's how the system is supposed to work. The seller's attorney, instead of completing paper tax returns (TP-584, NYC RPT and RP-5217NYC) will open an E-Tax session in ACRIS. To do this, the attorney, a paralegal or clerical person, will be required to enter a Customer ID (user identity) and Customer Keyword (password). For the purposes of this Bulletin we'll refer to user ID and password. The user ID and password may either be unique to the particular transaction session or the user can enter a general user ID and password that allows access to all the user's transactions. While the City suggests that high volume users adopt the general ID and password, as will be explained further in this Bulletin, it would be more advantageous to use a unique ID and password for each E-Tax session. The next step in the process will be to select the forms that are required. It should be noted that in addition to the City and State Transfer Tax Returns and Property Transfer Report form, the ACRIS E-Tax system will also permit the electronic preparation of the City Department of Finance Registration of Ownership for tax billing purposes and the Department of Environmental Protection (DEP) owner registration for water billing

purposes. In addition a form of Smoke Detector affidavit can also be created during the E-Tax session. At present the City is not requiring that DOF and DEP forms be electronically prepared and the same can be hand written, typed or omitted altogether. Additionally, the Smoke Detector Affidavit which must accompany a filed RPTT return can be hand written or typed. Please also note that the Multiple Dwelling Registration Card or Affidavit of Non multiple Dwelling status cannot be prepared in the E-Tax system but are required to record a deed, lease or memorandum of lease.

What follows are highlights of the E-Tax system and a review of procedures that may be required as a result of the implementation of ACRIS E-Tax.

- ▶ **E-Tax Implementation:** Phase 2.1 E-Tax Forms will be required for all recordings submitted **on or after July 6, 2004**. E-Tax preparation sessions will be operable July 3 and the City Offices will be closed on Monday July 5 in observance of the July 4th holiday.
- ▶ **There will be a two-week grace period** during which paper tax forms will still be accepted so long as an ACRIS cover page is created.

ON OR AFTER 7/6/2004:

- ▶ **All E-Tax forms prepared in ACRIS must also be accompanied by an appropriate ACRIS Cover Page.**
- ▶ **Seller at Closing has not created an ACRIS E-Tax forms:** The title company or attorney's office can open an E-Tax session and prepare the E-Tax forms and fax the completed forms with the signature page bearing the E-Tax session ID to the closing for original signature by the parties. The Faxed copy of a form including a faxed signature page bearing the E-Tax session ID and **original signatures of the necessary parties** will be accepted by DOF with the appropriate cover pages.
- ▶ **An E-Tax form is prepared and signed; however, changes in the transaction require changes to the returns:** The E-Tax returns must be corrected or

amended online and reprinted. E-Tax session forms bearing the same Tax Session ID as the signature page from the original version and the actual signature page of the earlier printed version can be submitted to the Register with the documents for recording.

- ▶ **Parties have pre-signed E-Tax forms and a) are not present at closing and are not available to resign and/or 2) correction of the E-Tax session is not possible:** If a signed E-Tax session has been printed as a draft or as a final form and the parties are not available to reexecute new E-Tax session forms and/or internet access is not available to modify the existing signed E-Tax forms (or the E-Tax form preparer's password is not known or available) corrections can be made by hand on the original signed E-Tax session forms which forms can be submitted, as though they were paper non E-Tax forms, together with new unsigned E-Tax session forms (under a new E-Tax ID number) reflecting the changes made to and that are shown on the old signed E-Tax session forms.
- ▶ **Rejected documents returned after 7/6/2004:** The Register will require that the unsigned E-Tax form be submitted with the rejected documents and paper tax returns and forms.¹
- ▶ **Prepayment of taxes** is allowed under the E-Tax system as well as payment of tax due on Coop transactions.
- ▶ **Mandatory E-Tax format forms are the**

¹ *There was a question raised whether ACRIS as the program was written would allow subsequently created E-Tax forms to be merged with existing ACRIS Cover Page sessions. If this is not possible the Register's has indicated that her office will waive the requirement that new unsigned E-Tax forms accompany documents previously rejected and resubmitted for recording after 7/6/2004. The Register is consulting with the City's IT staff and will advise us further when a determination on this question is arrived at. In response to questions about rejected cover pages the Register stated that a new cover page will be required and that ACRIS is equipped to merge an existing cover page session with a new E-Tax session so it appears that unsigned E-Tax forms will be required for previously rejected documents.*

RP-5217NYC, TP-584 and NYC RPT.

