

CHAPTER Rev 800 TRANSFER OF REAL PROPERTY

Statutory authority RSA 78-B:8:1

PART Rev 801 DEFINITIONS

Readopt Rev 801.01 through Rev 801.05, effective 9-9-14 (Document #10665), to read as follows:

Rev 801.01 “Assumed by the transferee” means the contractual undertaking by the transferee of real estate of the primary obligation of the transferor with respect to any mortgage, lien, or encumbrance or of any other obligation, even if the mortgage, lien, encumbrance, or other obligation is not related to the property transferred, if the assumption is part of the consideration for the real estate transferred.

Rev 801.02 “Beneficial interest in the trust is not represented by transferrable shares” means, for the purposes of Rev 802.02, an interest in an organization:

- (a) Where property is placed in the hands of a trustee who:
 - (1) Acts apart from the beneficiaries; and
 - (2) Manages and deals with the property as principal for the use and benefit of the beneficiaries;
- (b) Where the shares, equity interests, and all ownership rights are not transferable without obtaining prior member approval or causing a dissolution of the organization; and
- (c) Which is not a:
 - (1) Corporation;
 - (2) Joint stock company;
 - (3) Business trust;
 - (4) Common law trust;
 - (5) Massachusetts trust;
 - (6) Real estate investment trust; or
 - (7) Homeowners or condominium association.

Rev 801.03 “Deed” means any instrument by which the real estate or interest in real estate is sold, granted, assigned, or transferred, as described in RSA 78-B:4.

Rev 801.04 “Fair market value” means the price property would command in an arms length transaction if sold by a transferor who is willing, but not compelled, to sell and purchased by a transferee who is willing, but not compelled, to purchase.

Rev 801.05 “Goodwill” means the amount, net of any amortization, recorded on the books of the real estate holding company that represents:

(a) The excess of cost over fair value of the company's net assets acquired; or

(b) The value ascribed to the excess earning power of the company, determined according to generally accepted accounting principles.

Readopt Rev 801.06, effective 12-23-15 (Document #11005), to read as follows:

Rev 801.06 "Lease" means "lease" as defined in RSA 78-B:1-a, II-a.

Readopt Rev 801.07 through Rev 801.12, effective 9-9-14 (Document #10665), to read as follows:

Rev 801.07 "Massachusetts trust" means an unincorporated association organized under Massachusetts law that:

(a) Invests in real estate in a manner similar to a mutual fund investing in securities; and

(b) Conveys property to trustees to be managed for the benefit of the trust certificate holders.

Rev 801.08 "Price or consideration" means "price or consideration" as defined in RSA 78-B:1-a, IV.

Rev 801.09 "Real estate holding company" means "real estate holding company" as defined in RSA 78-B:1-a, VI.

Rev 801.10 "Sale, granting, and transfer" means "sale, granting and transfer" as defined in RSA 78-B:1-a, V.

Rev 801.11 "State of New Hampshire" means the state as an entity, all of the various agencies of the state, all of the various political subdivisions of the state including the various districts such as village, school, or water districts.

Rev 801.12 "Transferable interests" means the equity interest and all ownership rights in the entity that can be sold, exchanged, assigned, or transferred in any manner by the owner to another person.

PART Rev 802 PROPERTY TRANSFERS SUBJECT TO TAX

Readopt Rev 802.01 and Rev 802.02, effective 9-9-14 (Document #10665), as amended effective 7-11-15 (Document #10882), to read as follows:

Rev 802.01 Taxable Transfers. Each sale, granting, and transfer of real estate shall be subject to the real estate transfer tax, including, but not limited to:

(a) All sales, grantings, and transfers of real estate or interests in real estate unless specifically exempted under RSA 78-B:2;

(b) A sale, granting, or transfer of standing timber, occurring apart from the sale, granting, or transfer of the land on which it stands, except timber sold for harvesting on behalf of the owner of the right to harvest the timber;

(c) A sale or granting of a right-of-way or an easement on property as in the following example:

Owner A owns waterfront property. Owner B's property abuts Owner A's property and does not have water access. Owner A grants Owner B an easement so that Owner B can cross Owner A's property for purposes of accessing the water to canoe. Owner B pays Owner A \$10,000 for the easement. No additional consideration is exchanged. The transfer between Owner A and Owner B shall be deemed a taxable sale, granting, or transfer pursuant to RSA 78-B. Pursuant to RSA 78-B:1-a, IV, the amount of consideration shall be \$10,000.

