



State of New Jersey

DEPARTMENT OF THE TREASURY
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Property Classification of “Mixed-Use” Properties

This serves to supersede guidance the Division of Taxation previously published on “mixed-use” property classifications.

On April 27, 2026, the Tax Court issued an opinion for One Main St Edgewater, LLC v. Borough of Edgewater. In that case, the taxpayer challenged the property classification of a property that was “mixed-use”, with a retail unit and apartment units, for the purposes of determining liability for the Graduated Percent Fee (“GPF”). The court ruled that, for mixed-use properties where there are multiple uses that could warrant different tax list classifications, the predominant use test is the appropriate standard for determining property classification for local property tax assessment purposes.

Accordingly, the court adopted the predominant use test and established that the assessor must examine both 1) the square footage of the uses, as well as; 2) the income generated from those uses to determine which predominates. The use that is predominant will then be used for classification on the tax list.

Assessors have been instructed to consider the Court’s opinion in their handling of outstanding appeals before the County Boards of Taxation and Tax Court. Further, they have been instructed to ensure that their classifications on the 2027 Tax Lists conform to the holding of One Main St Edgewater, LLC.

The Division is aware that there will be real estate transactions for mixed-use properties that occur prior to the promulgation of the 2027 Tax Lists that would not be liable for GPF if the predominant use test had been applied at the time the 2026 Tax Lists were issued. Accordingly, the Division will, upon request, review the classification of such properties prior to closing pursuant to the following procedure:

- Taxpayers may apply to the Division for an inspection for purposes of reclassification prior to deed recording by submitting Form RTF-3 (Realty Transfer Fee Claim for Refund) to: Taxation.RTFrefunds@treas.nj.gov. Please include “INSPECTION” in the subject line.
- Reclassification claims should be submitted no less than 45 days prior to closing to ensure a timely determination. If requests are not received within sufficient

time, the taxpayer will need to pay the Graduated Percent Fee at closing and then timely request a refund.

- Taxpayers may submit documentation from an independent third-party to substantiate the uses without inspection, such as an appraisal commissioned for the sale or the records of the assessor.
- If no such documentation is provided or it is not dispositive as to the predominant use of the property, the Division will contact you to schedule an inspection of the property.

Upon review, the taxpayer will receive a letter of determination from this office to provide the County Clerk for recording. Our office will likewise notify the assessor of the change for the purposes of the Graduated Percent Fee to ensure the property's classification on the 2027 Tax List conforms to the determination.

A taxpayer who does not request the classification review prior to closing may still file a claim for refund within 90 days of the payment of the GPF pursuant to N.J.S.A. 46:15-7.2(c). The Division will coordinate with the taxpayer to schedule an inspection after receipt of the refund claim and for the taxpayer to provide such documentation as may be necessary to make the determination.

Any questions may be directed to Property Administration at (609) 292-7974 or via email at Taxation.PropAdmin@treas.nj.gov.