- ▶ The Smoke Detector affidavit **may be either E-Tax prepared or written/typed.**
- ▶ The DOF Property Owner Registration form and DEP Registration form are optional and may be either hand written/typed or E-Tax or omitted.
- ▶ Telephone number on the DOF and the DEP Owner Registration forms are optional.
- ▶ If SS or EIN numbers are unknown the proper entry is 000-00-0000.
- ▶ On the NYC RPT for vacant land the system has or will be corrected to accept "0" for the number of floors.
- ▶ **The Multiple Dwelling Registration/Affidavit of Non-multiple Dwelling is not an E-Tax form but it remains a mandatory form for recording.**
- ▶ **The following changes have been made in the system that are not reflected in the tutorial.**
 - ▶ The "Residential Phone" and "Business Phone" fields now are called "Primary Phone #" and they are not required.
 - ▶ Information in the Grantee and Grantor screens can be edited in the 5217 after being populated from the RPT.
 - ▶ The Privacy Disclaimer link appears where the SSN/EIN is requested.
 - ▶ When creating a Cover Page for a deed-class document, the user will see three lines for the BBL of the first property in addition to the Tax Transaction ID field.
 - ▶ On the RPT Schedule H, if lines B, C, D, E and F are all less than 50%, the tax rate in Schedule 2 is set to zero.

In addition, and after the introduction of Phase 2.1, the City Register intends to establish a central processing center responsible for scanning and for packaging for return the recorded and rejected documents. The Register will continue to handle document examination at the County level.

The Register's office has agreed to allow rejected documents to be held for pickup at its central location once it is operational, and the Register will also explore the possibility of adding a "check box," or an "option button" in the "presenter" field of the ACRIS cover page session to allow the preparer to choose between Return by mail and hold for pickup options. Pending development of that system feature, the Register suggests that if a cover page preparer wants the City to hold the documents for pickup, that the preparer show that choice by stating "PICKUP" after the presenter's name. If mailing is desired, the word "MAIL" should be used. If neither choice is stated, the document will be returned by mail.

Below is a partial specimen of the presenter line portion of a typical ACRIS cover page showing where the words "Pickup" or "Mail" should appear. This format has been approved by the acting City Register for immediate use on an interim basis.

PRESENTER: FIDELITY NATIONAL - PICKUP 2 PARK AVENUE NEW YORK, NY 10016 212.481.5858		RETURN TO: JOHN SMITH, ESQ. 2 PARK AVENUE NEW YORK, NY 10016 212.123.4567	
PROPERTY DATA			
Borough	Block	Lot	Unit Address

The following questions were submitted to the Acting City Register, Annette Hill. We have edited both the questions and answers, and added emphasis, to enhance clarity.

Q. The DEP registration form should be optional?

A. The form is optional, but it will always print

because it is part of the package. This form is not required for recording.

Q. The possibility that the cover page will have an option to indicate whether the rejected documents should be mailed, or held for a pick-up?

A. We are reviewing the possibility of enhancing the cover page to include this in the future. However, the parties that submit documents can indicate next to the name of the presenter "PICK-UP" or "MAIL." Work submitted without that indication will be mailed.

Q. How do you create a tax form for a block or lot that has not been created in RPAD²?

A. Currently if this problem arises for recording, the cover page is created and indicates that this is a part of a lot. E-Tax forms will handle this issue in the same manner.

Q. When is the E-Tax information captured by ACRIS?

A. The Tax information is captured by ACRIS immediately, but it is not extracted and reported to the various systems until the document is recorded.

Q. Will we be able to correct a rejected cover page that was submitted prior to the launch once the E-Tax application goes live?

A. Yes, you will need to create an E-Tax transaction first, and when you retrieve the original cover page it will ask for the tax transaction ID.

Q. The RPTT requires the number of floors,

if that information is not available will you be able to enter zero?

A. The application will be changed to accept the value of zero.

Q. If the attorney creates a tax form, but never submits it. If there are changes and the title company wants to create a tax form, will the attorney need to abandon the form that was created?

A. No, the title company can create a new form, but as discussed they will have to submit the attorneys copy with the new forms if the signatures were captured on that form.

We will continue to monitor the introduction of ACRIS Phase 2.1 and will provide updates as further information becomes available. ●

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² RPAD is the City's address and block and lot locator program. When either an address or block and lot information is entered in ACRIS, the RPAD program searches for and enters the appropriate information corresponding to the address or block and lot entered.