

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Real Estate Transfer Tax Law
- 2) Code Citation: 86 Ill. Adm. Code 120
- 3)

<u>Section Number:</u> 120.5	<u>Proposed Action:</u> Amendment
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- 4) Statutory Authority: Implementing and authorized by Section 70 of the Property Tax Code. [35 ILCS 200/31-70].
- 5) A Complete Description of the Subjects and Issues Involved: Section 120.5 will be amended to provide that electronic signatures affixed to electronically transmitted transfer declarations are as legally binding as handwritten signatures. It will eliminate unnecessary language describing forms for transfers that occurred prior to 2000 and between 2000 and 2004. The rulemaking will update the rule to comport with the Department's technology in allowing recorders of deeds to utilize an approved interface to electronically transfer declarations and order transfer stamps from the Department for recording in the county offices. This rulemaking will require county assessment offices utilizing the Department's electronic transfer declaration system to provide a file layout to both validate the information transmitted and for any other purpose as determined by the Department. Section 120.5 will be further amended to provide that in the event that a transfer qualifies for an exemption under both Section 31-45(e) and 31-45(b), then the Section 31-45(e) exemption shall be selected, and no transfer declaration or supplemental information shall be required. In such case, a notation of exempt status must appear on the face of the deed, document transferring a controlling interest in real property, or trust document.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No

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- 11) Statement of Statewide Policy Objectives: This rule does not create or enlarge a mandate as described in Section 3(b) of the State Mandates Act.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:
- Laurence Mraz
Illinois Department of Revenue
Legal Services - Property Tax Division
101 West Jefferson
Springfield, Illinois 62794
- (217) 524-4821
REV.GCO@illinois.gov
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: None
- 15) Regulatory Agenda on which this rulemaking was summarized: January 2025

The full text of the Proposed Amendment begins on the next page:

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TITLE 86: REVENUE

CHAPTER I: DEPARTMENT OF REVENUE

PART 120

REAL ESTATE TRANSFER TAX

Section

120.5	Transfer Declaration and Supplemental Information
120.10	Procedures for Revenue Stamp Sales to Counties
120.20	Legal and Technical Interpretations

AUTHORITY: Implementing and authorized by Section 70 of the Property Tax Code [35 ILCS 200/31-70].

SOURCE: Filed and effective August 26, 1971; codified at 8 Ill. Reg. 11465; amended at 9 Ill. Reg. 7938, effective May 14, 1985; amended at 18 Ill. Reg. 12849, effective August 9, 1994; amended by emergency rulemaking at 23 Ill. Reg. 14765, effective December 9, 1999, for a maximum of 150 days; emergency expired May 6, 2000; amended at 24 Ill. Reg. 8607, effective June 9, 2000; emergency amendment at 28 Ill. Reg. 7608, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 14155, effective October 13, 2004; amended at 40 Ill. Reg. 16225, effective December 8, 2016; amended at 49 Ill. Reg. _____, effective _____.

Section 120.5 Transfer Declaration and Supplemental Information

- a) ~~Prior to June 1, 2004, a~~ At at the time a deed, a document transferring a controlling interest in real property, or trust document is presented for recordation or registration, a transfer declaration and supplemental information, if applicable, shall be prepared as required by the Department in a manner consistent with the requirements of subsection (c) below and submitted to the recorder of deeds or registrar of titles of the county in which the property is situated; under Section 31-25 of the Property Tax Code [35 ILCS 200/31-25]. No transfer declaration or supplemental information is required to be prepared and submitted to the recorder of deeds or registrar of titles if the transfer qualifies for an exemption under Section 31-45(a), (b) (but only for transfers in which the Secretary of the U.S. Department of

