



## GEORGIA DEPARTMENT OF LAW

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June 26, 2019

Mr. John Earle  
Georgia Superior Court Clerks' Cooperative Authority  
1875 Century Blvd. NE #100  
Atlanta, GA 30345

Re: Form PT-61 Tax Map Parcel ID Numbers

Dear Mr. Earle:

This letter responds to your request for informal advice concerning a question about how to treat property with no map and parcel number on form PT-61. You have asked whether "N/A" may be entered in the tax map parcel identification number field for Form PT-61 in situations where no tax map parcel identification exists.

The issue you have raised centers around O.C.G. A § 48-3-3(f), which provides that "[t]he real estate transfer tax declaration form shall<sup>1</sup> provide for and indicate the correct tax map parcel identification number before being accepted by the clerk of the superior court for recordation." With respect to the question presented it appears that entering "N/A" into the parcel field on Form PT-61 is acceptable when a tax map parcel ID has not actually been assigned. When a tax map parcel ID exists, it must be included on the parcel field for Form PT-61.

The Clerks' Authority FAQ 30 reads – "Is the Map and Parcel Field required? *SB 525, passed and signed by the Governor, requires the Map and Parcel field be included on the all PT61 filings. Effective May 10<sup>th</sup>, 2006, this field is a required field and must be entered in order to complete the form and print the filing copy. Click here to read the AG Advice.*" *PT-61 eFiling Help*, Frequently Asked Questions 30, [http://apps.gsccca.org/help/pt61\\_faq.asp](http://apps.gsccca.org/help/pt61_faq.asp), (last visited Jun. 19, 2019).

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<sup>1</sup> Despite the word "shall" usually being construed as a mandatory directive, it need not always be construed in that fashion if the context in which it is used indicates a permissive instruction. *Lewis v. State*, 283 Ga. 191 (2008). To avoid rendering contradictory the part of the statute that allows the Clerks' Authority to process the PT-61 eFile form, "shall" should not be construed as a mandatory directive. *See Carr v. State*, 303 Ga. 853, fn. 15 (2018).

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A letter of informal advice dated May 9, 2006 from this office concludes that “the real estate transfer tax declaration form... [shall] provide for the inclusion of the *correct* tax map parcel ID number and such information has to be included before the form can be accepted for recordation by the clerk of the superior court.” (emphasis added). This naturally assumes that a tax map parcel ID exists. A copy of the previous letter of advice is enclosed.

There are situations that you have noted where a tax map parcel ID is not available because one has never been assigned by the tax assessor. When entering a tax map parcel ID number on the PT-61 form, “N/A” or “Not Applicable” is an available option in those situations.

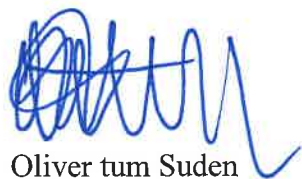
Selecting “N/A” would be an acceptable option because in certain circumstances, a piece of land may not have a tax map parcel identification number at the time the real estate transfer tax declaration form is filed. Without being able to complete the PT-61 form by entering “N/A,” the form cannot be printed or filed.

In looking at the Department of Revenue’s Appraisal Procedures Manual, Rule 560-11-10-.09 says relevantly that “the PT-61 form shall be deemed properly completed when all *applicable* information required by the instructions on the form has been entered on the form...” (emphasis added). Further, the rule indicates that “[a] PT-61 form shall not be deemed properly completed when the appraisal staff determines any of the required information on the form is omitted, false, or misleading.” *Id.*

In a situation where no map parcel number exists, the information would not be applicable to the field, or “N/A.” In order for there to be an omission that implies that the thing must exist in the first place. It appears to make the most sense to read O.C.G.A. § 48-3-3(f) to say that the form must provide for and indicate the correct tax map parcel identification number if one exists as a condition to submission to the clerk, but that if one actual does not exist, entry of “NA” would be acceptable.

I hope that this informal advice is helpful. If you have any questions, please contact me.

Sincerely,



Oliver tum Suden  
Assistant Attorney General

Enclosure



THURBERT E. BAKER  
ATTORNEY GENERAL

Department of Law  
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40 CAPITOL SQUARE SW  
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May 9, 2006

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David R. Williams, Executive Director  
Georgia Superior Court Clerks'  
Cooperative Authority  
Suite 100  
1875 Century Boulevard  
Atlanta, Georgia 30345

Re: Senate Bill 525

Dear David:

As you have requested, I have reviewed Senate Bill 525. You have specifically asked me whether O.C.G.A. § 48-3-3(f) as enacted by Senate Bill 525 will require that all transfer tax declaration forms "provide for and indicate the correct tax map parcel identification number." You have indicated that the view of some clerks of superior court is that the tax map identification information is required for all transfer tax declaration forms, while other clerks have indicated that it may only be required with respect to sales of real property pursuant to tax executions.

As set forth in my letter to you of the 5<sup>th</sup>, if the Governor does not approve or veto Senate Bill 525, it will become law and effective 40 days after March 30, 2006, the date of adjournment of the General Assembly. By my calculation, the 40<sup>th</sup> day is today. Assuming that Senate Bill 525 becomes law, O.C.G.A. § 48-3-3(f) will require as follows:

- (f) The real estate transfer tax declaration form shall provide for and indicate the correct tax map parcel identification number before being accepted by the clerk of superior court for recordation.

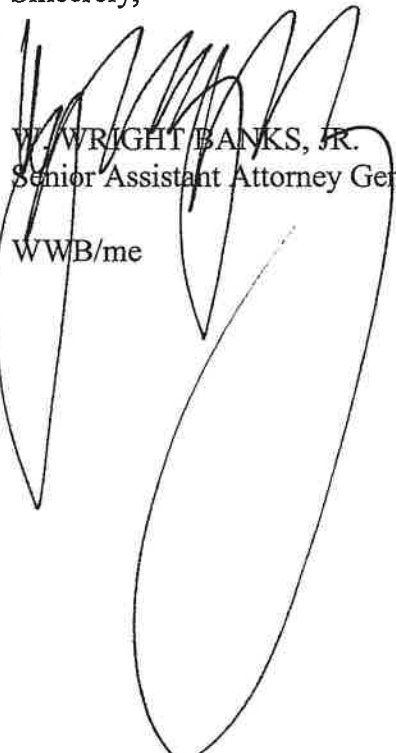
As you know, the real estate transfer tax is "determined on the basis of written disclosure of the consideration or value of the interest in the property granted, assigned, transferred, or otherwise conveyed." O.C.G.A. § 48-6-4(c). "The disclosure shall be made on a form or in electronic format prescribed by the [revenue] commissioner and provided by the clerk of the superior court." Id.

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From my review, the above-quoted language does not include any express indication that it is limited to sales of real property pursuant to tax executions.<sup>1</sup> Instead, the language appears to expressly indicate that the real estate transfer tax declaration form that is prescribed by the revenue commissioner has to provide for the inclusion of the correct tax map parcel identification number and such information has to be included before the form can be accepted for recordation by the clerk of superior court.

I hope that this is responsive to your request. If you have any questions or want to discuss, please give me a call.

Sincerely,



W. WRIGHT BANKS, JR.  
Senior Assistant Attorney General

WWB/me

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<sup>1</sup> It is worth noting that O.C.G.A. § 48-3-3, as amended, will not address sales pursuant to tax executions, but rather addresses the issuance of tax executions and the notice given to the “new owner” and the “owner of record.” Sales under tax executions are actually addressed in Article 1 of Chapter 4 of Title 48.