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# Alert

Real Estate Practice Group

## NEW REQUIREMENTS FOR LIMITED LIABILITY COMPANIES IN REAL ESTATE TRANSACTIONS

SYRACUSE ♦ ITHACA ♦ NEW YORK CITY

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There is a transfer tax due when conveying real property in New York State. The amount of transfer tax is based on the consideration paid in exchange for the conveyance, which consideration is typically the purchase price. The transfer tax is reported on the Form TP-584 Transfer Tax Report. The TP-584 must be filed at the same time that the deed is recorded in the county clerk's office. A recent change in the law expands the information that must be disclosed in the TP-584 when a limited liability company ("LLC") is a party to the real estate transaction.

On September 13, 2019, and effective immediately, Governor Andrew Cuomo signed into law an amendment to Section 409 of the New York Tax Law (the "New Statute") requiring additional information with the TP-584 if the grantor or grantee to the transaction is an LLC and the property conveyed is a one to four family dwelling.

Under the New Statute, when an LLC is the grantor or grantee in a deed conveying a one to four family dwelling, the TP-584 must be accompanied by documentation identifying the names and business addresses of all members, managers, and other authorized persons of the LLC. The New Statute also requires that if a member, manager, or other authorized person of a grantor or grantee is itself any type of business entity (not just an LLC), the names and addresses of the shareholders, directors, officers, members, managers, and partners of that business entity must also be disclosed until ultimate ownership by natural persons is achieved.

The NYS Department of Taxation and Finance ("DTF") has provided online guidance stating that the term "natural person" is "a human being, as opposed to an artificial person, who is the beneficial owner of the real property. A natural person does not include a corporation or partnership, [a] natural person operating a business under [an assumed name or DBA], an estate (such as the estate of a bankrupt or deceased person), or a trust." DTF's website also states that the term "authorized person" is "a person, whether or not a member [of the LLC], who is authorized by the [the LLC's] operating agreement, or otherwise, to act on behalf of [the] LLC."

DTF's online guidance indicates that, in addition to names and addresses, the TP-584's accompanying documentation concerning LLCs should include the taxpayer identification number for all entities, including natural persons, disclosed with the TP-584 and "demonstrate that 100% of the ownership of each entity has been reported."

DTF has indicated that the TP-584 and its instructions will be revised to instruct filers of the New Statute's requirements. Until the revised form and instructions are completed, the disclosures required for LLCs under the New Statute should be included in a separate document filed with the TP-584 at the time of recording.



**Joshua S. Werbeck**  
315.701.6447  
jwerbeck@bhlawpllc.com

**Natalie Hempson-Elliott**  
315.701.6435  
nhempson@bhlawpllc.com



Bousquet Holstein PLLC ♦ 110 W. Fayette Street ♦ Syracuse, NY 13202 ♦ 315. 422.1500

WWW.BHLAWPLLC.COM

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