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Veterans Affairs (VA Secretary) is the grantee pursuant to a foreclosure proceeding), (c), (d), (e), (f), (g), (h), (i), (j), or (l) of the Property Tax Code, but a notation of exempt status must appear on the face of the deed, document transferring a controlling interest in real property, or trust document. If the transfer qualifies for an exemption under Section 31-45(b) (for all transfers except those in which the VA Secretary is the grantee pursuant to a foreclosure proceeding), (k), or (m) of the Property Tax Code, a transfer declaration and supplemental information, if applicable, shall be prepared and submitted to the recorder of deeds or registrar of titles. If a transfer qualifies for an exemption under both Section 31-45(e) and 31-45(b), then the Section 31-45(e) exemption shall be selected, and no transfer declaration or supplemental information shall be required. In such case, a notation of exempt status must appear on the face of the deed, document transferring a controlling interest in real property, or trust document.

- b) ~~On and after June 1, 2004, a~~ At the time a deed or document relating to the transfer of a taxable beneficial interest under Article 31 of the Property Tax Code is presented for recordation or registration, or within three business days after a transfer is effected in the event a transferring document is not presented for recordation or registration, a transfer declaration and supplemental information, if applicable, shall be prepared as required by the Department in a manner consistent with the requirements of subsection (c) and submitted to the recorder or registrar of titles of the county in which the property is situated, ~~under Section 31-25 of the Property Tax Code.~~ However, preparation of a second transfer declaration or supplemental information shall not be required in the event any such unrecorded transferring document is subsequently presented for recordation or registration unless the transferor cannot prove prior payment of the tax for the transaction. No transfer declaration or supplemental information is required to be prepared and submitted to the recorder of deeds or registrar of titles if the transfer qualifies for an exemption under Section 31-45(a), (b) (but only for transfers in which the VA Secretary is the grantee pursuant to a foreclosure proceeding), (c), (d), (e), (f), (g), (h), (i), (j), or (l) of the Property Tax Code, but a notation of exempt status must appear on the face of the transferring document. If the transfer qualifies for an exemption under Section 31-45(b) (for all transfers except those in which the VA Secretary is the grantee pursuant to a foreclosure proceeding), (k), or (m) or Section 31-46 of the Property Tax Code, a transfer declaration and supplemental information, if

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applicable, shall be prepared and submitted to the recorder of deeds or registrar of titles. If a transfer qualifies for an exemption under both Section 31-45(e) and 31-45(b), then the Section 31-45(e) exemption shall be selected, and no transfer declaration or supplemental information shall be required. In such case, a notation of exempt status must appear on the face of the transferring document.

- c) A transfer declaration and supplemental information shall be prepared using paper versions of forms or electronically produced ~~paper~~ versions thereof approved by the Department as follows:

1) Preparation procedures:

- A) Paper versions of forms shall be available on the Department of Revenue's website. The forms may be prepared on the website and printed by the preparer at the office of the recorder of deeds or registrar of titles in every county. These forms shall be supplied by the Department to the recorder of deeds and registrar of titles.
- B) All applicable questions on the forms shall be answered completely and the forms shall be signed by the transferee and transferor, or their agents, and the preparer.
- C) If a transfer declaration and all supplemental information, if applicable, is not prepared and submitted, or is prepared and submitted without all applicable questions being answered completely and the transfer declaration being properly signed, the recorder of deeds or registrar of titles shall not sell Revenue Stamps or record or register the transferring document.
- D) Electronic signatures used in lieu of a written signature and affixed to electronic versions of transfer declarations legally binds, obligates, and makes the signer responsible to the same extent as the signer's handwritten signature would be on a paper document submitted to satisfy the same requirement.