(d) A transfer of real estate or any interest therein through a foreclosure or by a deed in lieu of foreclosure even in instances where the transferee and the transferor are the same person or entity as in the following example:

Company owns a building valued at \$1 million. Mortgage Lender lent Company \$1 million to purchase building. Company ceases making monthly mortgage payments with \$600,000 remaining due to Mortgage Lender and Mortgage Lender takes title to the property by deed in lieu of foreclosure. The sale by deed in lieu of foreclosure shall be deemed a taxable sale, granting, or transfer pursuant to RSA 78-B. Pursuant to RSA 78-B:1-a, IV, the amount of consideration shall be \$600,000.

(e) A sale, granting, or transfer of real estate or an interest in real estate by a trustee in bankruptcy;

(f) The lease of real estate based on the fair market value of the leased property when the term of the lease is:

(1) For a period of 99 years or more; or

(2) For a period of less than 99 years and renewal rights could extend the total period of time to 99 years or more;

(g) Property transferred through a deed issued as a result of a sheriff's sale;

(h) The transfer of an exclusive interest in or right to take soil, gravel, minerals, and the like from another's real estate; and

(i) The transfer of each parcel of real estate transferred as part of an exchange or swap of real estate or an interest in real estate, whether or not the exchange or swap qualifies for a federal income tax deferral as in the following example:

Leasing Company, LLC owns apartment building A valued at \$250,000, which is located in New Hampshire. Leasing Company, LLC paid \$100,000 for apartment building A. Leasing Company, LLC sells apartment building A to Buyer for \$250,000. No additional consideration is exchanged. Leasing Company, LLC uses the sale proceeds to purchase apartment building B from Seller. The total price paid for apartment building B is \$2 million. No additional consideration is exchanged. Leasing Company, LLC's gain associated with the sale of apartment building A shall be deferred for federal income tax purposes because the proceeds from the relinquished property were used to purchase "like-kind" replacement property in accordance with Internal Revenue Code Section 1031. Pursuant to RSA 78-B, the transfer between Leasing Company, LLC and Buyer shall be deemed a taxable sale, granting, or transfer. Pursuant to RSA 78-B:1-a, IV, the amount of consideration shall be \$250,000. Pursuant to RSA 78-B, the transfer between Leasing Company,

LLC and Seller shall be deemed a taxable sale, granting, or transfer. Pursuant to RSA 78-B:1-a, IV, the amount of consideration shall be \$2 million.

Rev 802.02 Revocable Trusts of Real Property.

(a) Transfers to or from a revocable trust shall be classified as a contractual transfer as defined by RSA 78-B:1-a, II.

(b) The measure of tax upon such transfer shall be the actual price or consideration as provided by RSA 78-B:1, I(b).

(c) In determining the amount of the actual price or consideration for the transfer of real estate to or from a revocable trust, the department shall not presume that the price or consideration is the fair market value of the property transferred as authorized by RSA 78-B:9, III, where both of the following criteria apply to the trust and one of the requirements described in Rev 802.02(d) below is satisfied:

- (1) The beneficial interest in the trust is not represented by transferable shares; and
- (2) The trust is created and funded for estate planning purposes as a testamentary substitute.

(d) The department shall not presume the price or consideration to be fair market value of the property transferred for transfers under Rev 802.02(c) that are transferred:

- (1) Between a trust and grantor of the trust;
- (2) From a trust to the beneficiaries of the trust upon the death of the grantor of the trust;
- (3) From the trust to a beneficiary who is the natural object of the grantor's bounty; or
- (4) From a trustee to a successor trustee of the same trust.

(e) This section shall apply to transfers to and from a revocable and irrevocable trust as in the following examples:

(1) Grantor transfers vacation home with a fair market value of \$1 million into Revocable Trust for estate planning purposes. The beneficiaries of the trust are Son and Daughter. Son and Daughter's beneficial interests in Revocable Trust are not transferable as defined in Rev 801.02. The transfer of vacation home into Revocable Trust shall be deemed a contractual transfer pursuant to Rev 802.02(a). However, the price or consideration for the transfer shall be \$0 pursuant to Rev 802.02(b) and (c). As a result, Grantor shall be subject to the minimum transfer tax pursuant to RSA 78-B:1, I(b); and

(2) Grantor transfers vacation home with a fair market value of \$1 million into Irrevocable Trust. No consideration is exchanged. The beneficiaries of the trust are Son and Daughter. The transfer of vacation home into Irrevocable Trust shall be a non-contractual transfer pursuant to RSA 78-B:1-a, III and shall not be subject to the transfer tax in accordance with RSA 78-B:1-a, III.

Readopt with amendment Rev 802.03 and Rev 802.04, effective 9-9-14 (Document #10665), as amended effective 7-11-15 (Document #10882), to read as follows:

Rev 802.03 Transfers Involving the State of New Hampshire or its Political Subdivisions.

