

**DELAWARE DIVISION OF REVENUE**

**TECHNICAL INFORMATION MEMORANDUM 2017-3**

**DATE: 02/27/2017**

**SUBJECT: INCREASE TO STATE OF DELAWARE REALTY TRANSFER TAX**

House Bill 279, 149<sup>th</sup> General Assembly, approved by Governor Carney on July 3, 2017 (81 Del. Laws, c. 56), revises Section 5402 of Title 30 of the Delaware Code, to increase the rate for the realty transfer tax due to the State of Delaware from 1.5% to 2.5%, effective August 1, 2017.

This increase applies to all realty transfers that are subject to the tax that occur on or after August 1, 2017. The Delaware legislature granted an exception to this increase for those who have entered into a contract for the sale of real estate that is dated prior to August 1, 2017. Oral arrangements made prior to August 1, 2017, whether or not they are reduced to writing after that date, are subject to the increase in tax. The law requires that the tax be apportioned equally between grantor and grantee (buyer and seller). All transfers that were previously exempt from the tax remain exempt.

The Division of Revenue has updated Form 5402, Realty Transfer Tax Return and Affidavit of Gain and Value, and the instructions for Form 5402, copies of which are attached to this TIM, to reflect the increased rate. Please ensure that you use the correct form when submitting deeds for recording.

David M. Gregor  
Director of Revenue