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2) Transfer declarations:

- A) ~~At the time a deed, a document transferring a controlling interest in real property, or trust document is presented for recordation a~~ For transfers prior to January 1, 2000, if a transfer declaration was prepared prior to January 1, 2000, Form No. PTAX-203, ~~Illinois~~ Real Estate Transfer Declaration, ~~(a four-page document with a green first page and with a (R-4/94) designation in the lower left corner of the first page),~~ or the appropriate ~~succeeding predecessor~~ version in effect at the time of transfer, shall be prepared and submitted.
- B) ~~For transfers prior to January 1, 2000, if a transfer declaration was not prepared prior to January 1, 2000, Form No. PTAX-203, Illinois Real Estate Transfer Declaration (a white two-page document with a (R-8/99) designation in the lower left corner of the first page), or the appropriate succeeding version in effect at the time of transfer, shall be prepared and submitted.~~
- C) ~~For transfers on and after January 1, 2000, Form No. PTAX-203, Illinois Real Estate Transfer Declaration (a white two-page document with a (R-8/99) designation in the lower left corner of the first page), or the appropriate succeeding version in effect at the time of transfer, shall be prepared and submitted.~~
- B)D) If multiple deeds or trust documents are used to transfer real estate or beneficial interests in real property, a transfer declaration shall be prepared and submitted for each transferring document reflecting the particular interest being transferred.
- C)E) If a transfer affects an interest in real estate that is located in more than one county, separate transfer declarations shall be prepared and submitted in each county. Each transfer declaration shall list the prorated full actual consideration for the particular interest in the real estate being transferred in the county. The proration is to be made in such a manner so that the total of the prorated full actual consideration listed on

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each transfer declaration equals the full actual consideration for the transfer.

~~D)F)~~ If there is an exchange of real estate, a separate transfer declaration shall be prepared and submitted for each transferring document.

~~E)G)~~ For purposes of this Section, "transfer" means execution of the transferring document.

3) Supplemental information:

~~A) For transfers prior to January 1, 2000, if a transfer declaration was prepared prior to January 1, 2000, "supplemental information" includes, if applicable, an extended legal description accompanying Form No. PTAX-203, Real Estate Transfer Declaration (a four-page document with a green first page and with a (R-4/94) designation in the lower left corner of the first page), or the appropriate predecessor version in effect at the time of transfer.~~

~~B) For transfers on and after January 1, 2000 and prior to June 1, 2004 if a transfer declaration was prepared prior to June 1, 2004, and transfers prior to January 1, 2000 if a transfer declaration was not prepared prior to January 1, 2000, "supplemental information" includes, if applicable, an extended legal description, an itemized list of personal property, a finance schedule for sales occurring during a period in which the Department is required to adjust sales prices for seller paid points and prevailing cost of cash under Section 17-10 of the Property Tax Code, and Form No. PTAX-203-A, Illinois Real Estate Transfer Declaration Supplemental Form A. Supplemental information shall accompany Form No. PTAX-203, Illinois Real Estate Transfer Declaration (a white two-page document with a (R-8/99) designation in the lower left corner of the first page), or the appropriate succeeding version in effect at the time of transfer.~~

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- ~~A)G)~~ For transfers ~~declarations on and after June 1, 2004, and transfers on and after January 1, 2000 and prior to June 1, 2004 if a transfer declaration was not prepared prior to June 1, 2004,~~ "supplemental information" includes, if applicable, an extended legal description, an itemized list of personal property, a finance schedule for sales occurring during a period in which the Department is required to adjust sales prices for seller paid points and prevailing cost of cash under Section 17-10 of the Property Tax Code, Form No. PTAX-203-A, Illinois Real Estate Transfer Declaration Supplemental Form A, and Form No. PTAX-203-B, Illinois Real Estate Transfer Declaration Supplemental Form B. Supplemental information shall accompany Form No. PTAX-203, Illinois Real Estate Transfer Declaration (a white two-page document with a (R-7/00) designation in the lower left corner of the first page), or the appropriate succeeding version in effect at the time of transfer.
- ~~B)D)~~ Form No. PTAX-203-A, Illinois Real Estate Transfer Declaration Supplemental Form A (a white one-page document with a (N-9/99) designation in the lower left corner of the first page), or the appropriate succeeding version in effect at the time of transfer, shall be prepared and submitted if the transfer involves nonresidential property for which the full actual consideration is over \$1 million. In this context only, nonresidential property includes all property except: vacant land or lots, residences, ~~and~~ apartment buildings of 6 units or fewer (e.g., single family, condominium, townhome, or duplex), mobile home residences, and farmland.
- ~~C)E)~~ Form No. PTAX-203-B, Illinois Real Estate Transfer Declaration Supplemental Form B (a white one-page document with a (N-5/04) designation in the lower left corner of the first page), or the appropriate succeeding version in effect at the time of transfer, shall be prepared and submitted if the transfer involves the lessee interest in a ground lease (including any interest of the lessee in the related improvements) that provides for a term of 30 or more years when all options to