(a) Transfers of real property, whether by sale or grant, from the state of New Hampshire or a political subdivision of the state of New Hampshire shall be taxable to the transferee if such transferee is not exempt from tax:

- (1) Under any provision of RSA 78-B; or
- (2) As described in this section.

(b) The tax imposed by RSA 78-B shall not apply to either the transferee or the transferor in a transfer, whether sale or grant, to the state of New Hampshire and housing authorities defined by RSA 203:3, I and exempted from tax under RSA 203:22.

(c) The housing finance authority, as defined by RSA 204-C:1, I and as described by RSA 204-C:2, shall be exempt from the transfer tax as provided in RSA 204-C:49.

(d) If a person is a party to a transaction with the housing finance authority, that person shall be liable for payment of the applicable portion of tax under RSA 78-B:4.

(e) This section shall apply to transfers involving the state of New Hampshire or its political subdivisions as in the following example:

Town owns 1 acre of beachfront property with a fair market value of \$1 million. Town sells the beachfront property to Buyer for \$1 million. No additional consideration is exchanged. Pursuant to RSA 78-B, the transaction shall be deemed a taxable sale, granting, or transfer. Pursuant to RSA 78-B:1-a, IV, the amount of consideration shall be \$1 million. Town shall be exempt from payment of the tax pursuant to RSA 78-B:2, I. Buyer shall be subject to for his or her portion of the tax.

Rev 802.04 Transfers Involving the United States Government.

(a) If a person or entity is a party to a transaction with the United States government, that person or entity shall be liable for payment of the applicable portion of the tax under RSA 78-B:4; as in the following example:

Owner owns 500 acres of unimproved real estate in the White Mountains with a fair market value of \$500,000. Owner sells all 500 acres to the United States Department of Agriculture for \$500,000. No additional consideration is exchanged. Pursuant to RSA 78-B, the transaction shall be deemed a taxable sale, granting, or transfer. Pursuant to RSA 78-B:1-a, IV, the amount of consideration shall be \$500,000. The United States Department of Agriculture shall be exempt from payment of the tax pursuant to RSA 78-B:2, II. Owner shall be subject to his or her portion of the tax.

(b) The tax imposed by RSA 78-B shall not apply to any agency of the United States government, any instrumentality thereof, or a government corporation which is specifically exempt from state or local taxation under the provisions of federal law including, but not limited to, the:

- (1) Department of Veteran's Affairs;
- (2) Federal Land Bank;

- (3) Farmers Home Administration;
- (4) Department of Housing and Urban Development;
- (5) Branches of the military; and
- (6) Government National Mortgage Association.

(c) In instances where the exempt status of a party to the transfer is uncertain, the county register of deeds shall:

- (1) Request evidence from the party that:
 - a. It is an agency or instrumentality of the United States government; or
 - b. The party is exempted from state and local taxation under the provision of federal law; or
- (2) Advise the director of the department of revenue administration's audit division, of the parties to the transfer and the book and page number of the recording.

Readopt Rev 802.05, effective 9-9-14 (Document #10665), as amended effective 7-11-15 (Document #10882), and as amended effective 1-21-16 (Document #11022), to read as follows:

Rev 802.05 Transfers of Interests in Real Estate Holding Companies.

(a) In instances where an interest in a real estate holding company is granted, sold, or transferred in any manner by the owner to another person or entity:

- (1) Such action, unless specifically exempted under RSA 78-B:2, shall create a taxable transfer of the real estate or the interest in real estate; and
- (2) The consideration subject to tax shall be determined in accordance with Rev 805.01, as in the following example:

Member A and Member B each own 50% of Real Estate Holding Company, LLC. Real Estate Holding Company, LLC owns New Hampshire real estate with a fair market value of \$1 million. Member A sells the 50% ownership interest in Real Estate Holding Company, LLC to New Member C for \$250,000. No additional consideration is exchanged. Under RSA 78-B, the sale between Member A and New Member C shall be deemed a taxable sale, granting, or transfer. The amount of consideration shall be \$500,000 in accordance with Rev 805.01. There shall not be a taxable sale, granting, or transfer with respect to Member B or Real Estate Holding Company, LLC.

(b) A contribution of New Hampshire real estate, which is already subject to tax under RSA 78-B:1, I(a), to a real estate holding company shall not be subject to the real estate transfer tax on the transfer of an interest in a real estate holding company.

(c) A distribution of New Hampshire real estate, which is already subject to tax under RSA 78-B:1, I(a), from a real estate holding company to one of its interest holders shall not be subject to the real estate transfer tax on the transfer of an interest in a real estate holding company.

