

## New York City Department of Finance

### **Notice of Public Hearing and Opportunity to Comment on Proposed Rule**

**What are we proposing?** The Department of Finance is proposing a change to Section 23-09 of Chapter 23 of Title 19 of the Rules of the City of New York. The amended rule will require that Real Property Transfer Tax (RPTT) returns be electronically filed to report transfers of real property located in Staten Island under Section 11-2105 of the Administrative Code of the City of New York.

**When and where is the hearing?** The Department of Finance will hold a public hearing on the proposed rule. The public hearing will take place at 11:00am on October 17, 2017. The hearing will be in the Department of Finance hearing room at 345 Adams Street, 3<sup>rd</sup> Floor, Brooklyn, N.Y. 11201.

**How do I comment on the proposed rule?** Anyone can comment on the proposed rule by:

- **Website.** You can submit comments to the Department of Finance through the NYC rules website: <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to [steffy@finance.nyc.gov](mailto:steffy@finance.nyc.gov).
- **Mail.** You can mail comments to NYC Department of Finance, Legal Affairs Division, 345 Adams Street, 3<sup>rd</sup> Floor, Brooklyn, N.Y. 11201, Attn: John R. Steffy.
- **Fax.** You can fax comments to NYC Department of Finance, Attn: John R. Steffy, at (718) 488-2471.
- **Hearing.** You can speak at the public hearing. Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling Joan Best at (718) 488-2007, or you can sign up in the hearing room before the hearing begins on October 17, 2017. You can speak for up to three minutes.

**Is there a deadline to submit written comments?** The deadline to submit written comments is October 17, 2017.

**What if I need assistance to participate in the hearing?** The meeting will be held at 345 Adams Street, 3<sup>rd</sup> Floor, Brooklyn, NY 11201. The back entrance is accessible to persons using wheelchairs and others with disabilities. Accessible restrooms are available. Materials in alternative formats, ASL interpreters, real-time captioning and other accommodations will be made available upon request. Please contact Joan Best; by telephone, by calling (718) 488-2007; or by e-mail at [bestj@finance.nyc.gov](mailto:bestj@finance.nyc.gov) to make your accommodation requests. Provide at least 72 hours' notice prior to the hearing to ensure availability. In order to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are requested to refrain from using perfume, cologne, and other fragrances.

**Can I review the comments made on the proposed rule?** You can review the comments that have been submitted online by visiting the NYC rules website: <http://rules.cityofnewyork.us/>. In addition, copies of all submitted comments concerning the proposed rule and a summary of oral

comments from the hearing will be available to the public a few days after the hearing at NYC Department of Finance, Legal Affairs Division, 345 Adams Street, 3<sup>rd</sup> Floor, Brooklyn, N.Y. 11201.

**What authorizes the Department of Finance to adopt this rule?** Sections 11-2105 and 11-2112 of the Administrative Code of the City of New York and New York City Charter (“Charter”) §§ 1043 and 1504 authorize the Department of Finance to adopt this proposed rule. This proposed rule was not included in the Department of Finance’s regulatory agenda for this fiscal year because it was not anticipated when the agenda was developed.

**Where can I find the Department of Finance’s rules?** The Department of Finance’s rules can be found in Title 19 of the Rules of the City of New York.

**What laws govern the rulemaking process?** The Department of Finance must meet the requirements of § 1043 of the Charter when creating or amending rules. This notice is made according to the requirements of § 1043 of the Charter.

### **Statement of Basis and Purpose of Proposed Rules**

The purpose of this rule amendment is to require that real property transfer tax returns be filed electronically, as well as in paper form, for transfers of real property located in Staten Island, pursuant to Section 11-2105 of the Administrative Code of the City of New York. This amended rule represents an extension of our current electronic filing requirement policy for other counties within the City of New York to include returns relating to transfers of real property located Richmond County.

Matter underlined is new.

Matter in [brackets] is to be deleted.

“Will” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department unless otherwise specified or unless the context clearly indicates otherwise.