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renew or extend are included, whether or not any portion of the term has expired, or the indirect interest in real property as reflected by a controlling interest in a real estate entity, or any other type of interest with the right to use or occupy real property or the right to receive income from real property under Section 120.20(a)(2)(D).

4) Electronically produced forms:

~~A) For transfers on and after January 1, 2000, electronically-produced versions of forms may be prepared on the internet Web site of the Department and printed on the preparer's printer. Forms submitted to the recorder of deeds or registrar of titles using this technology must conform to the content, edit, format, and reproduction specifications of the Department.~~

~~A)B)~~ ~~For transfers on and after January 1, 2000;~~
~~Electronically~~electronically-produced versions of forms may be prepared from other software programs for which the Department has tested and approved the output and printed on the preparer's printer. Forms submitted to the recorder of deeds or registrar of titles using this technology for which the Department has tested and approved the output must conform to the content, edit, format, and reproduction specifications of the Department. Electronically-produced versions of forms shall not be submitted to the recorder of deeds or registrar of titles if, without prior written approval of the Department, the software programs used to produce the forms have been revised in any manner since the time the Department tested and approved the output.

- d) Forms for the transfer declaration and supplemental information, as well as specifications and output testing requirements for electronically produced versions, may be revised by the Department in its discretion.
- e) The Department may enter into a written agreement with the governing authority of a county to authorize the chief county assessment officer to

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electronically transmit data from the transfer declarations and supplemental information, if applicable, to the Department as required by Sections 31-30 and 31-70 of the Property Tax Code. Entry into such an agreement by the Department is contingent upon the use of compatible computer transmission methods and software by a county, the accuracy of the formatted electronic data from the transfer declarations and any supplemental information, and the adequacy of resources at the Department. The chief county assessment officer shall continue to submit the paper versions of the transfer declarations and any supplemental information until such time as the Department determines in its discretion that submission in this manner is no longer necessary.

f) Supervisors of Assessments, utilizing the Department of Revenue's electronic transfer declaration system, must produce a parcel identification number file and provide it to the Department in the required file layout to validate the information provided therein and for any other purposes as determined by the Department.

g)f) Recorders of deeds or registrars of titles using an electronic Revenue Stamp or alternative indicia using the Department of Revenue's electronic reporting system or an approved interface with the Department of Revenue shall file a return generated by the Department of Revenue's electronic reporting system or an approved interface with the Department of Revenue. This return is to be filed and paid via ACH credit or a debit payment with the Department of Revenue on or before the 10th day of the month following the month in which the tax was required to be collected.

- 1) The return shall be generated from the Department of Revenue's electronic reporting system and/or through the approved interface with a recorder of deeds' or registrar of titles' electronic software system and shall include the following detail: county name; account ID; license number; declaration IDs; stamp serial numbers; and stamp values.
- 2) The recorder of deeds or registrar of titles shall work with personnel within the county to produce a parcel identification number file and shall provide it to the Department of Revenue in the required file layout. The detail contained within the parcel identification number

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file is used in the process to validate that an electronic Revenue Stamp is properly issued.

- 3) When the recorder of deeds or registrar of titles interfaces with the Department of Revenue's electronic reporting system utilizing a software system, the following detail is to be provided: the parcel identification number of the property being transferred in the real estate sales transaction; the document number used to record the real estate sales transaction; and the net consideration that was received by the seller in the real estate sales transaction.

(Source: Amended at 49 Ill. Reg. _____, effective _____)