(d) A sale, granting, or transfer of an interest in an entity that holds, either directly or indirectly, an interest in a real estate holding company, shall be considered to be a sale, granting, or transfer of an interest in the real estate holding company to the extent of the ownership interest of the entity in the real estate holding company. However, such a sale, granting, or transfer shall be exempt from tax under RSA 78-B if the transfer of the interest has a de minimis impact on the overall ownership interest of the real estate holding company based on the number of owners and the interests held by each, as in the following example:

Trust ABC invests in a hedge fund, which owns a small number of shares of Apartment REIT. Apartment REIT is a publicly-traded real estate holding company with thousands of shareholders. Apartment REIT owns real estate within and without New Hampshire. Trust ABC cashes out of the hedge fund. The sale is a taxable sale, granting, or transfer under RSA 78-B. However, the sale is exempt pursuant to Rev 802.05(d), because the sale has a de minimus impact on the overall ownership of Apartment REIT based on the number of owners of Apartment REIT, the interests of the owners in Apartment REIT, including the hedge fund, and the interest of Trust ABC in the hedge fund.

Readopt Rev 802.06, effective 3-21-18 (Document #12495), to read as follows:

Rev 802.06 Amount of Consideration. The amount of taxable consideration for a taxable transfer of real estate or an interest in real estate, other than a transfer to which Rev 802.02(c) applies, shall, absent proof to the contrary, be presumed to be the fair market value of the real estate transferred when the transfer is:

- (a) Between either an entity and an owner of the entity; or
- (b) Between 2 entities controlled by the same owners.

PART Rev 803 EXEMPTIONS

Readopt Rev 803.01 through Rev 803.04, effective 9-9-14 (Document #10665), to read as follows:

Rev 803.01 Modification of Existing Deed. The tax imposed by RSA 78-B shall not apply to the recording of a deed which, without additional consideration, confirms, corrects, modifies, or supplements a deed or other instrument previously recorded.

Rev 803.02 Transfers Under a Plan of Reorganization. The tax imposed by RSA 78-B shall not apply to transfers under a plan of reorganization confirmed under 11 USC section 1129.

Rev 803.03 Stating Exemption Claimed on the Deed. Any instrument to be recorded transferring real estate, or an interest in real estate, for which an exemption, pursuant to RSA 78-B, is claimed shall state the basis for the exemption.

Rev 803.04 Single Entity Reorganizations. The tax imposed by RSA 78-B shall not apply to single-entity reorganizations pursuant to Internal Revenue Code § 368(a)(1)(F) governing mere changes in identity, form, or place of organization, or 368(a)(1)(E) governing recapitalization.

Readopt Rev 803.05, effective 7-11-15 (Document #10882), to read as follows:

Rev 803.05 Carried Interests. The tax imposed by RSA 78-B shall not apply to changes in an owner's carried interests in a real estate holding company or in an entity owning an interest in a real estate holding company. For purposes of this section, "carried interests" means a right that enables the owner of a partnership or limited liability company to share in the entity's profits, as in the following example:

Apartment Building is owned by Partnership, with Partner A, Partner B, and Managing Partner C as equal partners. Apartment Building has a fair market value of \$900,000. The Partnership agreement provides that Partner A, Partner B, and Managing Partner C will share equally in profits and losses, except that Managing Partner C will be entitled to share in 50% of all profits, once Partner A and Partner B have recovered their initial investments. If Managing Partner C sells the ownership interest to New Managing Partner D there shall be a taxable sale, granting, or transfer between Managing Partner C and New Managing Partner D under RSA 78-B. Pursuant to Rev 805.01(b), the amount of consideration for the sale shall be \$300,000 regardless of whether Partner A or Partner B has recovered their initial investments. There shall not be a taxable sale, granting, or transfer with respect to Partner A or Partner B.

Readopt Rev 803.06, effective 3-21-18 (Document #12495), to read as follows:

Rev 803.06 Conversions. The tax imposed by RSA 78-B shall not apply to the conversion of a business entity to a different form of organization pursuant to RSA 78-B:2, XXI.

Readopt Rev 803.07, effective 12-23-15 (Document #11005), to read as follows:

Rev 803.07 Leases. The tax imposed by RSA 78-B shall not apply to the transfer of a lease where the term of the lease, including all renewals, is less than 99 years pursuant to RSA 78-B:2, XX.

Readopt Rev 804.01, effective 9-9-14 (Document #10665), to read as follows:

PART Rev 804 CONTRACTUAL AND NONCONTRACTUAL TRANSFERS

Rev 804.01 Homestead Rights. Homestead rights under RSA 480 shall not be a factor when determining whether a transfer is contractual or non-contractual.

