

P.L. 2005, CHAPTER 20, *approved January 19, 2005*
Assembly, No. 3510

1 **AN ACT** concerning payment of estimated gross income tax on sales
2 of real property in this State by nonresidents, amending P.L.2004
3 c.55.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 2 of P.L.2004 c.55 (C.54A:8-9) is amended to read as
9 follows:

10 2. a. A nonresident taxpayer shall estimate and pay the gross
11 income tax liability on the gain, if any, upon the sale or transfer of real
12 property within this State. A nonresident taxpayer shall estimate the
13 gross income tax due on a form prescribed by the director, using an
14 estimated tax rate that is equal to the highest rate of tax for the taxable
15 year provided in N.J.S.54A:2-1. The estimated tax due shall equal the
16 gain, if any, multiplied by that rate. The amount of gain used in the
17 computation shall equal the amount of gain reportable for federal
18 income tax purposes for the taxable year, but **[may]** the estimated tax
19 payment shall not be less than 2% of the consideration for the sale
20 **[of]** or transfer stated in the deed affecting the conveyance.

21 b. If the real property sold or transferred is located partly with and
22 partly without this State, the nonresident taxpayer shall estimate the
23 tax due using only the portion of the gain reasonably attributable to
24 the portion of the real property located within this State.

25 c. If the nonresident is an estate or trust, the taxpayer shall
26 estimate the tax due based upon the gain, if any, computed without
27 reduction for any distribution of income to the beneficiaries during the
28 taxable year in which the sale or transfer occurred.

29 (cf: P.L.2004, c.55, s.2)

30

31 2. This act shall take effect immediately and be retroactive to
32 August 1, 2004.

33

34

35

STATEMENT

36

37 This bill clarifies that the minimum payment of estimated gross
38 income tax on a sale of real property in this State by a nonresident is
39 2% of the consideration paid on the sale.

40 P.L.2004, c.55 established a new requirement for nonresidents to
41 pay estimated New Jersey gross income tax on gain on New Jersey

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 real estate transactions. Generally, New Jersey gross income tax is
2 due on any real estate transaction if the gain is recognized for federal
3 income tax purposes, and nonresidents must pay New Jersey gross
4 income tax on the New Jersey source income from sales of realty
5 located in New Jersey, but had not before been required to make
6 *estimated* payments of tax related to those sales. Estimated payments
7 are made before the final calculation of tax liability for a taxable year;
8 any deficiencies are paid at the time of the final return and any
9 overpayments are refunded.

10 This bill specifies that the minimum payment of estimated gross
11 income tax on a sale of real property in this State by a nonresident is
12 2% of the consideration paid on the sale, as has been the
13 administrative procedure since the inception of the withholding
14 provision.

15

16

17

18

19 Clarifies that the minimum payment of estimated gross income tax on
20 sales of real property in this State by nonresidents is 2% of the
21 consideration.