MEMORANDUM

To: County Clerks/Recording Officers
    County Sheriffs
    Attorneys and Title Officers

From: Robert K. Thompson, Director
       Division of Taxation

Subject: Gross Income Tax Withholdings on Real Estate
         Sheriff Sales
         Chapter 55, Laws of 2004

Date: August 23, 2004

P.L. 2004, C. 55, requires that on or after August 1, 2004, nonresident individuals, estates
or trusts that sell or transfer real property in New Jersey make an estimated gross income
tax payment on the gain from a transfer/sale of real property as a condition of the
recording of the deed.

With sheriff's sales, however, the Division takes the position that such sales were not
within the contemplation or intent of the Legislature when it passed Chapter 55. The law
specifically excludes sales where “the seller or transferor is a mortgagor conveying the
mortgaged property to a mortgagee in foreclosure or in a transfer in lieu of foreclosure
with no additional consideration.” Section 3(b)(2). In a sheriff's sale, the sheriff is
standing in the shoes of the mortgagor as the result of a foreclosure action.

Accordingly, no estimated income tax payment or form is required as a condition for the
recording of sheriff's deeds.

Questions on Chapter 55 and the new Gross Income Tax estimated payment requirements
should be directed to Division of Taxation, Taxpayer Services Branch (609) 292-6400.

RKT/MJR:pc

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