PART Rev 805 CONSIDERATION FOR, AND VALUATION OF, PROPERTY

Readopt Rev 805.01, effective 9-9-14 (Document #10665), to read as follows:

Rev 805.01 Real Estate Holding Companies. The amount of taxable consideration with respect to a transfer of an interest in a real estate holding company shall be computed as follows:

(a) Where the entire interest in the company is transferred, the consideration shall be the sum of the fair market value of all the New Hampshire real estate or interests therein owned or held by the company; or

(b) Where less than the entire interest in the company is transferred, the consideration shall be determined by multiplying the fractional interest transferred by the sum of the fair market value of all the New Hampshire real estate or interests therein owned or held by the company.

Readopt Rev 805.02, effective 9-9-14 (Document #10665), to read as follows:

Rev 805.02 Appeal of Assessment Based on Fair Market Value.

(a) If the parties to a transfer are aggrieved by the department's determination of the fair market value, the taxpayer may appeal in accordance with Rev 200.

(b) A party appealing the determination of fair market value shall provide factual evidence to show that the presumption of fair market value was inappropriate because of extenuating circumstances such as, but not limited to, a forced sale of property due to:

- (1) A hardship of an owner; or
- (2) Damage to the property.

PART Rev 806 REGISTER OF DEEDS

Readopt Rev 806.01, effective 9-9-14 (Document #10665), to read as follows:

Rev 806.01 Insufficient Remittance. If the register of deeds is presented an instrument to record and the accompanying remittance is insufficient to pay for the tax and the recording fee, the remittance shall be first applied to the tax.

Readopt with amendment, Rev 806.02, effective 11-15-22 (Document #13490), to read as follows:

Rev 806.02 Payment to Department. Each register of deeds shall remit the taxes collected, in accordance with RSA 78-B:8, and file a completed Form DP-4, "Monthly Report of Taxes & Surcharge Fees Collected on Transfer of Real Property," by:

(a) Filing and paying electronically through the Granite Tax Connect web portal located at www.revenue.nh.gov/gtc; or

(b) Mail to:

New Hampshire Department of Revenue Administration
Taxpayer Services Division
PO Box 637
109 Pleasant Street
Concord, NH 03302-0637.

Readopt Rev 806.03, effective 9-9-14 (Document #10665), to read as follows:

Rev 806.03 Notice of Real Estate Transfer Tax Refunded.

(a) Upon receipt of Form DP-3R, "Notice of Real Estate Transfer Tax Refunded" from the department, the register shall record Form DP-3R.

(b) No recording fee, or other fee, shall be charged by the register to either the department or to any party to the transfer with respect to the recording of the refund.

(c) The register shall include the total amount of tax refund as indicated on each Form DP-3R to Form DP-4.

(d) The register shall attach a copy of each Form DP-3R issued by the department to Form DP-4.

Readopt Rev 806.04, effective 9-9-14 (Document #10665), as amended effective 7-25-19 (Document #12832), to read as follows:

Rev 806.04 Notice of Additional Tax Collected by Department.

(a) Upon receipt of Form DP-3, "Notice of Additional Real Estate Transfer Tax Collected", from the department the register shall record Form DP-3.

(b) No recording fee, or other fee, shall be charged by the register to either the department or to any party to the transfer with respect to the recording of the additional tax collected.

(c) The register shall include the total amount of the additional real estate transfer tax collected during a month, as indicated on each Form DP-3, issued by the department, on Form DP-4 filed with the department for the month in which the additional tax was collected.

(d) The register shall attach a copy of each Form DP-3, issued by the department to Form DP-4, when filed with the department.

PART Rev 807 DECLARATIONS OF CONSIDERATION, PAYMENTS AND REFUNDS

Readopt Rev 807.01 and Rev 807.02, effective 9-9-14 (Document #10665), to read as follows:

Rev 807.01 Transfers.

(a) The tax on any transfer, sale, or grant subject to tax shall be due on the earlier of:

(1) The date the instrument effecting such transfer, sale, or grant is recorded; or

(2) The date 30 days after the date of the sale, grant, or transfer.

(b) Any transfer, sale, or grant executed, acknowledged, and delivered and presented for recording at the county registry of deeds on or after the effective date of a change in the tax rate shall be subject to the tax rate in effect at the time the transfer was executed, acknowledged, and delivered.

(c) The burden of proof as to the date of delivery of the deed shall be the obligation of the purchaser.

Rev 807.02 Declaration of Consideration For Certain Exempt Transfers. For all noncontractual transfers, the purchaser, grantee, assignee, or transferee shall file a Form CD-57-P, "Real Estate Transfer Tax Declaration of Consideration Real Estate Purchaser (Grantee)," or Form CD-57-HC-P, "Real Estate Transfer Tax Declaration of Consideration for Real Estate Holding Companies (Purchaser)," as appropriate, and the seller, grantor, assignor, or transferor shall separately file a Form CD-57-S, "Real Estate Transfer

Tax Declaration of Consideration Real Estate Seller (Grantor),” or Form CD-57-HC-S, “Real Estate Transfer Tax Declaration of Consideration for Real Estate Holding Companies (Seller),” as appropriate.