Section 1. Subdivision (c) of section 23-09 of Chapter 23 of Title 19 of the Rules of the City of New York is amended to read as follows:

(c) The Register shall accept a return offered for filing provided the paper return is signed under oath by the grantor or his agent or by the grantee or his agent, unless it appears that the return is insufficient on its face, as where the return shows that the amount of the consideration paid or required to be paid without deductions is less than the amount of mortgages or other liens or encumbrances. If either the grantor or grantee has failed to sign the paper return, it shall be accepted as a return, but the party who has failed to sign the paper return or to file and sign a separate paper return shall be subject to the penalties applicable to a person who has failed to file a return and the period of limitations for assessment of tax or of additional tax shall not apply to such party. The Register is also authorized to reject a return that states that there was no consideration for the deed unless there is attached to such return a statement setting forth the grounds upon which it is claimed that there was no consideration. The acceptance by the Register of a return for filing shall in no way indicate the propriety or correctness of the return. The issuance of a confirmation by the Commissioner of Finance upon receipt of an electronic return shall in no way indicate the propriety or correctness of the electronic return and is not

evidence of a completed return nor evidence that the paper return has been completed, filed or received by the Department of Finance. If a return or affidavit required by the law is not filed or if a return or affidavit when filed is incorrect or insufficient on its face the Commissioner of Finance shall take the necessary steps to enforce the filing of such a return or affidavit or of a corrected return or affidavit. The Commissioner of Finance may require amended returns to be filed within twenty days after notice and to contain the information specified in the notice.

The electronic return is required to be filed electronically, and the paper return is required to be filed at the office of the Register in the county where the deed is or would be recorded, except that with respect to a transfer relating to a property in Staten Island, (i) the [filing requirement may be met only by (i) filing a real property transfer tax] paper return [on the paper form prescribed by the Commissioner of Finance] must be filed in the office of the Richmond County Clerk, or (ii) where a return is not filed at the time of the recording of a deed, or the deed is not recorded, the paper return may instead be filed in any office of the City Register. In the case of transfers of controlling economic interests in real property or transfers of shares or interests in a corporation or other entity formed for the purpose of cooperative ownership of real property, returns or affidavits, whichever are applicable, must be filed electronically, and the paper return must be filed at the office of the City Register in the county in which the affected property is located, except that for such a transfer relating to property in Staten Island, the paper return must be filed in any office of the City Register. The locations of the Register's offices are as follows:

Manhattan	(New York County)66 John Street, 13th Floor New York, N.Y. 10038
Bronx	1932 Arthur Avenue, 3rd Floor Bronx, N.Y. 10457
Brooklyn	(Kings County) Municipal Building 210 Joralemon Street, Room 2 Brooklyn, N.Y. 11201
Queens	(Queens County) 144-06 94th Street Jamaica, N.Y. 11435
Staten Island	(Richmond County) Richmond County Clerk County Court House, Room 103 Staten Island, N.Y. 10301

**NEW YORK CITY LAW DEPARTMENT  
DIVISION OF LEGAL COUNSEL  
100 CHURCH STREET  
NEW YORK, NY 10007  
212-356-4028**

**CERTIFICATION PURSUANT TO  
CHARTER §1043(d)**

**RULE TITLE: Electronic Filing of Real Property Transfer Tax Returns for Real Property  
Located on Staten Island**

**REFERENCE NUMBER: 2017 RG 017**

**RULEMAKING AGENCY: Department of Finance**

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN

Date: August 29, 2017

Acting Corporation Counsel

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS  
253 BROADWAY, 10<sup>th</sup> FLOOR  
NEW YORK, NY 10007  
212-788-1400**

**CERTIFICATION / ANALYSIS  
PURSUANT TO CHARTER SECTION 1043(d)**

**RULE TITLE: Electronic Filing of Real Property Transfer Tax Returns for Real Property  
Located on Staten Island**

**REFERENCE NUMBER: DOF-29**

**RULEMAKING AGENCY: Department of Finance**

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Francisco X. Navarro  
Mayor's Office of Operations

August 29, 2017  
Date