Readopt Rev 807.03, effective 9-9-14 (Document #10665), as amended effective 10-28-16 (Document #12025), to read as follows:

Rev 807.03 Amended Declarations of Consideration. If an error has been made on an original declaration, the applicable form, either Form CD-57-P, Form CD-57-S, Form CD-57HC-P, or Form CD-57HC-S, shall be re-filed with the correct information by:

- (a) Checking the box marked "Amended Return";
- (b) Referring to the original deed or other instrument, if applicable, to which the amendment refers;
- (c) Clearly indicating at least one name from the originally filed declaration of consideration for each of the following groups:
 - (1) Seller, grantor, assignor, or transferor; and
 - (2) Purchaser, grantee, assignee, or transferee;
- (d) Clearly indicating the book and page number of the transfer, as originally recorded;
- (e) Containing a concise statement as to the reason for the amended declaration of consideration;
- (f) Including the dated signatures of each assignor, grantor, seller, transferor, assignee, grantee, purchaser, and transferee, or the respective party’s authorized representative; and
- (g) Filing the amended form(s) in accordance with Rev 809.04 or Rev 809.05.

Readopt Rev 807.04, effective 9-9-14 (Document #10665), as amended effective 7-25-19 (Document #12832), to read as follows:

Rev 807.04 Refund Requests.

(a) All requests for refund shall be submitted by the taxpayer on an amended Form CD-57-P, Form CD-57-S, Form CD-57-HC-P, or Form CD-57-HC-S, as appropriate, in accordance with Rev 807.03. In addition, the taxpayer shall attach the following to the amended form:

- (1) A copy of the originally filed Form CD-57-P, Form CD-57-S, Form CD-57-HC-P, or Form CD-57-HC-S, as appropriate;
- (2) A copy of the original instrument by which the transfer was affected showing, if applicable, the indicia of payment of the real estate transfer tax affixed;
- (3) An explanation of the reason for the refund request;
- (4) The statutory authority under which the request is made;
- (5) The signature of each taxpayer requesting the refund;

(6) A copy of the purchase and sales agreement, if any, with any amendments thereto, for the transfer;

(7) A copy of the closing statement, if any, providing complete details of the amounts due to and from the transferee and the transferor of the real estate; and

(8) Any other documentation to prove a refund is owed to the party requesting the refund.

(b) Within 60 days of the department's receipt of the request and all required documentation as provided in Rev 807.04(a), the department shall notify the taxpayer who requested the refund whether the request is granted or denied in whole or in part. If the refund request is denied, the department shall also notify the taxpayer of their appeal rights, pursuant to RSA 21-J:28-b, II.

(c) Within 15 business days following the end of the month in which the department makes a refund on a recorded transfer, the department shall send Form DP-3R, "Notice of Real Estate Transfer Tax Refunded," to the register of the county in which the property transferred was located.

Readopt Rev 807.05, effective 11-15-22 (Document #13490), to read as follows:

Rev 807.05 Payment of Tax on Transfers of Real Estate Holding Company Interests. Reporting and payment of tax on transfers of interests in real estate holding company shall be subject to the following:

(a) All transfers of interests in real estate holding companies shall be reported to the department within 30 days of the transfer using a Form CD-57-HC-P or Form CD-57-HC-S, as provided in Rev 809.05;

(b) Payment on taxable transfers of interests in real estate holding companies, which shall be due within 30 days of the date of the transfer, shall be made electronically or by check payable to the state of New Hampshire;

(c) Declarations filed in accordance with (a), above, with respect to transfers that are exempt pursuant to RSA 78-B:2, shall contain a brief written explanation of the reason for the exemption or exception on the document; and

(d) Any interest on the balance of tax due on a transfer of holding company interests determined under the provisions of RSA 21-J:28 shall be calculated from the date 30 days after the date of transfer.

Readopt with amendment Rev 808, effective 9-9-14 (Document #10665), to read as follows:

PART Rev 808 ADMINISTRATION

Rev 808.01 Taxpayer Records and Information. Every transferor and transferee shall maintain all appraisals, accounting, financial, or general information relied upon to establish the value of the real estate transferred or any other information required to be shown on any document or attachment required pursuant to RSA 78-B, Rev 802, Rev 805, Rev 806, Rev 807, Rev 809, and Rev 810.

Rev 808.02 Informal Pre-Assessment Conference.

(a) The purpose of an informal pre-assessment conference shall be to discuss the audit findings with transferors, transferees, and the department's audit division in an effort to reach an agreement on the issues of fact, audit results, or both.

(b) At the conclusion of an audit, when the facts and circumstances of the audit review indicate to the transferor or transferee that an informal pre-assessment conference would benefit both the state and the transferor or transferee, the transferor or transferee may request, orally or in writing, an informal pre-assessment conference and the department shall provide an informal pre-assessment conference for the parties, or the authorized representatives.

(c) The department's audit division shall notify the transferor or transferee or the authorized representative by mail of:

- (1) The date, time, and location for the conference; and
- (2) The advance information that the transferor, transferee, or the authorized representatives shall be requested to provide the audit division.

(d) The information requested by (c)(2), above, shall include:

- (1) The name, address, and identification number of the transferor and the transferee;
- (2) An outline of the areas of agreement and disagreement;
- (3) Documentation in support of transferor's and transferee's position such as, but not limited to:
 - a. Citations of supporting case law;
 - b. Statutory or regulatory provisions; and
 - c. Documents or correspondence from unrelated parties;
- (4) Responses to any outstanding questions raised by the department's auditor during the audit; and
- (5) The names of the individuals who shall participate in the informal pre-assessment conference on behalf of the transferor and transferee.

(e) Upon completing the review of material provided during the informal pre-assessment conference, the department's audit division shall determine the appropriate disposition of the audit review and shall notify the transferor or transferee in writing of the decision with a copy of the taxpayer bill of rights. The issuance of this notice shall begin the period for formal appeal to the commissioner under RSA 21-J:28-b and Rev 200.

PART Rev 809 FORMS

Readopt Rev 809.01 and Rev 809.02, effective 9-9-14 (Document #10665), to read as follows:

Rev 809.01 Form DP-3R, Notice of Real Estate Transfer Tax Refunded. Within 15 business days following the end of the month in which the department refunds transfer tax on a recorded transfer, the department shall submit Form DP-3R, "Notice of Real Estate Transfer Tax Refunded" to the register of deeds of the county in which the property transferred is located.

Rev 809.02 Form DP-3, Notice of Additional Real Estate Transfer Tax Collected. Within 15 business days following the end of the month in which the department collects additional transfer tax on a recorded transfer, the department shall submit Form DP-3, “Notice of Additional Real Estate Transfer Tax Collected”, to the register of deeds of the county in which the property transferred is located.

Readopt Rev 809.03, effective 9-9-14 (Document #10665), as amended effective 7-25-19 (Document #12832), to read as follows:

Rev 809.03 Form DP-4, Monthly Report of Taxes & Surcharge Fees Collected on Transfer of Real Property. Form DP-4, “Monthly Report of Taxes & Surcharge Fees Collected on Transfer of Real Property”, shall be completed and filed, on or before the 10th day of the month following the month of collection, by each county register of deeds, and shall be accompanied by the following supporting documentation when applicable:

(a) For any tax collected directly by the department, a copy of the letter of advice written by the department to the register; and

(b) Completed Form DP-65, “Credit Claim for Real Estate Transfer Tax Indicia,” Form DP-65S, “Credit Claim for Recording Surcharge Indicia,” or both, as applicable.

Readopt Rev 809.04 and Rev 809.05, effective 11-15-22 (Document #13490), to read as follows:

Rev 809.04 Form CD-57-P “Real Estate Transfer Tax Declaration of Consideration Real Estate Purchaser (Grantee)” and Form CD-57-S, Real Estate Transfer Tax Declaration of Consideration Real Estate Seller (Grantor).

(a) The purchaser, grantee, assignee, or transferee shall complete and file a Form CD-57-P and the seller, grantor, assignor, or transferor shall complete and file a Form CD-57-S to report to the department the price or consideration paid for the real estate as required by RSA 78-B:10, unless exempted under RSA 78-B:2.

(b) The form shall be:

(1) Filed electronically through the Granite Tax Connect web portal located at www.revenue.nh.gov/gtc; or

(2) Mailed to:

New Hampshire Department of Revenue Administration
Taxpayer Services Division
PO Box 3308
109 Pleasant Street
Concord, NH 03302-3308

(c) For purposes of administering the tax laws of the state, as assigned by statute and pursuant to the federal social security act, 42 USC 405 (c)(2)(C)(i), taxpayers shall provide their taxpayer identification number or numbers on all tax returns and related documents.

Rev 809.05 Form CD-57-HC-P Real Estate Transfer Tax Declaration of Consideration for Real Estate Holding Companies (Purchaser) and Form CD-57-HC-S, Real Estate Transfer Tax Declaration of Consideration for Real Estate Holding Companies (Seller).

(a) The purchaser, grantee, assignee, or transferee of interests in real estate holding companies shall complete and file a Form CD-57-HC-P and the seller, grantor, assignor, or transferor of interests in real estate holding companies shall complete and file a Form CD-57-HC-S, to report to the department the price or consideration paid for the interest in real estate, as required by RSA 78-B:10.

(b) Payment of the amount of the tax shall accompany the form.

(c) The form and payment shall be:

(1) Filed electronically through the Granite Tax Connect web portal located at www.revenue.nh.gov/gtc; or

(2) Mailed to:

New Hampshire Department of Revenue Administration
Taxpayer Services Division
PO Box 637
109 Pleasant Street
Concord, NH 03302-0637

(d) For purposes of administering the tax laws of the state, as assigned by statute and pursuant to the federal social security act, 42 USC 405 (c)(2)(C)(i), taxpayers shall provide their taxpayer identification number or numbers on all tax returns and related documents.

Readopt Rev 809.06, effective 9-9-14 (Document #10665), as amended effective 7-25-19 (Document #12832), to read as follows:

Rev 809.06 Form DP-65, Credit Claim for Real Estate Transfer Tax Indicia.

(a) Form DP-65, "Credit Claim for Real Estate Transfer Tax Indicia," shall be completed and filed with the department by the county register of deeds for erroneously issued indicia of tax paid.

(b) The register shall enclose a photocopy of the document upon which the erroneous indicia was affixed.

Readopt Rev 809.07, effective 7-25-19 (Document #12832) to read as follows:

Rev 809.07 Form DP-65S Credit Claim for Recording Surcharge Indicia.

(a) Form DP-65S, "Credit Claim for Recording Surcharge Indicia," shall be filed with the department by the county register of deeds for erroneously issued indicia of tax paid, or non-sufficient funds.

(b) The register shall enclose a photocopy of the recorded document upon which the erroneous indicia was affixed.

Readopt Rev 810, effective 9-9-14 (Document #10665), to read as follows:

PART Rev 810 PENALTIES AND INTEREST

Rev 810.01 Penalties.

(a) Any declaration of consideration required to be filed with the department under RSA 78-B shall be considered a return and subject to penalty under RSA 21-J:31.

(b) Penalties shall be paid to the department.

Rev 810.02 Interest.

(a) A declaration of consideration required to be filed with the department under RSA 78-B shall be considered a return and subject to interest under RSA 21-J:28.

(b) Interest shall be paid to the department.

APPENDIX

Rule	Specific State Statute the Rule Implements
Rev 801.01 – Rev 801.05	RSA 78-B:8
Rev 801.06	RSA 78-B:1-a, II-a
Rev 801.07	RSA 78-B:8
Rev 801.08	RSA 78-B:1-a, IV
Rev 801.09 – Rev 801.12	RSA 78-B:1-a,V-VI, RSA 78-B:8
Rev 802.01	RSA 78-B:8
Rev 802.02	RSA 78-B:8, RSA78-B:1, Rev 78-B:I-a,II, RSA 78-B:9, III.
Rev 802.03 – Rev 802.04	RSA 78-B:2,I, RSA 78-B:2,II, 78-B:8.
Rev 802.05	RSA 78-B:8, RSA 78-B:2, RSA 78-B:1, I, RSA 78-B:1-a, V
Rev 802.06	RSA 78-B:9,III, RSA 78-B:8, I
Rev 803.01 – Rev 803.03	RSA 78-B:2; RSA 78-B:2, V, RSA 78-B:2, VIII, RSA 78-B:2,IX, RSA 78-B:2, XXI, RSA78-B:8
Rev 803.04 – Rev 803.05	RSA 78-B:2, XXI, RSA 78-B:8
Rev 803.06	RSA 78-B:8, I, RSA 78-B:2, XXI
Rev 803.07	RSA 78-B:2, XX
Rev 804.01	RSA 78-B:8
Rev 805.01	RSA 78-B:1-a,V, RSA 78-B:8
Rev 806.01 – Rev 806.04	RSA 78-B:8, RSA 79-B:9-a.
Rev 807.01	RSA 78-B:8
Rev 807.02	RSA 78-B:8, RSA 78-B:10
Rev 807.03	RSA 78-B:8, RSA 78-B:10
Rev 807.04	RSA 78-B:8, RSA 78-B:10
Rev 807.05	RSA78-B:1-a, V; RSA 78-B:10
Rev 808.01 – Rev 808.02	RSA 78-B:8, RSA 78-B:11

Rev 809.01 – Rev 809.03	RSA 78-B:8
Rev 809.04 - Rev 809.05	RSA78-B:8, RSA 78-B:10
Rev 809.06 - 809.07	RSA 78-B:8
Rev 810.01	RSA 21-J:3; RSA 78-B:7-a, RSA 78-B:8, RSA 78-B:10
Rev 810.02	RSA 21-J:3; RSA 21-J:28; 78-B:7-a, RSA 78-B:8, RSA 78-B:10